CHAPTER 870

AN ACT to compile in one chapter of the consolidated laws, for the purpose of public convenience, the several acts in relation to public authorities created or validated by the legislature, constituting chapter forty-three-a of the consolidated laws

Became a law June 15, 1939, with the approval of the Governor. Passed, three-fifths being present

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

PUBLIC AUTHORITIES LAW

CHAPTER 43-A OF THE CONSOLIDATED LAWS

ARTICLE 1

SHORT TITLE

Title 1. Short Title; Definitions (§§ 1-3)

TITLE 1

SHORT TITLE; DEFINITIONS

§ 1. Short title. This chapter shall be known as the public authorities law.

§ 2. Definitions. As used in this chapter:

1. "state authority" shall mean a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York, with one or more of its members appointed by the governor or who serve as members by virtue of holding a civil office of the state, other than an interstate or international authority or public benefit corporation, including subsidiaries of such public authority or public benefit corporation.

2. "local authority" shall mean (a) a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York whose members do not hold a civil office of the state, are not appointed by the governor or are appointed by the governor specifically upon the recommendation of the local government or governments; (b) a not-for-profit corporation affiliated with, sponsored by, or created by a county, city, town or village government; (c) a local industrial developmental agency or authority or other local public benefit corporation; (d) an affiliate of such local authority; or (e) a land bank corporation created pursuant to article sixteen of the not-for-profit corporation law.

3. "interstate or international authority" shall mean an international

or interstate public authority created pursuant to agreement or compact with another state or with a foreign power, including any and all affiliates or subsidiaries.

5. "subsidiary" shall not include, for the purposes of this chapter, corporations that have been certified by the parent corporation to the authorities budget office as being inactive for the past twelve months, having an identical board of its parent corporation, or not having separate and independent operational control. Provided, however, the parent corporation, in response to any request, shall address any provision or provisions of this chapter.

6. "authorities budget office" shall mean the entity established pursuant to section four of this article.

§ 3. Pay equity. 1. In order to attract unusual merit and ability to the service of public authorities in the state of New York, to stimulate higher efficiency among the personnel, to provide skilled leadership in administration, to reward merit and to insure the highest return in services for the necessary costs of administration, it is hereby declared that public authorities shall, consistent with the federal Equal Pay Act of 1963 (29 U.S.C. § 206), the federal Civil Rights Act (42 U.S.C. § 2000e-2), article fifteen of the executive law, and section forty-c of the civil rights law, ensure a fair, non-biased compensation structure for all employees in which status within one or more protected class or classes is not considered either directly or indirectly in determining the proper compensation for a title or in determining the pay for any individual or group of employees, ensure that no employee with status within one or more protected class or classes shall be paid a wage at a rate less than the rate at which an employee without status within the same protected class or classes in the same establishment is paid for similar work or substantially similar work and provide regular increases in pay in proper proportion to increase of ability, increase of output and increase of quality of work demonstrated in service.

2. For the purpose of this section:

(a) the term "protected class" includes age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status, and any employee protected from discrimination pursuant to paragraphs (a), (b), and (c) of subdivision one of section two hundred ninety-six of the executive law, and any intern protected from discrimination pursuant to section two hundred ninety-six-c of the executive law.

(b) the term "compensation" shall include but not be limited to: all earnings of an employee for labor or services rendered, regardless of whether the amount of earnings is paid on an annual salary, hourly, biweekly or per diem basis; reimbursement for expenses; health, welfare and retirement benefits; and vacation pay, sick pay, separation or holiday pay, or any other form of remuneration.

(c) employees shall be deemed to work in the same establishment if the employees work for the same employer at workplaces located in the same geographical region, no larger than a county, taking into account population distribution, economic activity, and/or the presence of municipalities.

(d) the term "public authorities" shall mean any authority as defined in section two of this title.

3. (a) It shall not be a violation of this section for an employer to pay different compensation to employees, where such payments are made pursuant to:

(1) a bona fide seniority or merit system;

(2) a bona fide system that measures earnings by quantity or quality of production;

(3) a bona fide system based on geographic differentials;

(4) any other bona fide factor other than status within one or more protected class or classes, such as education, training, or experience. Such factor: (A) shall not be based upon or derived from a differential in compensation based on status within one or more protected class or classes; and (B) shall be job-related with respect to the position in question and shall be consistent with business necessity. Such exception under this paragraph shall not apply when the employee demonstrates (i) that an employer uses a particular employment practice that causes a

disparate impact on the basis of status within one or more protected class or classes, (ii) that an alternative employment practice exists that would serve the same purpose and not produce such differential, and (iii) that the employer has refused to adopt such alternative practice; or

(5) a collective bargaining agreement.

(b) For the purpose of paragraph (a) of this subdivision, "business necessity" shall be defined as a factor that bears a manifest relationship to the employment in question.

(c) Nothing set forth in this section shall be construed to impede, infringe or diminish the rights and benefits which accrue to employees through collective bargaining agreements, or otherwise diminish the integrity of the existing collective bargaining relationship.

TITLE 2
AUTHORITIES BUDGET OFFICE

§ 4. Establishment of the independent authorities budget office. There is hereby established the independent authorities budget office as an independent entity within the department of state, which shall have and exercise the powers and duties provided by this title.

§ 5. Director of the authorities budget office. The director of the authorities budget office shall be appointed by the governor, upon the advice and consent of the senate. The director shall hold office for a term of four years beginning on the date of confirmation. The salary of the director shall be established by the governor within the limit of funds available therefor; provided, however, such salary shall be no less than the salaries of certain state officers holding the positions indicated in paragraph (d) of subdivision one of section one hundred sixty-nine of the executive law. The director may be removed by the governor only after notice and opportunity to be heard, and only for:

1. permanent disability;

2. inefficiency;

3. neglect of duty;

4. malfeasance;

5. a felony or conduct involving moral turpitude; or

6. breach of fiduciary duty.

§ 6. Powers and duties of the authorities budget office. 1. The authorities budget office shall:

(a) conduct reviews and analysis of the operations, practices and reports of state and local authorities to assess compliance with the provisions of this chapter and other applicable provisions of law;

(b) maintain a comprehensive inventory of state and local authorities and subsidiaries and the annual reports of such state and local authorities as defined in section twenty-eight hundred of this chapter;

(c) verify the existence of all authorities listed in state law;

(d) review the potential for consolidation or name change of certain authorities;

(e) assist state and local authorities in improving management practices and the procedures by which the activities and financial practices of state and local authorities are disclosed to the public;

(f) make recommendations to the governor, the temporary president of the senate, the speaker of the assembly and the chairs and ranking minority members of the following committees: the senate finance committee, the assembly ways and means committee, the senate committee on corporations, authorities and commissions and the assembly committee on corporations, authorities and commissions and authority board members concerning opportunities to improve the performance, reporting, reformation, structure and oversight of state and local authorities;

(g) provide such additional information and analysis as may be reasonably requested by the legislature and state comptroller;

(h) promulgate regulations to effectuate the purposes of this title and title one of this article, and article nine of this chapter, relating to the statutory responsibilities of the authorities budget office;

(i) develop and issue, after consultation with the office of the attorney general, a written acknowledgement that a board member must execute at the time that the member takes and subscribes their oath of office, or within sixty days after the effective date of this paragraph if the member has already taken and subscribed his or her oath of office, in accordance with subdivision one of section twenty-eight hundred twenty-four of this chapter;

(j) develop a comprehensive definition of public authorities including a consolidated listing by class and name;

(k) standardize content and format of state and local authority annual reports;

(l) assess individual authorities and based upon their ability and resources, set a date by which changes made pursuant to this title shall be implemented;

(m) issue recommendations to the legislature and governor on setting debt limitations for authorities without statutorily required debt limits;

(n) make recommendations to the legislature and governor with respect to options for, and whether there should be, compensation for boards of directors; and

(o) review the potential for and make recommendations to the legislature and governor regarding change in the terms of office of public authorities board members.

2. The authorities budget office shall have the authority to:

(a) request and receive from any state or local authority, agency, department or division of the state or political subdivision such assistance, personnel, information, books, records, other documentation and cooperation as may be necessary to perform its duties;

(b) enter into cooperative agreements with other government offices to efficiently carry out its work and not duplicate resources;

(c) receive and act upon complaints or recommendations from the public or other persons or entities regarding any authority covered by this title;

(d) initiate formal investigations in response to complaints or appearances of non-compliance by an authority;

(e) issue subpoenas pertaining to investigations which such office is authorized to conduct under this title, for the purposes of effectuating the powers and duties of this title;

(f) publicly warn and censure authorities for non-compliance with this title, and to establish guidelines for such actions;

(g) recommend to the entity that appointed the officer or director suspension or dismissal of officers or directors, based on information that is, or is made, available to the public under law;

(h) report suspected criminal activities to the attorney general and other prosecutorial agencies;

(i) compel any authority which is deemed to be in non-compliance with this title and title one of this article or article nine of this chapter to submit to the authorities budget office a detailed explanation of such failure to comply; and

(j) commence a special proceeding in supreme court, when it does not receive from a state or local authority upon request information, books, records or other documentation necessary to perform its duties, seeking an order directing the production of the same.

3. The reports and non-proprietary information received by and prepared by the authorities budget office shall be made available to the public, to the extent practicable, through the internet.

§ 6-a. Power to suspend local authority board members and executive staff. 1. The authorities budget office shall have the authority, subject to subdivision two of this section, to suspend one or more members of a local authority board of directors, or the chief executive officer or equivalent position of a local authority for a period not to exceed ninety days when such individual or individuals knowingly fails or neglects to submit any report required by section twenty-eight hundred of this chapter within thirty-six months of its due date. The authorities budget office is authorized to terminate such a suspension if the board member or chief executive officer demonstrates that he or she has remedied their non-compliance. For the purposes of this section, the "suspension" of an individual shall mean the temporary removal of the rights, responsibilities, powers and duties of a person who is an appointed board member of a local authority or the individual who serves as chief executive officer through appointment or contract. Should the authorities budget office suspend the full board of directors or a majority of current board members the term "suspension" shall mean the board of directors is prohibited from taking actions, votes, or adopting resolutions, that bind the board to future agreements, contracts, financial commitments, indebtedness, or other actions, other than actions necessary to resolve the noncompliance or satisfy existing legal or administrative obligations.

2. (a) Pursuant to policies and procedures developed by the authorities budget office and made available on its website, when the authorities budget office has reason to believe that one or more board members of a local authority has knowingly failed or neglected to submit any report required by section twenty-eight hundred of this chapter within thirty-six months of its due date, the authorities budget office shall provide at least thirty days' notice of its intent to initiate suspension proceedings to the chairperson of the local authority, to the individual or individuals responsible for appointing such board members, and to each such board member. If the authorities budget office has reason to believe that the chief executive officer of a local authority has knowingly failed or neglected to submit any report required by section twenty-eight hundred of this chapter within thirty-six months of its due date, the authorities budget office shall provide at least thirty days' notice of its intent to initiate suspension proceedings to the chairperson of the local authority and to the chief executive officer. Such notice shall include, but shall not be limited to (i) the

date and a brief description of the facts and nature of each non-compliance for which such suspension is proposed; (ii) the number of days that the authorities budget office proposes to suspend such board member or chief executive officer; (iii) the option to submit a formal response to the authorities budget office which demonstrates why such board member or chief executive officer should not be suspended; and (iv) if applicable, a period of time in which such local authority or board member or chief executive officer may remedy the non-compliance.

(b) If, after the expiration of the deadline set forth in the notice of intent pursuant to subparagraph (iv) of paragraph (a) of this subdivision, the board member or members or chief executive officer, whichever is applicable, has not responded to the notice or has not remedied the non-compliance to the satisfaction of the authorities budget office, the authorities budget office shall issue to the non-compliant board member or members or chief executive officer a notice of suspension which shall include: (i) the number of days of suspension; and (ii) the date that such suspension shall commence, which date shall be at least one hundred eighty days from the date of the issuance of the notice of suspension.

3. (a) Whenever the authorities budget office has suspended one or more board members of a local authority, the individual or individuals who appointed those board members may act to reinstate a suspended board member. If the appointing authority is a legislative body or a member of the legislative body, any action to reinstate a suspended board member shall occur in a public meeting of such body and following an opportunity for the public to comment. Such action shall be deemed valid upon passage of a written resolution of reinstatement by a majority and recorded vote of the legislative body. Such resolution shall describe the facts and circumstances by which the legislative body has reached this determination. If the appointing authority is the chief executive official of the municipality for whose benefit the local authority was created, any action to reinstate a suspended board member shall be through an official act of the chief executive official. Such act shall be recorded in writing and shall describe the facts and circumstances by which the chief executive official reached this determination.

(b) Whenever the authorities budget office has suspended the chief executive officer of a local authority, the chairperson of such local authority may initiate action to reinstate the suspended chief executive officer. Any action to reinstate a suspended chief executive officer shall occur in a public meeting of the board of directors and following an opportunity for the public to comment. Such action shall be deemed valid upon passage of a written resolution of reinstatement by a majority and recorded vote of the current board of directors. Such resolution shall describe the facts and circumstances by which the board of directors reached this determination.

(c) For the purposes of this section, "reinstatement" shall mean the restoration of the rights, responsibilities, powers and duties of a board member or chief executive officer of a local authority.

§ 7. Reports of the authorities budget office. On July first, two thousand ten and annually thereafter the authorities budget office shall issue reports on its findings and analyses to the governor, the chair and ranking minority member of the senate finance committee, the chair and ranking minority member of the assembly ways and means committee, the chair and ranking minority member of the senate standing committee on corporations, authorities and commissions, the chair and ranking minority member of the assembly standing committee on corporations, authorities and commissions, the state comptroller and the attorney general, with conclusions and opinions concerning the performance of public authorities and to study, review and report on the operations, practices and finances of state and local authorities as defined by section two of this article.

§ 8. Local authorities searchable subsidy and economic development benefits database. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Economic development benefits" shall mean:

(i) funds made available by a local development corporation for economic development, or job creation purposes including, but not limited to, grants, loans, and bonds; and

(ii) bonds and tax exemptions which are applied for and preapproved or certified by or on behalf of an industrial development agency for economic development.

(b) "Qualified participant" shall mean a project operator pursuant to section eight hundred seventy-four of the general municipal law with a project pursuant to section eight hundred fifty-four of the general municipal law.

(c) "Full-time equivalent" shall mean a unit of measure, which is equal to one filled, full-time, annual-salaried position in a manner consistent with federal calculations.

(d) "The office" shall mean the authorities budget office.

(e) "The database" or "the searchable database" shall mean the database created pursuant to subdivision two of this section.

(f) "The project" shall mean specific work, action, endeavor, contract or agreement for which any economic benefit as defined in paragraph (a) of this subdivision, is made available or awarded by a local development corporation or industrial development agency to a person, business, limited liability corporation or any other entity.

2. Notwithstanding any laws to the contrary, the office shall create a searchable database, displaying data regarding economic development benefits that a qualified participant has been awarded. Such searchable database shall include the following data, features and functionality to the extent practicable:

(a) the ability to search the database by each of the reported information fields;

(b) the ability to be searchable, downloadable, and posted on a publicly accessible website as well as referenced on the office's website, with a direct link to the database;

(c) the ability to digitally select defined individual fields corresponding to any of the reported information from qualified participants to create unique database views;

(d) the ability to download the database in its entirety, or in part, in a common machine readable format;

(e) a definition or description of terms for fields in the database;

(f) a summary of each separate economic development benefit defined in paragraph (a) of subdivision one of this section awarded to qualified participants;

(g) a user-friendly guide to outline the features and functionality of the database;

(h) a dedicated email account for the public to direct questions related to the database, and the office mailing address, office telephone number, and name of the chief officer;

(i) the following data on local development corporations shall be included:

(i) relating to grants, the source of funds for the grant, the name and address of the entity that received the grant, the date and amount awarded, how the grant funds will be used, whether the grant proceeds were expected to result in new jobs being created, and if so, how many jobs were planned to be created and how many jobs have been created to date;

(ii) relating to loans, the source of funds for the loan, the name and address of the entity that received the loan, the date and amount awarded, the loan interest rate, the length of the loan in years, the amount repaid to date, how the loan funds will be used, and whether the loan was provided to the recipient for the purpose of creating jobs, and if so, how many jobs were planned to be created and how many jobs have been created to date; and

(iii) relating to bonds, the name and address of the recipient of the bond proceeds, the amount and date of the bond issuance, the bond interest rate, the year the bonds are expected to be fully retired, the amount of bond principal retired during the reporting period, how the bond proceeds are used, whether the bond proceeds were provided to the recipient to create jobs, and if so, how many jobs were planned to be created and how many jobs have been created to date; and

(j) the following data on industrial development agency projects shall be included:

(i) project name, project type, project location, and the project's complete address, including the postal code in a separate and searchable field;

(ii) whether the project is part of another phase or multi phase, the category of the project purpose, the total project amount, the benefited project amount, if the project type was a bond, the bond amount, if the project type was a lease, the lease amount, whether the qualified recipient is a not-for-profit, the date the project was approved, whether the industrial development agency took title to a property, and if so, the date that title was taken, and the year financial assistance is planned to end;

(iii) the qualified participant's name and the qualified participant's complete address, including the postal code in a separate and searchable field;

(iv) the amount of project tax exemptions granted, including for state sales tax, local sales tax, county real property tax, local property tax, school property tax, mortgage recording tax, the total exemptions, and the total exemptions net of real property tax law section four hundred eighty-five-b;

(v) the amount of payments in lieu of taxes agreed upon and actually made to the county, local municipality, or school district, the total amount of payments in lieu of taxes agreed upon and actually made, and the net exemptions once the payments in lieu of taxes are subtracted from the total project tax exemptions; and

(vi) the total number of employees for the project prior to industrial development agency status, estimate of jobs to be created, average estimated annual salary of jobs to be created, annualized salary range of jobs to be created, original estimate of jobs to be retained, estimated average annual salary of jobs to be retained, current number of full-time equivalents, number of full-time equivalent construction jobs during the reporting fiscal year, and the net employment change.

3. The office shall submit a quarterly report to the governor, temporary president of the senate, and speaker of the assembly outlining key usage statistics of the database created pursuant to subdivision two of this section including, but not limited to, the total number of unique users that quarter.

ARTICLE 1-A

NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD

§ 50. New York state public authorities control board; creation; procedure. 1. The New York state public authorities control board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this chapter and any other provision of law.

2. The membership of the board shall consist of five persons appointed by the governor, of which one shall be upon the recommendation of the temporary president of the senate, one upon the recommendation of the speaker of the assembly, one upon the recommendation of the minority leader of the senate and one upon the recommendation of the minority leader of the assembly. The members appointed by the governor upon the recommendation of the minority leader of the senate and the minority leader of the assembly shall be non-voting members whose comments shall be entered upon any official record of board proceedings in the same manner as voting members' comments, unless objection is raised by any of the voting members in which case, notwithstanding any provision of law to the contrary, such comments by non-voting members shall not be so entered. The term of the members first appointed shall continue until January thirty-first, nineteen hundred seventy-seven, except that the term of the members first appointed upon the recommendations of the minority leader of the senate and the minority leader of the assembly shall continue until January thirty-first, nineteen hundred eighty-four, and thereafter their successors shall serve for a term of one year ending on January thirty-first in each year. Upon recommendation of the nominating party, the governor may replace any member in accordance with the provision contained herein for the appointment of members. The governor shall designate one of the members to serve as chairman. The board shall act by unanimous vote of the voting members of the board. Any determination of the board shall be evidenced by a certification thereof executed by all the voting members. Each member of the board shall be entitled to designate a representative to attend meetings of the board in his place, and to vote or otherwise act on his behalf in his absence. Notice of such designation shall be furnished in writing to the board by the designating member. A representative shall serve at the

pleasure of the designating member during the member's term of office. A representative shall not be authorized to delegate any of his duties or functions to any other person.

3. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, of any political subdivision of the state, of any governmental entity operating any public school or college or of any other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit such office or employment by reason of acceptance or appointment as a member, representative, officer, employee or agent of the board nor shall service as such member, representative, officer, employee or agent of the board be deemed incompatible or in conflict with such office or employment. The members, their representatives, officers and staff to the board shall be deemed employees within the meaning of section seventeen of the public officers law.

4. The members of the board shall serve without salary or per diem allowance but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties pursuant to this section or other provision of law, provided however that such members and representatives are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

§ 51. Powers, functions and duties of the New York state public authorities control board; limitations. 1. The New York state public authorities control board shall have the power and it shall be its duty to receive applications for approval of the financing and construction of any project proposed by any of the following state public benefit corporations:

a. New York state environmental facilities corporation

b. New York state housing finance agency

c. New York state medical care facilities finance agency

d. Dormitory authority

e. New York state urban development corporation

f. Job development authority

g. Battery park city authority

h. New York state project finance agency

i. State of New York mortgage agency

j. New York state energy research and development authority

k. Long Island Power Authority

l. Albany Convention Center Authority

m. State of New York Municipal Bond Bank Agency for bonds issued pursuant to section two thousand four hundred thirty-six-b of this chapter

n. North Country Power Authority

Any application made concerning a project shall include the terms, conditions and dates of the repayment of state appropriations authorized by law pursuant to a repayment agreement. Any subsidiary of, or corporation with the same members or directors as, a public benefit corporation subject to the provisions of this section shall also be subject to the provisions of this section. All applications and submissions to the board required to be made by a subsidiary shall be made on behalf of such subsidiary by the public benefit corporation which created the subsidiary. No public benefit corporation subject to the provisions of this section shall make any commitment, enter into any agreement or incur any indebtedness for the purpose of acquiring, constructing, or financing any project unless prior approval has been received from the board by such public benefit corporation as provided herein.

2. The board may require as part of such application such information as it deems necessary and shall act upon such application within a reasonable time. The board shall furnish the state comptroller with a copy of each such application within three days following receipt thereof by the board. The board shall not approve any such application prior to the earlier of (a) seven days following the receipt by the state comptroller of such application or (b) the receipt by the board of the state comptroller's comments on the application or his consent to an earlier determination by the board. Reference to the state comptroller in this subdivision shall include any authorized representative of the state comptroller.

3. The board may approve applications only upon its determination that, with relation to any proposed project, there are commitments of funds sufficient to finance the acquisition and construction of such project. In determining the sufficiency of commitments of funds, the board may consider commitments of funds, projections of fees or other revenues and security, which may, in the discretion of the board, include collateral security sufficient to retire a proposed indebtedness or protect or indemnify against potential liabilities proposed to be undertaken. A copy of such determination shall be submitted to the chief executive officer of the appropriate public benefit corporation and the state comptroller.

3-a. The board shall not approve recovery act bonds applications provided by the state of New York municipal bond bank agency unless the board finds sufficient interest rate and other savings to each participating municipality.

4. Notwithstanding any other provisions of this section, the requirements of subdivisions one, two and three of this section shall not apply with regard to any project of the New York state environmental facilities corporation, the New York state housing finance agency, the New York state medical care facilities finance agency or the dormitory

authority in progress on the first day of April, nineteen hundred seventy-six, with regard to any project of the New York state project finance agency or the New York state urban development corporation in progress on the first day of April, nineteen hundred seventy-eight, with regard to any project of the job development authority or the battery park city authority in progress on the first day of July, nineteen hundred eighty, and with regard to a project of any other public benefit corporation subject to the provisions of this section in progress on the first day of July, nineteen hundred eighty-three, as determined by the New York state public authorities control board whose affirmative determination shall be conclusive as to all matters of law and fact for the purpose of the limitations of this section.

5. Nothing contained in subdivisions one, two and three of this section shall limit the right or obligation of any public benefit corporation subject to the provisions of this section to comply with the provisions of any existing contract, including any existing contract with or for the benefit of the holders of any obligations of any public benefit corporation.

6. A member of the board must vote within the scope of his or her legal authority. The legal authority of a member of the board pursuant to this section is solely to determine whether the issuing authority has demonstrated that there is the commitment of funds sufficient to finance the acquisition and construction of the project subject to approval. Failure of a member to vote within the scope of his or her legal authority constitutes a violation of the public's trust for the purposes of paragraph h of subdivision three of section seventy-four of the public officers law. As the appointing authority, the governor has the full discretion to immediately remove a member of the board he or she finds to be acting, or threatening to act, beyond the scope of such member's legal authority set forth herein.

ARTICLE 2

PARK, PARKWAY AND HIGHWAY AUTHORITIES

* TITLE 3--JONES BEACH STATE PARKWAY AUTHORITY

* NB (Authority abolished June 30, 1978)

*** § 150. Short title.** This title may be cited as the "Jones Beach State Parkway Authority Act."

* NB (Authority abolished June 30, 1978)

* **§ 151. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "authority" shall mean the corporation created by section one hundred fifty-two of this chapter;

2. The term "commission" shall mean the Long Island state park commission;

3. The term "Meadowbrook parkway" shall mean a parkway now proposed between Meadowbrook state park and Jones Beach state park;

4. The term "Loop parkway" shall mean a parkway now proposed connecting Meadowbrook parkway and Hempstead town park on Long Beach;

5. The term "Wantagh parkway" shall mean the present parkway connecting Wantagh state park and Jones Beach state park;

6. The term "Jones Beach parkway" shall mean collectively Meadowbrook parkway, Loop parkway, Wantagh parkway and the roads, structures, facilities and bridges incidental thereto;

7. The term "bonds" shall mean bonds issued by the authority pursuant to this title;

8. The term "board" shall mean the members of the authority;

9. The term "comptroller" shall mean the comptroller of the state of New York.

10. The term "Captree bridge" shall mean a bridge now proposed from the mainland of Long Island across Great South bay to Captree state park on Jones Beach island east of the most easterly point of Oak island, and shall include a parkway connection between the said bridge and the parkway on Jones Beach island.

11. The term "Captree parkway" shall mean a parkway on the mainland of Long Island north of Captree bridge to connect Captree bridge with highways and other state parkways.

12. The term "revenues" shall mean moneys received or to be received from tolls, rentals or other charges.

* NB (Authority abolished June 30, 1978)

*** § 152. Jones Beach State Parkway Authority.** A board, to be known as "Jones Beach State Parkway Authority," is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of the commissioners of the Long Island state park commission and their successors. In case such commission shall cease to exist the board shall consist of three members who shall be appointed by the governor, by and with the consent of the senate; the term of office of the members so appointed shall be two, four and six years, respectively, and thereafter the terms of office of the said members so appointed shall be six years. The president of the board shall be the president of the Long Island state park commission or if such commission shall cease to exist shall be appointed by the governor. The members of the board shall be entitled to no compensation for their services, but shall be entitled to reimbursement for all expenses incurred or to be incurred in connection with the Jones Beach parkway. The power of such corporation shall be vested in and exercised by a majority of the members of the board then in office. The board may delegate to one or more of its members, or to its agents and employees, such powers and duties as it may deem proper. The board and its corporate existence shall continue only for a period of five years and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist all its rights and properties shall pass to the state and become subject to the jurisdiction of the commission.

* NB (Authority abolished June 30, 1978)

*** § 153. Powers of the authority.** The authority shall have power

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes;

4. To make by-laws for the management and regulation of its affairs;

5. With the consent of the commission to use the agents, employees and facilities of the commission and to authorize the making of improvements by the commission when funds are available therefor and funds of the authority are insufficient for such purposes;

6. To appoint officers, agents and employees and fix their compensation; subject, however, to the provisions of the civil service law, which shall apply to the authority as a municipal corporation other than a city;

7. To make contracts, and to execute all instruments necessary or convenient;

8. By contract, or contracts, or by its own employees, but as a single enterprise, to construct the Meadowbrook parkway, the Loop parkway and to reconstruct the Wantagh parkway on lands acquired or to be acquired by the state of New York, together with incidental roads, structures, facilities and bridges, subject to such consents and approval of federal authorities in any case as may be necessary;

9. To maintain, reconstruct, and operate the Jones Beach parkway;

10. To charge tolls for the use of Jones Beach parkway subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided; provided, however, that no tolls may be charged on Wantagh parkway until after the first day of January, nineteen hundred

thirty-five;

11. To construct and maintain over, under, along or across Jones Beach parkway, telephone, telegraph or electric wires and cables, gas mains, water mains, and other mechanical equipment not inconsistent with parkway purposes, to contract for such construction and to lease the right to construct and/or use the same on such terms and for such consideration as it shall determine, provided, however, that no lease shall be made for a period of more than ten years from the date when it is made;

12. To construct and maintain facilities for the public, not inconsistent with the use of Jones Beach parkway as a parkway, to contract for such construction, and to lease the right to construct and/or use such facilities on such terms and for such considerations as it shall determine, provided, however, that no lease shall be made for a period of more than ten years from the date when it is made;

13. To issue negotiable bonds and to provide for the rights of the holders thereof;

14. To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations;

15. To do all things necessary or convenient to carry out the powers expressly given in this title.

* NB (Authority abolished June 30, 1978)

*** § 153-a. Additional powers of the authority.** The authority shall in addition have power: 1. By contract or contracts or by its own employees to construct, on lands of the state, Captree bridge subject to such consents and approval of federal authorities as may be necessary.

2. In the discretion of the board, but only if and as permitted in any agreement with bondholders, by contract or contracts or by its own employees to construct (a) Captree parkway; (b) such improvements along

Captree parkway and Captree bridge and on Jones Beach island as it shall deem desirable for park and parkway purposes, including but not limited to automobile parking places, bathhouses, swimming pools, restaurants, boat basins, docks and slips and other recreational facilities.

3. To maintain, reconstruct and operate Captree bridge and, but only if and as permitted in any agreement with bondholders, to maintain, reconstruct and operate Captree parkway and such park and parkway improvements as it shall construct along Captree parkway and on Jones Beach island.

4. Subject to and in accordance with any agreements with bondholders, to charge tolls for the use of Captree bridge and to charge rentals and make other charges for the use of any parkway or improvement operated by it.

5. To construct and maintain over, under, along or across Captree bridge and, if constructed by the parkway authority, over, under, along or across Captree parkway, telephone, telegraph or electric wires and cables, gas mains, water mains, and other mechanical equipment not inconsistent with park or parkway purposes; to contract for such construction and to lease the right to construct and/or use the same on such terms and for such consideration as it shall determine, provided, however, that no lease shall be made for a period of more than ten years from the date when it is made.

6. To construct and maintain facilities for the public on and along Captree bridge and if constructed by it, on and along Captree parkway (not inconsistent with the use of Captree bridge as a bridge and Captree parkway as a parkway), to contract for such construction, and to lease the right to construct and/or use such facilities on such terms and for such consideration as it shall determine, provided, however, that no lease shall be made for a period of more than ten years from the date when it is made.

7. To do all things necessary or convenient to enforce its rights and to carry out its purposes, duties and the powers expressly given in this

or any other section of this title.
* NB (Authority abolished June 30, 1978)

*** § 153-b. Further additional powers of the authority.** The authority shall have the power, in addition to the powers granted in other sections of this title:

1. To construct an extension of Meadowbrook state parkway from the Southern state parkway to the Northern state parkway with incidental roads, structures, facilities and bridges and to maintain, reconstruct and operate such extension;

2. To reconstruct, widen and otherwise improve and thereafter maintain, reconstruct and operate (a) Southern state parkway, together with incidental parkway facilities now existing or hereafter constructed, on and along said parkway, from and including a connection with the Belt parkway to Wantagh avenue and to acquire real property and rights therein for future widening of Southern state parkway between Wantagh avenue and the easterly boundary of Nassau county, (b) Meadowbrook state parkway from Merrick road to the Southern state parkway, and (c) Wantagh state parkway from Merrick road to the Southern state parkway;

3. To construct, reconstruct, improve and thereafter maintain and operate facilities such as gasoline, comfort, repair and storage stations and other similar facilities along the route of the extension of Meadowbrook state parkway referred to in paragraph one of this section and the parts of the parkways referred to in paragraph two of this section, to contract for such construction, and to lease the right to construct and use such facilities on such terms and for such consideration as it shall determine, provided, however, that no lease be made for a period of more than ten years from the date when it is made;

4. To construct and maintain over, under, along or across the extension of Meadowbrook state parkway referred to in paragraph one of this section and the parts of the parkways referred to in paragraph two

of this section, telephone, telegraph or electric wires and cables, gas mains, water mains, and other mechanical equipment not inconsistent with park or parkway purposes; to contract for such construction and to lease the right to construct and/or use the same on such terms and for such consideration as it shall determine, provided, however, that no lease shall be made for a period of more than ten years from the date when it is made. The authority shall also have power to grant, with respect to any real property under its jurisdiction, on such terms and conditions and under such regulations and restrictions as the authority shall deem just and proper, licenses or easements to any governmental agency of the state of New York or to any municipal corporation, public district or governmental agency thereof, or to the United States of America or any governmental agency thereof for any public purposes and in addition thereto may grant licenses or easements to individuals, partnerships and corporations for drainage facilities, sewers, water and gas mains, electric and telephone conduits, and railroad facilities. The authority shall also have power to sell, exchange or otherwise dispose of any real property or interest therein acquired at the cost and expense of the authority pursuant to the exercise of the powers granted by section one hundred fifty-eight-b of this title which is not necessary for its corporate purposes or whenever the board shall determine that it is in the interest of the authority to do so. The proceeds of any such sale shall be paid to the authority and applied to its corporate purpose.

5. To charge tolls for the use of the part of Southern state parkway improved by the authority subject to and in accordance with any agreements with bondholders made as hereinafter provided. The toll shall be ten cents unless the revenues from such tolls and the income from the facilities authorized by the foregoing provisions of this section are insufficient to meet all obligations of such agreements and to pay the costs of operating and maintaining the parkways and facilities operated and maintained by the authority pursuant to the foregoing provisions of this section. The revenue from such tolls and the income from such facilities shall be used only to meet such obligations and to pay the cost of constructing, reconstructing, operating and maintaining such parkways and facilities;

6. To pledge the tolls from the Southern state parkway and any other revenues from the parkways operated and maintained by the authority pursuant to this section;

7. From time to time to issue bonds in the aggregate principal amount of forty million dollars for any or all of the following purposes and purposes incidental thereto: (a) purposes authorized by section one hundred fifty-three-b; (b) reconstructing, widening and otherwise improving Meadowbrook parkway from Merrick road to Jones Beach state park, Wantagh parkway from Merrick road to Jones Beach state park and Loop parkway; (c) constructing additional parking facilities on Jones Beach at a total cost of not exceeding one million two hundred fifty thousand dollars; and (d) the payment of all costs and expenses incidental to the issuance of such bonds, including interest during construction. Such bonds shall mature not later than forty years from January first, nineteen hundred fifty-four, and the authority shall not have power to refund the issuance of such bonds. The authority shall have power to employ financial advisors in connection with the issuance of such bonds. No revenues or moneys of the authority, other than the tolls and other revenues from the Southern state parkway and the proceeds from the sale of the bonds, shall be pledged for or shall be applicable to the payment of such bonds. All the provisions of this title relating to bonds which are not inconsistent with the provisions of this section, shall apply to the bonds authorized by this section except section one hundred fifty-eight and subdivisions two and three of section one hundred fifty-eight-a. The authority also shall have power from time to time in anticipation of the issuance of bonds pursuant to this section to borrow money on bank loans and to evidence such loans by notes or otherwise. Such loans and notes shall be subject to the same provisions of this title as relates to bonds issued pursuant to this section;

8. Bonds issued pursuant to this section shall be sold at public sale, upon sealed bids publicly opened and read, to the bidder who shall offer the lowest interest cost to the authority, or if the authority shall so determine, at the highest price. The notice of sale shall be published at least once, not less than seven nor more than thirty days before the

date of sale, in a financial newspaper published and circulated in the city of New York. Such notice shall contain a statement of the time and place where all bids received in pursuance of such notice will be publicly opened and read. Such bonds shall be sold for a price not less than ninety-eight per centum of the par value thereof, plus accrued interest. The provisions of this subdivision shall not apply to notes of the authority issued pursuant to subdivision seven of this section;

9. Notwithstanding and in addition to any provisions for the redemption of bonds issued pursuant to this section which may be contained in any contract with the holders of such bonds, the state of New York may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of such bonds on any interest payment date not less than five years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published at least twice in at least two newspapers published and circulated respectively in the county of Nassau and city of New York, the first publication to be at least thirty days before the date of redemption;

10. The authority shall have the right to possess and use for its corporate purposes the extension of Meadowbrook state parkway referred to in paragraph one of this section and the parts of the parkways referred to in paragraph two of this section, together with necessary facilities now existing or hereafter constructed on or along said parkways. Policing of the parkways and other facilities of the authority shall continue to be the responsibility of the force of park patrolmen under the direction of the commission. Such possession and use by the authority shall continue until its liabilities for such parkways and facilities have been met and the bonds authorized by this section have been paid in full or such liabilities having otherwise been discharged. Thereafter such parkways and facilities shall pass to the state and become subject to the jurisdiction of the commission;

11. All contracts involving payments of more than five thousand

dollars, except for professional or financial advisory services or in connection with the issuance of bonds or notes, shall be let to the lowest responsible bidder by sealed proposals publicly opened after public notice published at least once in the official newspapers of Nassau county, at least ten days prior to the day on which sealed proposals are to be opened; provided, however, the authority may reject any and all proposals and may advertise for new proposals as above provided if in its opinion the best interests of the authority will thereby be promoted.

* NB (Authority abolished June 30, 1978)

*** § 153-c. Financial disclosure by authority prior to toll or fare increase.** 1. The ten cent toll which was in effect on December thirty-first, nineteen hundred seventy-four pursuant to subdivision five of section one hundred fifty-three-b of the public authorities law shall be restored to ten cents until all of the provisions of this section shall have been complied with.

2. Notwithstanding any inconsistent provision of this chapter or of any other general, special or local law, the authority shall submit to the state comptroller, not less than one hundred twenty days prior to the proposed date of any future increase in tolls a detailed written report setting forth: (1) the need for such increase or imposition; (2) its receipts and disbursements, or revenues and expenses, during the prior five fiscal years, or so much thereof as it may have been in existence, in accordance with the categories or classifications established by such authority for its own operating and capital outlay purposes; (3) its assets and liabilities at the end of its last fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds; (4) a schedule of bonds and notes outstanding at the end of its fiscal year and their redemption dates, together with a statement of the amounts redeemed and incurred during such fiscal year; (5) information on operations, debt service and capital construction setting forth the estimated receipts and expenditures for the next five fiscal years; (6) projections and estimates as to the effect which the proposed increase

or imposition will have on the future use of the facilities, and the increased revenues which will accrue to the authority as the result of the proposed increase or imposition; (7) such other information and data as the comptroller may request in order to carry out the provisions of this section. The comptroller shall have the power to waive submission, in the detailed written report, of any records, data and information required by this subdivision, and in lieu thereof shall have the power to physically inspect any records, data and information required by such subdivision.

3. The comptroller shall review any proposed increase or imposition in tolls and the report required by subdivision two of this section and within sixty days make public his findings, conclusions and recommendations. The commissioner of transportation of the state of New York or his designated representative or agent shall, at the request of the comptroller, provide assistance to the comptroller in determining his findings, conclusions and recommendations, as required by this section.

4. The authority shall hold a public hearing upon any such proposed toll increase not less than fifteen days prior to the effective date of such increase. At least fifteen days prior to such hearing notice of such hearing shall be given by publications at least once in each of six daily newspapers within the state to be selected by the authority. Copies of the proposed increase or imposition, the report required by subdivision two of this section and the comptroller's findings, conclusions and recommendations shall be available for public inspection during a period of fifteen days prior to the hearing at the office or offices of the authority and at such other places throughout the counties of Nassau and Suffolk as it may designate. Following such public hearing, the authority shall reconsider the proposed increase or imposition and may rescind, change or modify the proposal as it then deems necessary or advisable.

5. Nothing contained in this section shall require the authority to refund any tolls collected in the period between January first, nineteen hundred seventy-five, and the effective date of this act.

* NB (Authority abolished June 30, 1978)

*** § 154. Towns of Hempstead, Babylon and Islip may convey land.** Notwithstanding the provisions of any other law, the town boards of the towns of Hempstead, Babylon and Islip without the submission of a proposition to the people of the towns and without town meetings or any other authorization are hereby authorized respectively to convey to the state any land and lands under water owned by said towns, respectively, for the purposes of this title. Said town boards are authorized, respectively, to permit the temporary use of town lands which may be convenient for construction undertaken by the authority and to permit the use of fill dredged from town lands under water.

* NB (Authority abolished June 30, 1978)

*** § 155. Title to additional lands acquired.** Title to any additional lands, easements or rights in land which may be hereafter acquired for the purposes of this act shall be vested in the state of New York.

* NB (Authority abolished June 30, 1978)

*** § 156. Moneys of the authority.** All moneys of the authority from whatever source derived shall be paid to the comptroller as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on check of the comptroller on requisition of the president of the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the parkway authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall have power notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

* NB (Authority abolished June 30, 1978)

*** § 157. Bonds of the authority.** 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code in the aggregate principal amount of not exceeding ten million, fifty thousand dollars outstanding at any one time. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purposes. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, every issue of the bonds shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular revenues.

2. Such bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding five per centum per annum payable semi-annually, be in such denominations, be in such form, either coupon or registered,

carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. Such bonds may be sold at public or private sale for such price or prices as the authority shall determine.

3. Such bonds may be issued for any corporate purpose of the authority including payment of the cost of the acquisition of any additional lands, easements or rights in land which may hereafter be acquired for Jones Beach parkway or Captree bridge or Captree parkway or any other improvements that the authority is authorized to construct.

4. Any resolution or resolutions authorizing any bonds may contain provisions, which shall be a part of the agreement with the holders of the bonds, as to (a) pledging the revenues of Jones Beach parkway and Captree bridge and Captree parkway and any improvements operated by the authority, or any part of such revenues to secure the payment of the bonds or of any issue of the bonds;

(b) the rates of the tolls and rentals to be charged and of other charges to be made, and the amount to be raised in each year in revenues of any kind and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the commission and of the authority and their successors to restrict and regulate the use of Jones Beach parkway, Captree bridge, Captree parkway, or any other improvement in connection with which such bonds are issued;

(e) limitations on the purposes to which the proceeds of the sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to the payment of the bonds on such terms and conditions as the resolution may provide;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any agreement with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of revenues derived from Jones Beach parkway, Captree bridge, Captree parkway or any improvement operated by the authority to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one hundred sixty-two hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under section one hundred sixty-two hereof or limiting the rights, duties and powers of such trustee;

(j) any other matters of like or different character which in any way affect the security or protection of the bonds.

4-a. Any resolution or resolutions authorizing any bonds or any issue of bonds maturing in not exceeding ten years from their date (hereafter in this subsection four-a referred to as "short term obligations") may contain, in addition to all other provisions authorized by this title, provisions, which shall be a part of the agreement with the holders of the short term obligations thereby authorized, as to (a) refunding the short term obligations by the issuance of bonds of the authority either by the sale of bonds and the application of the proceeds to the payment of the short term obligations or by the exchange of bonds for the short term obligations; provided, however, that the authority shall make no covenant to refund which shall require it to issue bonds, the aggregate principal amount of which shall exceed by more than ten per centum the aggregate principal amount of the short term obligations to be refunded thereby;

(b) satisfying, paying or discharging the short term obligations, at the election of the authority, by the tender or delivery of bonds of the authority in exchange therefor; provided, however, that the aggregate principal amount of bonds shall not exceed by more than ten per centum the aggregate principal amount of the short term obligations to satisfy, pay or discharge which the bonds are tendered or delivered;

(c) exchanging or converting the short term obligations, at the election of the holder thereof, for or into bonds of the authority;

provided, however, that the aggregate principal amount of the bonds shall not exceed by more than ten per centum the aggregate principal amount of the short term obligations to be exchanged for or converted into bonds;

(d) pledging bonds of the authority as collateral to secure payment of the short term obligations and providing for the terms and conditions of the pledge and manner of enforcing the pledge, which terms and conditions may provide for the delivery of the bonds in satisfaction of the short term obligations; provided, however, that the aggregate principal amount of the bonds pledged shall not exceed by more than ten per centum the aggregate principal amount of the short term obligations to secure which they are pledged;

(e) depositing bonds in escrow or in trust with a trustee or fiscal agent or otherwise providing for the issuance and disposition of the bonds as security for carrying out any provisions in any resolution adopted pursuant to the foregoing paragraphs (a), (b), (c) and (d) hereof and providing for the powers and duties of the trustee or fiscal agent or other depositary and the terms and conditions on which the bonds are to be issued, held and disposed of;

(f) any other matters of like or different character which relate to any provision or provisions of any resolution adopted pursuant to the foregoing paragraphs (a), (b), (c), (d) and (e) hereof.

In computing the amount of bonds of the authority which may be outstanding at any one time, short term obligations shall be excluded to the extent that the resolution authorizing the issuance of such short term obligations shall provide for the issuance of bonds pursuant to paragraphs (a), (b), (c) or (d) of this subsection, but the bonds provided to be issued by such resolution shall be included in making such computation whether or not such bonds are outstanding.

The authority shall have power to make contracts for the future sale from time to time of short term obligations, by which the purchasers shall be committed to purchase short term obligations from time to time on the terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments.

5. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

6. Neither the members of the board nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. For the purpose of refunding or reducing its debt the authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than one hundred and five per centum of the principal amount thereof and accrued interest. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

* NB (Authority abolished June 30, 1978)

*** § 158. Competing highways not to be authorized.** The state of New York does pledge to and agree with the holders of any bonds that the state will not authorize the construction or maintenance of any parkway, causeway, bridge, tunnel, street, road, highway or other connection for vehicular traffic, which will be competitive with Jones Beach parkway, nor will it limit or alter the rights hereby vested in the authority to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of principal and interest, and all costs and expenses in connection with any actions or proceedings, by or on behalf of the bondholders, are fully met and discharged; provided that a parkway, causeway, bridge, tunnel, street, road, highway or other connection for vehicular traffic shall be considered as competitive only if it shall form a connection for vehicular traffic between the mainland of Long Island and the island of Long Beach east of the most easterly point of the present city of Long Beach or between the mainland of Long Island and the island on which Jones Beach park is located west of the most easterly point of Oak island, or between the island of Long Beach and the island on which Jones Beach park is located. This section shall be effective only so long as bonds issued by the authority prior to January first, nineteen hundred thirty-nine shall be outstanding and unpaid.

* NB (Authority abolished June 30, 1978)

*** § 158-a. Covenants of the state.** 1. The state of New York does pledge to and agree with the holders of any bonds issued pursuant to this act after January first, nineteen hundred thirty-nine that it will not limit or alter the rights hereby vested in the authority to construct, reconstruct, operate and maintain the parkway, bridges and other improvements, or any of them, and to collect revenues therefrom as authorized in this title insofar as such rights may be necessary in order that the authority may fulfill the terms of any agreements made with the holders of such bonds and that it will not in any way impair the rights and remedies of the holders of such bonds until the bonds, together with interest thereon, with interest on any unpaid installments of principal and interest and all costs and expenses in connection with any suits, actions or proceedings by or on behalf of the bondholders are fully met and discharged.

2. The state of New York does pledge to and agree with the holders of any bonds issued pursuant to this title after January first, nineteen hundred thirty-nine which are secured by a pledge of the revenues of Jones Beach parkway that it will not authorize or permit the construction or maintenance of any parkway, causeway, bridge, tunnel, street, road, highway or other connection for vehicular traffic which

will be competitive with Jones Beach parkway until such bonds together with interest thereon, with interest on any unpaid installments of principal and interest and all costs and expenses in connection with any suits, actions or proceedings by or on behalf of the bondholders are fully met and discharged; provided that a parkway, causeway, bridge, tunnel, street, road, highway or other connection for vehicular traffic shall be considered as competitive only if it shall form a connection for vehicular traffic between the mainland of Long Island and the island of Long Beach east of the most easterly point of the present city of Long Beach or between the mainland of Long Island and the island on which Jones Beach park is located west of the most easterly point of Oak island, or between the island of Long Beach and the island on which Jones Beach park is located.

3. The state of New York does pledge to and agree with the holders of any bonds issued pursuant to this title after January first, nineteen hundred thirty-nine which are secured by a pledge of the revenues of Captree bridge, that it will not authorize or permit the construction or maintenance of any parkway, causeway, bridge, tunnel, street, road, highway or other connection for vehicular traffic which shall be competitive with Captree bridge until such bonds, together with interest thereon, with interest on any unpaid installments of principal and interest, and all costs and expenses in connection with any suits, actions or proceedings, by or on behalf of the bondholders, are fully met and discharged; provided that a parkway, causeway, bridge, tunnel, street, road, highway or other connection for vehicular traffic shall be considered as competitive only if it shall form a connection for vehicular traffic across Great South bay between the mainland on Long Island and either the island of Jones Beach or Fire island beach east of Wantagh state parkway and west of Smith point.

* NB (Authority abolished June 30, 1978)

*** § 158-b. Acquisition of real property.** 1. The authority shall have power from time to time to acquire, in the name of the state, real property necessary in order to carry out its corporate purposes or exercise of the powers granted by sections one hundred fifty-three-b and one hundred fifty-eight-c of this title, by purchase, gift, devise or condemnation pursuant to the provisions for the acquisition of real property for public use provided for in the Nassau county administrative code (chapter two hundred seventy-two of the laws of nineteen hundred thirty-nine, as amended), except as otherwise provided by this section.

2. In exercising the powers of condemnation pursuant to the Nassau county administrative code

(a) The function of the board of supervisors shall be exercised by the board of the authority;

(b) The functions of the other county officials and employees referred to therein shall be exercised by such officers, agents or employees of the authority as the authority shall direct;

(c) "court" shall mean the supreme court in and for the county of Nassau;

(d) The map of the real property affected by the acquisition required by section eleven-twenty-two-zero of the said Nassau county administrative code shall be filed only in the office of the county clerk. Notice of such filing shall be given in the manner provided in said section but no notice of hearing on such map shall be given nor shall a hearing on such map be required;

(e) The authority shall furnish to the court such maps, surveys, diagrams or plans as shall be required for the purpose of this section.

(f) No part of the cost of acquisition shall be assessed on real property benefited thereby.

(g) With the consent of the county executive of the county of Nassau, the authority may designate the county attorney of the county of Nassau to conduct any such acquisition proceeding, paying to the county such compensation for such services as may be agreed upon, together with all costs and expenses payable or incurred by the county attorney in connection with such proceeding, as certified by the comptroller of said county.

(h) Where the compensation to be paid to owners of real property acquired has not been determined by agreement or settlement it shall be determined by the supreme court without a jury.

(i) The county board of assessors shall furnish to the attorney acting for the authority a duplicate copy of the tax map of the county relating to the real property to be acquired at the request of the attorney acting for the authority and the county clerk shall furnish such attorney block and lot maps relating to such real property and shall furnish information necessary to keep the maps furnished as accurate as practicable.

(j) All costs and expenses incurred in connection with the acquisition of real property by the authority, of any officers, employees, or departments of the county, including such amount of the salaries of such officers or employees as may be agreed between the authority and the county of Nassau, shall be paid by the authority forthwith upon the certification to the chairman of the authority by the county comptroller of the amounts of such costs and expenses.

(k) All compensation for the acquisition of property and damages shall be paid by the authority.

3. The county of Nassau or any municipal corporation may acquire by purchase, gift, devise or condemnation real property necessary for the improvements authorized in paragraphs one to five inclusive of section one hundred fifty-three-b of this title and may donate or dedicate such real property to the state or may release to the state for such improvements existing rights of way or easements not required for county or municipal purposes; the county of Nassau and any such municipal corporation may agree with the authority for the transfer of any real property acquired or to be acquired by the county or such municipality to the authority upon payment by the authority of such part of the cost of such real property to the county or such municipality as may be agreed.

* NB (Authority abolished June 30, 1978)

*** § 158-c. Relocation of dwellings.** 1. It is hereby declared that any reduction in housing accommodations on Long Island would be detrimental to the community; that this condition requires that provision be made for the relocation and rehabilitation of dwellings affected by projects undertaken by the authority; that the necessity, in the public interest for the provisions of this section, is hereby declared as a matter of legislative determination.

2. Notwithstanding any other provision of law, the authority shall have power whenever it shall acquire real property with dwellings thereon (a) to acquire real property for the purpose of providing new sites on which such dwellings may be relocated by purchase, gift, devise or condemnation in the manner provided in this title, or, with the approval of the director of the budget, to use real property under the jurisdiction of the authority for such purpose; (b) to sell such dwellings or to provide for the removal and rehabilitation of such dwellings on new foundations at such new sites by contract or by its own labor force or by combination of such methods; (c) to contract for the installation of services and facilities including water, sewer, gas, electricity and other necessary appurtenances required for the complete restoration of such dwellings; (d) to landscape such sites; (e) to contract with any person, firm or corporation or with a municipality for the improvement or installation of streets, sewers, water lines or other facilities in connection with the relocation of such dwellings and to pay the cost thereof and any municipality is hereby authorized to enter into any such contract; (f) to contract with the several owners of such property for the conveyance of the new sites with improvements thereon to such owner in settlement in part or in whole of the compensation and damage to which they are entitled; and (g) to sell such sites with or without dwellings and improvements thereon.

3. The authority may agree with the owners of property acquired, in settlement in part or in whole of the damages to which they are entitled, to compensate such owners for the cost of acquiring new sites, removing dwellings thereto on new foundations, the installation of services and facilities including water, sewerage, gas, electricity, and other necessary appurtenances required for the complete restoration of such dwellings; and landscaping of the new site.

4. This section shall be effective only until January first, nineteen hundred fifty-six.

* NB Expired January 1, 1956

* NB (Authority abolished June 30, 1978)

*** § 159. State not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state and the state shall not be liable thereon nor shall they be payable out of any funds other than those of the authority.

* NB (Authority abolished June 30, 1978)

*** § 160. Bonds legal investments for public officers and fiduciaries.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings institutions, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB (Authority abolished June 30, 1978)

*** § 161. Bonds to be tax exempt.** The bonds shall be exempt from taxation except for transfer and estate taxes. This section shall apply only to bonds issued before January first, nineteen hundred thirty-nine. Nothing in this section shall be construed to repeal any tax exemption granted by general law.

* NB (Authority abolished June 30, 1978)

*** § 161-a. Tax contract by the state.** 1. It is hereby found, determined and declared that the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state, for the improvement of their health, welfare and prosperity, and for the promotion of their traffic, and that said purposes are public purposes and that the bridges, parkways and improvements constructed or operated by the authority are an essential part of the public park and parkway system and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by law, and the state of New York covenants with the purchasers and with all subsequent holders and transferees of the bonds issued after January first, nineteen hundred thirty-nine by the parkway authority pursuant to this title, in consideration of the acceptance of and payment for the bonds that the bonds of the authority issued after January first, nineteen hundred thirty-nine pursuant to this title and the income therefrom and all moneys, funds, tolls and other revenues pledged to pay or secure the payment of such bonds shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

2. Nothing herein shall be construed to repeal any tax exemptions granted by general law.

* NB (Authority abolished June 30, 1978)

*** § 162. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of such issue then outstanding by instrument or instruments filed in the office of the clerk of the county of Nassau or of Suffolk and proved or acknowledged in the same manner as a deed to be recorded may appoint a trustee, to represent the bondholders for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such issue of bonds then outstanding shall upon being furnished security satisfactory to the trustee for the recovery of his or its expense and against loss and liability in his or its own name

(a) by suit, action or special proceeding, enforce all rights of the bondholders, including the right to require the authority and the board to collect revenues adequate to carry out any agreement as to, or pledge of, such revenues and to require the authority and the board to carry out any other agreements with the bondholders and to perform its and their duties under this title;

(b) bring suit upon the bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders; (e) declare all bonds of such issue due and payable and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such issue then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceeding shall be laid in Nassau county or Suffolk county.

4. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of said part or parts of the project and subject to any pledge or agreement with bondholders shall take possession of all moneys and other property derived from or applicable to the construction, operation, maintenance and reconstruction of said part or parts of the project and proceed with any construction thereon which the authority is under obligation to do and to operate, maintain and reconstruct the said part or parts of the

project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues.

5. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

6. All bonds issued pursuant to the same resolution, although issued at different times and with different terms and provisions and although supplemental resolutions may be required prior to the issuance of part of such bonds, shall constitute one issue for the purposes of this section, but any resolution may provide that the bonds issued pursuant thereto shall constitute one or more separate issues for the purposes of this section.

* NB (Authority abolished June 30, 1978)

*** § 163. Rules and regulations.** The use by the public of Jones Beach parkway, Captree bridge, Captree parkway and any other improvement operated by the parkway authority shall be subject to the rules and regulations of the commissioner of parks and recreation and the commission, as provided in the parks and recreation law, in the same manner as if such property were a park or parkway in the ninth park region under the jurisdiction of the commissioner of parks and recreation; provided, however that the commissioner of parks and recreation and the commission shall have no authority to alter or change any of the facilities hereby placed under the authority or do anything which will impair the security of the bondholders or violate limitations contained in any agreement with bondholders.

* NB (Authority abolished June 30, 1978)

*** § 163-a. Jurisdiction in certain suits against the authority.** Exclusive jurisdiction is hereby conferred upon the court of claims to hear and determine the claims of any person against the authority (a) for its tortious acts and those of its agents, and (b) for breach of a contract relating to construction, reconstruction, improvement, maintenance or operation, in the same manner and to the extent provided by and subject to the provisions of the court of claims act with respect to claims against the state, and to make awards and render judgments therefor. All awards and judgments arising from such claims shall be paid out of monies of the authority.

* NB (Authority abolished June 30, 1978)

*** § 164. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB (Authority abolished June 30, 1978)

*** § 165. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

* NB (Authority abolished June 30, 1978)

* TITLE 4

BETHPAGE PARK AUTHORITY

* NB (Abolished in 1975)

*** § 200. Short title.** This title may be cited as the "Bethpage Park Authority Act."
* NB (Abolished in 1975)

*** § 201. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "authority" shall mean the corporation created by section two hundred two of this chapter;

2. The term "commission" shall mean the Long Island state park commission;

3. The term "Bethpage Park" shall mean the lands which the authority is authorized to acquire as hereinafter provided;

4. The term "bonds" shall mean bonds issued by the authority pursuant to this title;

5. The term "board" shall mean the members of the authority;

6. The term "comptroller" shall mean the comptroller of the state of New York.

* NB (Abolished in 1975)

*** § 202. Bethpage park authority.** A board, to be known as "Bethpage Park Authority, " is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of the commissioners of the Long Island state park commission and their successors. In case such commission shall cease to exist the board shall consist of three members who shall be appointed by the governor, by and with the consent of the senate; the term of office of the first members so appointed shall be two, four and six years, respectively, and thereafter the terms of office of members so appointed shall be six years. The president of the board shall be the president of the Long Island state park commission or if the commission shall cease to exist shall be appointed by the governor. The members of the board shall be entitled to no compensation for their services, but shall be entitled to reimbursement for all expenses incurred or to be incurred, in connection with Bethpage park. The power of such corporation shall be vested in and exercised by the board and a majority of the members of the board then in office shall constitute a quorum. The board may delegate to one or more of its members, or to its agents and employees, such powers and duties as it may deem proper. The board and its corporate existence shall continue only for a period of five years and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist all its rights and properties shall pass to the state and become subject to the jurisdiction of the commission. The board shall execute such instruments as may be required by the commission to accomplish transfer of title to the state.

* NB (Abolished in 1975)

*** § 203. Purpose and duty of the authority.** The purpose and duty of the authority is to acquire land in the town of Oyster Bay, Nassau county, and in the towns of Huntington and Babylon, Suffolk county, and to develop, improve, embellish, maintain and operate such land as a public park and public recreation center, and to charge fees for admission thereto and the use thereof sufficient with other revenues to meet its expenses and pay all debts contracted by it, and the authority shall have power to do all things necessary or convenient to carry out such purpose and duty in addition to the express powers conferred in this title.

* NB (Abolished in 1975)

*** § 204. Powers of the authority.** The authority shall have power

1. To sue and be sued;

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

3. To acquire, hold and dispose of real and personal property or interests therein in its own name, subject to mortgages or other liens or otherwise and to pay therefor in cash or on credit, and to give mortgages thereon in full or part payment therefor or otherwise to secure or procure payment of all or any part of the purchase price thereof, on such terms and conditions as it shall determine;

4. To make by-laws for the management and regulation of its affairs;

5. With the consent of the commission to use the agents, employees and facilities of the commission and to authorize the making of improvements or the acquisition of property by the commission when funds are available therefor and funds of the authority are insufficient for such purposes;

6. To appoint officers, agents and employees and fix their compensation; subject, however, to the provisions of the civil service law, which shall apply to the authority as a municipal corporation,

other than a city;

7. To make contracts and incur debts and to execute all instruments necessary or convenient;

8. To charge fees for admission to the park and for the use of the facilities therein subject to and in accordance with such agreements with holders of bonds as may be made as hereinafter provided;

9. To rent, buy, sell and deal in, goods, wares and merchandise in any way connected with the recreational facilities furnished, or to lease the right to exercise such powers;

10. To give instruction in sports, games and recreations and to lease the right to exercise such power;

11. To operate restaurants, cafes and other places for serving food and refreshments and to lease the right to exercise such power;

12. To lease the right to construct and/or use such facilities in Bethpage park on such terms and for such considerations as it shall determine, provided, however, that no lease shall be made for a period of more than ten years from the date when it is made;

13. To issue negotiable bonds and to provide for the rights of the holders thereof, and to secure the same by a mortgage or deed of trust on its property;

14. To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations;

15. To do all things necessary or convenient to carry out the powers expressly given in this title.

* NB (Abolished in 1975)

*** § 205. Moneys of the authority.** All moneys of the authority from whatever source derived shall be paid to the comptroller as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on check of the comptroller on requisition of the president of the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. This section shall not be construed as limiting the power of the authority to agree as to the custody and disposition of moneys or fees and revenues for the security of its bonds.

* NB (Abolished in 1975)

*** § 206. Bonds of the authority.** 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code in the aggregate principal amount of not exceeding one million five hundred thousand dollars for any corporate purpose. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded.

2. Such bonds shall be authorized by resolution of the board and shall be issued in one or more series, shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective

dates, bear interest at such rate or rates, not exceeding five per centum per annum payable semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, and be declared or become due before the maturity date thereof, as such resolution or resolutions may provide. Such bonds may be issued for money or property (at public or private sale for such price or prices) as the authority shall determine, provided that the interest cost to maturity of the money or property (at its value as determined by the board, the determination of which shall be conclusive) received for any issue of such bonds, shall not exceed five per centum per annum. Refunding bonds exchanged for outstanding bonds may be exchanged on such terms and with such cash adjustments as the authority shall determine.

3. In connection with the issuance of bonds or in order to secure the payment of its bonds the authority shall have power

(a) To mortgage all or any part of its property, real or personal, then owned or thereafter acquired;

(b) To pledge all or any part of its revenues;

(c) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired or against permitting or suffering any lien thereon;

(d) To covenant against pledging all or any part of its revenues to which its right then exists or the right to which may thereafter come into existence;

(e) To provide for the release of property or revenues from any pledge or mortgage, and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage;

(f) To covenant as to the bonds to be issued pursuant to any mortgage, deed of trust or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

(g) To covenant as to what other, or additional debt may be incurred by it;

(h) To provide for the terms, form, registration, exchange, execution and authentication of bonds;

(i) To provide for the replacement of lost, destroyed or mutilated bonds;

(j) To covenant that the authority warrants the title to the premises;

(k) To covenant as to the fees and rentals to be charged, the amount (calculated as may be determined) to be raised each year or other period of time by fees, rentals, and other revenues and as to the use and disposition to be made thereof;

(l) To covenant as to the use of any or all of its property, real or personal;

(m) To covenant to set aside or pay over reserves and sinking funds and as to the disposition thereof;

(n) To redeem the bonds, and to covenant for their redemption, and to provide the terms and conditions thereof;

(o) To covenant against extending the time for the payment of bond interest, directly or indirectly, by any means or in any manner;

(p) To covenant to maintain offices and agencies for any purpose connected with its bonds;

(q) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys;

(r) To covenant as to its books of account and as to the inspection and audit thereof and as to the accounting methods;

(s) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(t) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation;

(u) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay or in relation to the bonds, or to foreclose any mortgage, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant or exercise the right of foreclosure;

(v) To make covenants in addition to the covenants herein expressly authorized, of like or different character;

(w) To execute all mortgages, bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties;

(x) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the board tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein and notwithstanding that such covenants, acts or things may restrict or interfere with the carrying out of its corporate purpose; it being the intention hereof to give the authority power to do all things in the issuance of bonds, and for their security that a business corporation can do under the general laws of the state and no consent or approval of any judge or court shall be required therefor.

* NB (Abolished in 1975)

*** § 207. State not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state and the state shall not be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB (Abolished in 1975)

*** § 208. Bonds legal investments for public officers and fiduciaries.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB (Abolished in 1975)

*** § 209. Bonds to be tax exempt.** The bonds shall be exempt from taxation except for transfer and estate taxes.

* NB (Abolished in 1975)

*** § 210. Rights and remedies of creditors.** 1. All real and personal property, including fees and revenues of the authority and debts owing to it are exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same. No judgment against the authority shall be a charge upon real property or chattels real of the authority. This clause shall not limit the rights of mortgagees and pledgees to enforce their lien or other rights by any appropriate suit, action or proceeding.

2. Any purchaser at a sale of property of the authority pursuant to a judgment in an action to foreclose a mortgage thereon shall obtain title free from any trust or other obligation to operate or maintain such property as a public park or public recreation center and free from any obligation to the public or the state as to its use or disposition.

3. Any creditor of the authority, including a trustee for bondholders, shall have the right, subject to any contractual limitations binding upon such creditor or trustee, and subject to the prior or superior rights of others,

(a) by suit, action or special proceeding, to enforce his rights against the authority and the board, including the right to require the authority and the board to collect fees and revenues adequate to carry out any agreement as to, or pledge of, such fees and revenues and to require the authority and the board to carry out any other covenants and agreements and to perform its and their duties under this title;

(b) by action or suit in equity to require the authority to account as if it were the trustee of an express trust;

(c) by action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of such creditor;

(d) in the discretion of the court to the appointment of a receiver of the property of the authority or any part or parts thereof, who may enter and take possession of the property of the authority or any part or parts thereof, and operate and maintain the same and collect and receive all fees, rentals and other revenues thereafter arising therefrom in the same manner as the authority itself might do, and shall deposit all such moneys in a separate account and apply the same in accordance with the obligations of the authority as the court shall direct. The authority may give the holders of its bonds or any trustee for their benefit by agreement the right to the appointment of a receiver.

* NB (Abolished in 1975)

*** § 211. Exemption from taxation.** The construction, maintenance and operation of Bethpage park is in all respects for the benefit of the people of the state of New York for the increase of their pleasure, convenience and welfare and for the improvement of their health, and the authority shall be regarded as performing a governmental function in carrying out its corporate purpose and shall be required to pay no taxes or assessments of any kind whatsoever upon any of the property acquired by it, which said property shall be exempt from taxation so long as the same is owned or possessed by the authority, or upon its activities in the operation and maintenance of Bethpage park or upon any revenues or other income received by it, and any mortgage of real property executed, given or made by the authority shall be exempt from any tax imposed on the recording thereof and any person or corporation owning any debt or obligation of the authority secured by any mortgage of its real property shall be exempt from any tax on the recording of such mortgage. Nothing in this section shall be construed, however, to impress any trust upon such property as such or to limit the absolute character of any title which may be derived through the authority by sale or the foreclosure of any lien or mortgage thereon.

* NB (Abolished in 1975)

*** § 212. Rules and regulations relating to park.** The use of Bethpage park shall be subject to the rules and regulations of the commissioner of parks and recreation and the commission, as provided in the parks and recreation law, in the same manner as if such property were a park or parkway in the ninth park region under the jurisdiction of the commissioner of parks and recreation; provided, however, that the commissioner of parks and recreation and the commission shall have no authority to alter or change any of the facilities hereby placed under the authority or do anything which will impair the security of the bondholders or violate limitations contained in any agreement with the bondholders.

* NB (Abolished in 1975)

*** § 212-a. Jurisdiction in certain suits against the authority.** Exclusive jurisdiction is hereby conferred upon the court of claims to hear and determine the claims of any person against the authority (a) for its tortious acts and those of its agents, and (b) for breach of a contract relating to construction, reconstruction, improvement, maintenance or operation, in the same manner and to the extent provided by and subject to the provisions of the court of claims act with respect to claims against the state, and to make awards and render judgments therefor. All awards and judgments arising from such claims shall be paid out of monies of the authority.

* NB (Abolished in 1975)

*** § 213. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account

thereof be deemed invalid or ineffective.
* NB (Abolished in 1975)

*** § 214. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.
* NB (Abolished in 1975)

TITLE 9

NEW YORK STATE THRUWAY AUTHORITY

§ 350. Short title. This title may be cited as "New York State thruway authority act".

§ 351. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section three hundred fifty-two of this title.

2. The term "thruway" shall mean generally a divided highway under the jurisdiction of the authority for mixed traffic with access limited as the authority may determine and generally with grade separations at intersections, and such bridges, buildings, tunnels, and other structures and facilities related thereto as the authority may determine.

3. The terms "bonds" and "notes" shall mean bonds and notes, respectively, issued by the authority pursuant to this title.

4. The term "comptroller" shall mean the comptroller of the state of New York.

5. The term "commissioner" shall mean the commissioner of transportation of the state of New York.

6. The term "municipality" shall mean a county, town, city, village, special district or other political subdivision.

7. The term "highway" shall mean a public road or parkway, maintained by the state or a municipality.

8. The term "real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including lands under water, riparian rights, property rights in air space and/or subsurface space and any and all other things and rights usually included within the said term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right legal or equitable.

9. The term "state" shall mean the state of New York.

10. The term "department" shall mean the department of transportation.

§ 352. New York State thruway authority. 1. A board to be known as "New York state thruway authority" is hereby created. Such board shall be a body corporate and politic constituting a public corporation. It shall consist of seven members appointed by the governor by and with the advice and consent of the senate. The members first appointed shall serve for terms ending three, six and nine years, respectively from January first next succeeding their appointment. Provided, however, that two board members first appointed on or after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall serve an initial term of two years; provided further that two other board members first appointed on or after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall serve an initial term of three years. Their successors shall be appointed for terms of nine years each. A member to be designated as chairman in his or her appointment as a member shall be chairman of such board until his or her term as member expires. The chairman and the other members shall serve without salary or other compensation, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

2. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the board created by this section; provided, however, a member who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this title.

3. The power of such corporation shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or its officers, agents and employees such powers and duties as it may deem proper.

4. Such board and its corporate existence shall continue so long as it shall have notes, bonds or other obligations outstanding (including notes, bonds or obligations hereafter issued or incurred) and until its existence shall be terminated by law. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the state.

§ 353. Purposes of the authority and benefits therefrom. The authority is created to and shall have power to finance, construct, reconstruct, improve, develop, maintain or operate a thruway system as provided by and subject to the provisions of this title together with facilities for the public incidental thereto. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York for the increase of their pleasure, convenience and welfare, for the improvement of their health, to facilitate transportation for their recreation and commerce and for the common defense; and the authority shall be regarded as performing a governmental function in carrying out its corporate purpose and in exercising the powers granted by this title.

§ 354. Powers of the authority. Except as otherwise limited by this title, the authority shall have power

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes;

4. To acquire and hold in the name of the state by purchase or appropriation real property or rights or easements therein and to sell, exchange, or otherwise dispose of any real property not necessary for its corporate purposes or whenever the board shall determine that it is in the interest of the authority; and upon such terms and conditions and uses as the board shall determine, to lease or to grant permits to occupy real property not presently required for thruway purposes but held for future use in carrying out its corporate purposes;

5. To make by-laws for its organization and internal management and, subject to agreements with noteholders or bondholders, rules and regulations governing the use of the thruways and all other properties and facilities under its jurisdiction, which shall be filed with the department of state in the manner provided by section one hundred two of the executive law;

6. To appoint officers, agents and employees and fix their compensation, provided, however, that the appointment of the executive director shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter; subject however to the provisions of the civil service law, which shall apply to

the authority as a municipal corporation other than a city;

7. To make contracts, and to execute all instruments necessary or convenient;

8. Subject to agreements with noteholders or bondholders, to fix and collect such fees, rentals and charges for the use of the thruway or any part thereof necessary or convenient, with an adequate margin of safety, to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders of its notes or bonds, and to establish the rights and privileges granted upon payment thereof.

9. To retain and employ private consultants on a contract basis for rendering professional and technical assistance and advice;

10. To construct, reconstruct or improve on or along the thruway in the manner herein provided, suitable facilities for gas stations, restaurants, and other facilities for the public, or to lease the right to construct, reconstruct or improve and operate such facilities; such facilities shall be publicly offered for leasing for operation, or the right to construct, reconstruct or improve and operate such facilities shall be publicly offered under rules and regulations to be established by the authority, provided, however, that lessees operating such facilities at the time this act becomes effective, may reconstruct or improve them or may construct additional like facilities, in the manner and upon such terms and conditions as the board shall determine;

11. To construct and maintain over, under, along or across a thruway under its jurisdiction telephone, telegraph, television, electric power and other wires or cables, pipe lines, water mains and other conduits and mechanical equipment, not inconsistent with the appropriate use of the thruways, or to contract for such construction; and upon such terms and conditions as the board shall determine, to lease all or any part of such property and facilities or the right to use the same, whether such facilities are constructed by the authority or under a contract for such construction, or to lease the right to construct and use such facilities

or to grant permits or easements for such purposes to any governmental agency of the state of New York or to any public corporation, or to the United States of America or any governmental agency thereof for any public purposes or to individuals, partnerships and corporations, provided, however, that no lease or renewal thereof shall be granted for a period of more than thirty years from the date when such lease is made;

12. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

13. To enter on any lands, waters, or premises for the purpose of making borings, soundings, and surveys;

14. To accept any gifts or any grant of funds or property from the federal government or from the state of New York or any other federal or state public body or political subdivision or any other person and to comply with the terms and conditions thereof;

15. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

§ 355. Officers and employees; transfer, promotion and seniority. 1. Officers and employees of state departments, agencies, or divisions may be transferred to the authority and officers, agents and employees of the authority may be transferred to state departments, agencies, or divisions, without examination and without loss of any civil service status or rights. No such transfer from the authority to any state department, agency, or division may, however, be made except with the approval of the head of the state department, agency, or division involved and the director of the budget and in compliance with the rules and regulations of the state civil service commission.

2. Promotions from positions in state departments and agencies to positions in the authority, and vice versa, may be made from interdepartmental promotion lists resulting from promotion examinations

in which employees of the authority and employees of the state are eligible to participate.

3. In computing seniority for purposes of promotion or for purposes of suspension or demotion upon the abolition of positions in the service of the authority or in the service of the state, in the case of an employee of the authority a period of prior employment in the service of the state shall be counted in the same manner as though such period of employment had been in the service of the authority, and in the case of an employee of the state a period of prior employment in the service of the authority shall be counted in the same manner as though such period of employment had been in the service of the state. For the purposes of the establishment and certification of preferred lists, employees suspended from the authority shall be eligible for reinstatement in the service of the state, and employees suspended from the service of the state shall be eligible for reinstatement in the service of the authority, in the same manner as though the authority were a department of the state.

§ 356. Thruway sections and connections; assuming jurisdiction. At any time after this title shall become effective the authority may adopt a resolution assuming jurisdiction for its corporate purposes of any or all of the thruway sections or connections below described and such connections with highways, hereinafter referred to as "highway connections," as the authority may deem advisable in the interest of the public to serve traffic needs, and the authority shall continue to have such jurisdiction so long as its corporate existence shall continue.

Pending the adoption of such resolution, the commissioner shall have all the powers herein conferred upon the authority to construct, reconstruct, improve, maintain, and operate such thruway sections and connections, and highway connections, and to acquire in the name of the state real property therefor. Subject to such deviations therefrom as the authority may deem advisable in the interest of the public to serve traffic needs, such thruway sections and connections shall be as follows:

1. Southern Westchester connection. Beginning at the northerly terminus of the Major Deegan expressway in the vicinity of Jerome avenue at the New York city corporate line, thence extending in a general northerly direction through the city of Yonkers to connect with the southerly end of the Hudson section at a point in the vicinity of Tuckahoe road to be determined by the commissioner. No fees or other charges may be imposed for vehicular use of this connection.

2. The Hudson section. Beginning at the northerly end of the southern Westchester connection at or near Tuckahoe road, thence in a general northerly and westerly direction crossing the Hudson river at a point south of Highland Falls, which crossing shall be known as "The Governor Mario M. Cuomo Bridge", including a highway connection between "The Governor Mario M. Cuomo Bridge" and the New England section of the thruway presently known as interstate route two hundred eighty-seven, thence in a general westerly direction to intersect with existing route number seventeen or to a connection with that route, including a thruway connection from that portion of the section west of the Hudson river, generally southerly to a point to be determined by the authority on the New York-New Jersey boundary line.

3. The Catskill section. Beginning at the northerly end of the Hudson section, extending in a general northerly direction in the vicinity of Central Valley, Highland Mills, Woodbury Falls, Vails Gate, thence through or passing Newburgh on the west, including a highway connection which runs from the Pennsylvania line at Port Jervis to the Connecticut border east of Brewster, presently known as interstate route 84, except for that portion of the highway connection between the interchange with the easternmost state highway on the west shore of the Hudson river (currently designated state touring route 9W) and the interchange with the westernmost state highway on the east shore of the Hudson river (currently designated state touring route 9D) which is subject to the jurisdiction of the New York state bridge authority, thence northerly past Plattekill and New Paltz, thence passing through or near the city of Kingston and continuing northerly to the west of Saugerties and Catskill, continuing northerly passing in the vicinity of West Coxsackie

and Ravena, thence northerly passing the Feura Bush railroad yards in the vicinity of either their easterly or westerly extremities, thence continuing northerly passing to the west or through the westerly part of the city of Albany, and intersecting United States route number twenty in the vicinity of McKownville.

4. The Mohawk section. Starting at the northerly end of the Catskill section on United States route number twenty in the vicinity of McKownville, continuing in a northwesterly direction toward the city of Schenectady, and thence around the southerly side of Schenectady, continuing through or along the Mohawk Valley by-passing or passing through the city of Utica, thence westerly passing in the vicinity of Whitesboro and continuing to the north of the city of Oneida, thence westerly to the south of the Cicero swamp to a point on United States route number eleven north of the village of Liverpool.

5. The Ontario section. Starting at the westerly end of the Mohawk section at a point on United States route number eleven north of the village of Liverpool, thence westerly north of Onondaga lake, thence in a westerly direction passing in the vicinities of Warners, Memphis, Jordan and Weedsport, crossing the New York Central and West Shore railroads in the vicinity of the village of Port Byron, thence southwesterly crossing the Seneca river in the vicinity of May's Point, thence westerly north of the villages of Seneca Falls and Waterloo and passing in the vicinities of West Junius, Phelps, Clifton Springs and Manchester, passing north of Victor and in the vicinity of Fisher and Severance, continuing westerly to a point in the vicinity of the city of Batavia, thence westerly to a point in the vicinity of Williamsville, including a spur to Main street, in the vicinity of Kensington Avenue in the town of Amherst, thence southerly generally parallel to and west of Union road to a point south of the Lehigh Valley railroad tracks, thence southwesterly to a point at the junction of the Erie and Niagara sections in the vicinity of the crossing of Dingens street and the Lehigh Valley railroad in the town of Cheektowaga.

6. The Erie section. Starting at its junction with the Niagara section at a point in the vicinity of the crossing of Dingens street and the

Lehigh Valley railroad in the town of Cheektowaga, thence southerly generally paralleling the Lehigh Valley railroad to Cazenovia creek and extending southerly and southwesterly to a point north of the village of Hamburg, thence in a southwesterly direction generally paralleling the existing Southwestern Boulevard to a point near the village of Irving, thence bypassing the village of Silver Creek to the south, thence extending in a general southwesterly direction to the Pennsylvania state line on a location lying in the vicinity of United States route number twenty and state touring route number five.

7. The New England section. Beginning at or near the point of intersection of the Bronx and Pelham parkway and the extension of Bruckner boulevard in New York city, extending in a generally northerly direction to a point on or near east two hundred twenty-second street, thence generally in an eastern direction to the New York city-Westchester county line north of Pelham Bay park, thence generally in a northeasterly direction through the town of Pelham, the city of New Rochelle, the town of Mamaroneck, the village of Mamaroneck, the town of Harrison, the city of Rye, the town of Rye and the village of Port Chester, to a point on the New York-Connecticut state line.

8. The Niagara section. Starting at the junction of the Erie and the Ontario sections at a point in the vicinity of the crossing of Dingens street and the Lehigh Valley railroad in the town of Cheektowaga, thence generally in a westerly direction to Erie street in the city of Buffalo, thence continuing in a general northwesterly direction to the Front, thence through the Front and north between Niagara street and the ship canal to the right of way of the abandoned Erie canal near the northern end of such ship canal, thence generally along such right of way, deviating therefrom to make a connection with the easterly approach of the South Grand Island bridge, thence across the Niagara river, utilizing the existing South Grand Island bridge or constructing another bridge parallel to such bridge, or both, thence along or parallel to existing Grand Island boulevard, across the Niagara river, utilizing the existing North Grand Island bridge, or constructing another bridge parallel to such bridge, or both.

9. The Berkshire section. Starting at a point or points on the Catskill section northeast of Becker's Corners, thence easterly to a point on the West bank of the Hudson river, which point shall be more than fifteen miles north of the Rip Van Winkle bridge, thence across a bridge to be constructed by the authority and which crossing shall be known as "The Castleton-on-Hudson Bridge"; and thence generally in a southeasterly direction and passing in the vicinity of the hamlets of Brookview, North Chatham, Old Chatham, and East Chatham to a point on the New York-Massachusetts boundary line near the hamlet of State Line.

The thruway constructed along the routes designated in this section shall be known as "The Governor Thomas E. Dewey Thruway".

§ 356-a. Names and designations of thruway sections and connections. To facilitate travel thereon, certain sections and connections of the thruway may be adequately marked by lettering, devices, emblems or signs by the authority to afford the following designations:

1. The thruway constructed along the routes described in subdivisions one, two, three, four and five of section three hundred fifty-six of this article shall be known as "The Iroquois Trail".

2. The thruway constructed along the route described in subdivision six of section three hundred fifty-six of this article shall be known as "The Erie Path".

3. The thruway constructed along the route described in subdivision seven of section three hundred fifty-six of this article shall be known as "The Mohican Path".

4. The thruway constructed along the route described in subdivision eight of section three hundred fifty-six of this article shall be known as "The Tuscarora Path".

5. The thruway constructed along the route described in subdivision nine of section three hundred fifty-six of this article shall be known

as "The Algonquin Path".

§ 356-b. Thruway to be designated as a section of a national network of Blue Star memorial highways. The thruway sections and connections constructed as provided in section three hundred fifty-six, collectively, shall be designated, in addition to any official name, as the New York state section of a national network of Blue Star memorial highways as a living memorial and tribute to those men and women who served in the nation's armed forces in world wars I and II, the Korean conflict, the Vietnam conflict, the Grenadan conflict, the Lebanese conflicts, the Panamanian conflict and the Persian Gulf War known as Operation Desert Shield - Operation Desert Storm.

§ 357. Right of authority to use state property; payment for improvements. On assuming jurisdiction of a thruway highway section or connection or any part thereof, or of a highway connection, the authority shall have the right to possess and use for its corporate purposes so long as its corporate existence shall continue, any real property and rights in real property theretofore acquired by the state, including all improvements thereon.

§ 357-a. State police and state payment for services. 1. Enforcement assistance provided by the division of state police at the request of the authority shall be reimbursed by the authority to the division of state police from the general reserve fund established by the authority under its agreement with bondholders, after payment of any amounts due on any bonds or notes of the authority. The comptroller is hereby authorized and directed to deposit to the New York state thruway authority account, revenues received from the authority as reimbursement for personal service expenses including general state charges. In addition, the authority shall reimburse the division of state police for non-personal service expenses connected with such assistance. Such reimbursement shall be made from such general reserve fund. The authority shall deposit said reimbursement funds for non-personal service expenses to the credit of the division of state police. No payments made by the authority under this subsection shall be deemed operating expenses of the authority.

§ 357-b. Sharing employees, services and resources. A shared services agreement may be executed between the authority and the department only for an emergency situation or extreme weather conditions, to share employees, services or resources as deemed appropriate including, but not limited to, for the performance of work and activities by the department on the facilities and property under the jurisdiction of the authority, and for the performance of work and activities by the authority on the facilities and property under the jurisdiction of the department. Such agreement or any project undertaken pursuant to such agreement shall not be deemed to impair the rights of bondholders and may provide for, but not be limited to, the management, supervision and direction of such employees' performance of such services. Such agreement shall provide that the term shall not be longer than ten days. All shared employees shall remain employees of their respective employers and all applicable collectively bargained agreements shall remain in effect for the entire length of the shared service agreement. Further, such shared services agreement shall not amend, repeal or replace the terms of any agreement that is collectively negotiated between an employer and an employee organization, including an agreement or interest arbitration award made pursuant to article fourteen of the civil service law.

§ 357-c. Indemnification and defense under shared services agreement. 1. The authority shall defend any unit, entity, officer or employee of the department, using the forces of the department of law pursuant to section three hundred sixty-two of this title in any action, proceeding, claim, demand or the prosecution of any appeal arising from or occasioned by the acts or omissions to act in the performance of the functions of the authority pursuant to a shared services agreement.

2. Defense pursuant to subdivision one of this section shall be

conditioned upon the full cooperation of the department.

3. The authority shall indemnify and hold harmless any unit, entity, officer or employee of the department in the amount of any judgment obtained against the department or in the amount of any settlement the department enters into with the consent of the authority for any and all claims, damages or liabilities arising from or occasioned by the acts or omissions to act of the authority or its subsidiaries pursuant to a shared services agreement; provided, however, that the act or omission from which such judgment or settlement arose occurred while the authority or its subsidiaries was acting within the scope of its functions pursuant to a shared services agreement. No such settlement of any such action, proceeding, claim or demand shall be made without the approval of the board or its designee.

4. Any claim or proceeding commenced against any unit, entity, officer or employee of the authority that arises pursuant to any shared services agreement shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the authority, or to impair, alter, limit, modify, abrogate or restrict any right to defense and indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

5. This section shall not in any way affect the obligation of any claimant to give notice to the state and the authority under section ten and section eleven of the court of claims act or any other provision of law provided, however, that notice served upon the state or the authority shall be valid notice on both parties to the agreement, when such claim arises out of such agreement. The state and authority shall notify each other when they receive a notice of claim, notice of intention to make a claim or a claim arising out of such agreement.

6. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any insurance agreement.

7. Notwithstanding any other provision of law, when employed pursuant to a shared services agreement, employees of the authority, and its subsidiaries and the department shall be deemed employees of all such entities and the state for purposes of the workers' compensation law.

§ 358. Acquisition of real property by the commissioner. 1. On assuming jurisdiction of a thruway section or connection or any part thereof, or of a highway connection, the authority may from time to time determine what real property is necessary for the construction, improvement and operation thereof, in addition to real property theretofore acquired by the state. If funds are made available by the authority for payment of the cost and expense of the acquisition thereof, the commissioner when requested by the authority shall acquire such real property in the name of the state by appropriation, and, where necessary, remove the owner or occupant thereof and obtain possession according to the procedure provided by section three hundred forty-seven of the highway law. The authority shall have the right to possess and use for its corporate purposes so long as its corporate existence shall continue all such real property and rights in real property so acquired.

2. Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by the commissioner with the approval of the authority, or by the court of claims as provided in said section three hundred forty-seven. When a claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before said court. All awards and judgments arising from such claims shall be paid out of moneys of the authority.

§ 358-a. Acquisition of real property by the authority. On assuming jurisdiction of a thruway section or connection or any part thereof, or of a highway connection, the authority may from time to time determine what real property is necessary for the construction, improvement and operation of such thruway section or connection or part thereof, or of a highway connection, in addition to real property acquired or to be acquired by the state, and thereupon may acquire such real property by condemnation pursuant to the condemnation law. The authority may also, and in any case, acquire real property in the name of the state by deed and may pay such price therefor as shall be agreed with the owner thereof.

§ 359. Construction, reconstruction and improvement. 1. On assuming jurisdiction of a thruway section or connection or any part thereof, or of a highway connection, the authority shall proceed with the construction, reconstruction or improvement thereof. All such work shall be done pursuant to a contract or contracts which shall be let to the lowest responsible bidder, by sealed proposals publicly opened, after public advertisement and upon such terms and conditions as the authority shall require; provided, however, that the authority may reject any and all proposals and may advertise for new proposals, as herein provided, if in its opinion, the best interests of the authority will thereby be promoted; provided further, however, that at the request of the authority, all or any portion of such work, together with any engineering required by the authority in connection therewith, shall be performed by the commissioner and his subordinates in the department of transportation as agents for, and at the expense of, the authority. A sealed proposal may be accepted through an electronic platform established or used by the authority, provided that any sealed proposal received electronically shall be made public at the same time as any competing paper proposal, and provided further that the authority shall, at minimum, provide the same opportunity and time for submitting sealed proposals physically as for sealed proposals submitted electronically, and shall provide the opportunity for bidders to submit sealed proposals physically any time that it provides the opportunity to submit sealed electronic proposals. In addition, the authority shall establish a process for accommodating force majeure events that prevent the submission of a sealed electronic proposal, including but not limited to internet and power outage events, and for automatically confirming receipt of any sealed electronic proposal received. All bidders shall be notified of the time and place of any such adjournment or rejection.

2. All construction, reconstruction and improvements and any engineering work required in connection therewith which are performed on behalf of the authority by the commissioner shall be carried on, generally, in the same manner and subject to the same provisions of law as apply to the construction and improvement of state highways.

3. Highway and railroad grade crossings shall in general be separated by structures to be determined by the authority, and the authority is hereby authorized to combine or relocate intersecting highways, to adjust traffic to such grade separation structures, except that the grade crossing elimination structures involved in public service commission cases number fifty-four hundred seventy-two and nine thousand fifty-eight shall remain under the jurisdiction of such commission. The cost of all such structures, except such part as is otherwise payable, shall be borne by the authority. Telephone and telegraph wires, power transmission and gas, oil and water lines, conduits, cables of every kind and nature, which may be affected by thruway construction, reconstruction or improvement, may, in the discretion of the authority, be relocated in suitable facilities and the expense of such relocation and of installing such facilities shall be borne by the authority. The work of such relocation may be done by the owner of such wires, lines, conduits and cables, and the authority is hereby empowered to enter into an agreement with such owner for the performance of all or any part of the work of such relocations at the expense of the authority.

4. In the case of a separation of a grade crossing pursuant to the preceding subdivision, the structure shall be maintained and repaired by the authority. Whenever the authority determines that a separation structure carrying a highway under the jurisdiction of a municipality requires major repair or reconstruction, the authority, with the approval of the commissioner of transportation and after consultation with such municipality, may close the bridge and provide adequate alternative detour routing and signing. In the case of municipal highways, the responsibility for rehabilitation and reconstruction of the wearing surface, sidewalks, curbs and railings shall be the

responsibility of the authority. Highways combined, relocated or carried over or under a thruway section or connection, or a highway connection, under the provisions of the preceding subdivision, shall, upon completion of the work, revert to and become the responsibility, with regard to maintenance and repair, of the state or municipality, as the case may be, formerly having jurisdiction there over.

§ 359-a. Procurement contracts. For the purposes of section twenty-eight hundred seventy-nine of this chapter as applied to the authority, the term "procurement contract" shall mean any written agreement for the acquisition of goods or services of any kind by the authority in the actual or estimated amount of fifteen thousand dollars or more.

§ 360. Operation and maintenance. Operation and maintenance by the authority of any thruway section or connection or any part thereof or of a highway connection of which it has assumed jurisdiction shall be performed (a) by the use of authority forces and equipment at the expense of the authority or by agreement at the expense of the state or other parties; (b) by contract with municipalities or independent contractors; (c) at the request of the authority, by the commissioner and his subordinates in the department of transportation as agents for, and at the expense of the authority, or (d) by a combination of such methods.

§ 361. Traffic control. 1. (a) In addition to the powers conferred by the vehicle and traffic law, the authority is hereby authorized to promulgate such rules and regulations for the use and occupancy of the thruway as may be necessary and proper for the public safety and convenience, for the preservation of its property and for the collection of tolls and provided further that the authority, in consultation with the departments of environmental conservation and transportation, is hereby authorized to promulgate rules and regulations necessary to implement a heavy duty vehicle roadside inspection program pursuant to section 19-0320 of the environmental conservation law.

(b) Notwithstanding any inconsistent provisions of any general, special or local law, the thruway authority shall mark, with appropriate directional signs, the exits nearest to any state owned unique natural attraction within forty miles of the thruway which lies wholly or partially within the state of New York, such as, lakes more than ten miles in length, excepting Lake Ontario and Lake Erie, and mountains more than five thousand feet in height.

(c) Notwithstanding any inconsistent provisions of the general business law or of any other law, general, special or local, the landing and take-off of planes on the thruway system shall be governed by rules and regulations promulgated by the thruway authority.

(d) The violation of any such rule or regulation promulgated pursuant to this section shall be an offense and a first conviction thereof shall be punishable by a fine of not more than fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; a second such conviction within eighteen months thereafter shall be punishable by a fine of not more than one hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; and a third or subsequent conviction within eighteen months after the first conviction shall be punishable by a fine of not more than two hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment; provided, however, that the violation of any such rule or regulation relating to the transportation of explosives class a or class b shall be a misdemeanor, punishable by a fine not exceeding twenty-five hundred dollars or by imprisonment for a term not exceeding one year or by both such fine and imprisonment.

(e) For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of those rules and regulations of the authority which are herein defined as offenses shall nevertheless be deemed misdemeanors for the sole purpose of making applicable all procedural provisions of law relating to misdemeanors, and courts of special sessions outside the city of New York and in the city of New York, the criminal court of the city of New York, in the first instance, shall have exclusive jurisdiction to hear and determine charges of such violations and provided, further, that no jury trial shall be allowed for such violations.

2. Enforcement of the rules and regulations of the thruway authority and of those provisions of the vehicle and traffic law applicable to the thruway shall be by authority forces, provided however, that at the request of the authority, such enforcement shall be the duty of the division of state police. Violators shall be apprehended and prosecuted in the same manner as provided for the apprehension and prosecution of violators of the vehicle and traffic law who commit violations thereof upon the state highway system. Authority forces specifically employed for the enforcement of such rules and regulations, during the term of such employment, shall be uniformed, shall have the powers of peace officers, as set forth in section 2.20 of the criminal procedure law, and shall have, within the limits of any municipality within which any portion of the thruway system under the jurisdiction of the authority shall be located, all the powers of a peace officer in the execution of criminal processes; and criminal process issued by any court or magistrate of a municipality within which any portion of the thruway system under the jurisdiction of the authority shall be located, may be directed to and executed by any such employee notwithstanding the provisions of any local or special law, ordinance or regulation.

§ 361-a. Restriction and regulation of advertising devices. 1. Except as otherwise provided in this section, the erection or maintenance of any advertising device located within six hundred sixty feet of the nearest edge of the right-of-way of the thruway without a written permit therefor granted by the authority pursuant to this section is prohibited.

2. The term "advertising device" as used in this section shall include any billboard, sign, notice, poster, display or other device intended to attract or which does attract the attention of operators of motor vehicles on the thruway, and shall, where so determined by the authority, include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in conjunction therewith.

3. The authority may from time to time adopt, modify, amend or repeal regulations governing the issuance of permits or renewals thereof for the erection and maintenance of advertising devices. Such regulations shall be designed to effectuate the general purposes of this article and the specific objectives and standards hereinafter set forth:

(a) To provide for maximum visibility along the thruway system and connecting roads or highways;

(b) To prevent unreasonable distraction of operators of motor vehicles;

(c) To prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations;

(d) To preserve and enhance the natural scenic beauty or the aesthetic features of the thruway system and adjacent areas;

(e) To promote maximum safety, comfort and well-being of the users of the thruway.

4. To effectuate the purposes of this section, the authority may limit the application of any regulation adopted hereunder to exclude or include, in whole or in part:

(a) Specified areas of the thruway system based upon use, population density, nature of the surrounding community, special conditions prevailing therein, or such other factors as may make differentiation or separate classification or regulation necessary, proper or desirable;

(b) Particular types or classes of advertising devices based upon size, design, lighting or such other factors as may make differentiation or separate classification or regulation necessary, proper or desirable;

(c) The erection or maintenance of advertising devices on particular sections or portions of the thruway system.

(d) Notwithstanding any contrary provisions of this section, the authority shall permit the erection of not more than nine advertising billboard signs in the city of New Rochelle along interstate route ninety-five where the location and erection of such signs are:

(1) consistent with and part of an urban renewal program which decreases the total number of advertising billboard signs in the renewal area;

(2) approved by such city;

(3) part of the subject of a United States District Court settlement order regarding the regulation of such signs within such city; and

(4) consistent with the size, lighting, spacing and all other requirements of federal law, including those established in the agreements entered into by the state pursuant to sections eighty-six and eighty-eight of the highway law.

5. Application for permits or renewals thereof shall be on forms prescribed by the authority and shall contain such information as the authority may require. The authority may by regulation adopt, modify, amend or repeal permit application fees, annual permit fees and permit renewal fees, provided, however, that such fees shall not exceed the advertising device fees established by regulation by the commissioner of transportation. Each permit shall be valid for a period to be established by the authority and may be renewed from time to time for such periods, as established by the authority, within thirty days of the expiration date thereof upon payment to the authority of the renewal fee.

6. The permit or renewal thereof shall be revocable at any time on thirty days notice to the permittee in the event of a violation of the requirements of this section or any regulation lawfully adopted hereunder. Any advertising device erected or maintained after September first, nineteen hundred fifty-two in violation of this section or any regulation adopted hereunder is hereby declared to be, and is, a public nuisance and such device may without notice be abated and removed by any officer or employee of the authority, or upon request of the authority, by any peace officer acting pursuant to his special duties, or police officer.

7. The authority by regulation may exclude from the coverage of this section advertising devices which it finds do not interfere with safety on the thruway system or contravene any of the other standards set forth in this section, including but not limited to

(a) Advertising devices which are to be erected or maintained on property for the purpose of setting forth or indicating

(1) The name and address of the owner, lessee or occupant of such property, or

(2) The name or type of business or profession conducted on such property, or

(3) Information required or authorized by law to be posted or displayed thereon.

(b) Advertising devices which are not visible from any traveled portion of the thruway system;

(c) Advertising devices indicating the sale or leasing of the property upon which they are placed.

(d) Directional or other official signs and signals erected or maintained by the state or other public agency having jurisdiction.

8. Nothing in this section shall apply with respect to any property which is owned or leased by the state of New York or any agency thereof or with respect to which the state of New York or any agency thereof has or shall have a valid easement or covenant with the owner thereof concerning the restriction, removal or prohibition of advertising devices.

9. Nothing in this section shall be construed to abrogate or affect the provisions of any municipal ordinance, regulation or resolution which are more restrictive concerning advertising devices than the provisions of this section or of the regulations adopted hereunder.

§ 361-b. Jurisdiction in certain suits against the authority. Exclusive jurisdiction is hereby conferred upon the court of claims to hear and determine the claims of any person against the authority (a) for its tortious acts and those of its agents, and (b) for breach of a contract relating to construction, reconstruction, improvement, maintenance or operation, in the same manner and to the extent provided by and subject to the provisions of the court of claims act with respect to claims against the state, and to make awards and render judgments therefor. All awards and judgments arising from such claims shall be paid out of moneys of the authority.

§ 361-c. Tourist information facilities. The authority shall provide tourist information services at all service areas where food is offered for sale, provided that: the department of commerce and or local and regional tourist promotion agencies shall provide the authority with ample supplies of such literature and brochures necessary for distribution to the traveling public.

§ 361-d. Agreement with the office of parks, recreation and historic preservation. Notwithstanding any other provision of law, and consistent with agreements with bondholders and noteholders, the authority may enter into agreements and contracts with the office of parks, recreation and historic preservation permitting the use of an electronic toll collection system used by the authority or components thereof for payment of any entrance fee or parking fee at any historic site, park or recreational facility subject to the provisions of this chapter, policies and such other conditions as may be established by the authority.

§ 362. Assistance by state officers, departments, boards, divisions and commissions. At the request of the authority, engineering and legal services for such authority shall be performed by forces or officers of the department of transportation and the department of law respectively, and all other state officers, departments, boards, divisions and commissions shall render services within their respective functions. At the request of the authority, services in connection with the collection of any charges or fees for the use of the thruway or any part thereof may be performed by the department of motor vehicles.

§ 363. Annual report. The authority shall submit to the governor, to the legislature, to the comptroller and to the director of the budget on or before the first day of February of each year a detailed report setting forth its operations and fiscal transactions during the preceding calendar year with a statement of its financial condition as of the end of such year and a statement of all receipts and expenditures during such year. Such report shall include detailed information relating to additional expenditures incurred by the authority as a result of the amendments made to subdivision four of section three hundred fifty-nine of this chapter pursuant to the chapter of the laws of nineteen hundred ninety-two which enacted this sentence.

§ 364. Deposit and investment of moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the comptroller as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on check of the comptroller on requisition of the chairman of the authority or of such other person as the authority may authorize to make such requisition. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

Notwithstanding the provisions of this section, the authority shall have power, subject to the approval of the comptroller, to contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds, and to carry out any such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

Moneys of the authority not required for immediate use may, in the discretion of the authority, be invested by the comptroller in obligations in which the comptroller may invest pursuant to section ninety-eight-a of the state finance law.

Subject to agreements with noteholders and bondholders and the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 365. Notes or bonds of the authority. 1. (a) Subject to the provisions of section three hundred sixty-six of this title, the authority shall have the power and is hereby authorized from time to time to issue its negotiable notes and bonds in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the authority, shall be necessary to provide sufficient moneys for achieving the corporate purposes thereof, including construction, reconstruction and improvement of the thruway sections and connections, and highway connections herein described, together with suitable facilities and appurtenances, the payment of all indebtedness to the state, the cost of acquisition of all real property, the expense of maintenance and operation, interest on notes and bonds during construction and for a reasonable period thereafter, establishment of reserves to secure notes or bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) The authority shall have power from time to time to issue renewal notes, to issue bonds to pay notes, and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

(c) Except as may otherwise be expressly provided by the authority, every issue of the notes or bonds shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of notes or bonds pledging any receipts or revenues.

2. The notes and bonds shall be authorized by resolution of the board, shall bear such date or dates and mature at such time or times, in the case of notes and any renewals thereof within five years after their respective dates and in the case of bonds not exceeding forty years from their respective dates, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. Bonds and notes shall be sold by the authority, at public or private sale, at such price or prices as the authority may determine. Bonds and notes of the authority shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to the comptroller, or by the director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to

(a) pledging all or any part of the fees, charges, gifts, grants, rents, revenues or other moneys received or to be received and leases or agreements to secure the payment of the notes or bonds or of any issue thereof subject to such agreements with bondholders as may then exist;

(b) The rates of the fees or charges to be established, and the amounts to be raised in each year thereby and the use and disposition of the fees, charges, gifts, grants, rents, revenues or other moneys received or to be received;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the purpose to which the proceeds of sale of any issue of notes or bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(e) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(f) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) limitations on the amount of moneys to be expended by the authority for operating, administrative or other expenses of the authority;

(h) in the case of notes or bonds not guaranteed by the state, vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this title or limiting the rights, duties and powers of such trustee;

(i) the acquisition of jurisdiction over, and of property for, thruways, and the construction, reconstruction, improvement, maintenance or operation thereof;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

4. Whenever the authority pledges its revenues under a resolution authorized by this section, such resolution shall not prohibit the authority from financing for additional corporate transportation purposes authorized by law secured by an additional pledge of such revenues. Such additional pledge of revenues may, in the discretion of the authority, be subordinate to the pledge of such revenues securing other bonds, notes or other evidence of indebtedness of the authority. Provided, however, the authority shall not make any such additional pledge if the security of the bonds, notes or other evidences of indebtedness previously issued will be impaired as a result thereof.

5. It is the intention hereof that any pledge made by the authority shall be valid and binding from the time when the pledge is made; that the moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical

delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

6. Neither the members of the board nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority shall have power out of any funds available therefor to purchase notes or bonds, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to said date.

§ 366. Guaranty by the state. 1. To the extent authorized by the constitution at the time of the issuance of notes or bonds, the punctual payment of the notes and bonds shall be, and the same hereby is, fully and unconditionally guaranteed by the state, both as to principal and interest, according to their terms; and such guaranty shall be expressed upon the face thereof by the signature or facsimile signature of the comptroller or a deputy comptroller. In the event that the authority shall fail to pay when due, the principal of, or interest on, the notes or bonds, the comptroller shall pay the holder thereof, and thereupon the state shall be subrogated to the rights of the noteholders or bondholders so paid.

2. The authority shall have power to issue notes and bonds without the guaranty of the state and may issue such notes or bonds before and after the issuance of notes or bonds so guaranteed.

3. When guaranteed notes or guaranteed bonds are outstanding, notes or bonds secured by a pledge of receipts or revenues having priority over such outstanding guaranteed notes or guaranteed bonds shall not be issued, except with the consent of the comptroller, and unless the authority shall by resolution first find and determine that, notwithstanding such pledge, the authority will have adequate means to meet its obligations to the holders of such outstanding guaranteed notes or bonds.

4. When notes or bonds are outstanding secured by a pledge of receipts or revenues, guaranteed notes or bonds either unsecured, or secured by a pledge of receipts or revenues subordinate to the pledge securing such outstanding notes or bonds, shall not be issued unless the authority shall first find and determine by resolution that notwithstanding the pledge securing such outstanding notes or bonds, the authority will have adequate means to meet its obligations on the guaranteed notes or bonds about to be issued.

§ 367. State's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than fifteen years after the date of the bonds of such issue at one hundred four per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption. The provisions of this section relating to the state's right to require redemption of bonds, shall not apply to state-supported debt, as defined by section sixty-seven-a of the state finance law, issued by the authority. Such authority bonds shall remain subject to redemption pursuant to any contract with the holders of such bonds.

§ 368. Remedies of noteholders and bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name

(a) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fees, rentals and charges adequate to carry out any agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences; provided, however, that this clause (e) shall not be applicable in the case of notes or bonds guaranteed by the state.

3. Such trustee, whether or not the issue of bonds or notes represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the thruway, the fees, rentals, charges or other revenues of which are pledged for the security of the bonds or notes of such issue and such receiver may enter and take possession of such part or parts of the thruway and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the construction, operation, maintenance and reconstruction of such part or parts of the thruway and proceed with any construction thereon which the authority is under obligation to do and shall operate, maintain and reconstruct such part or parts of the thruway, and collect and receive all fees, rentals, charges and other revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders or noteholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any tolls, rentals and other revenues derived from such part or parts of the thruway.

4. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

5. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

6. Before declaring the principal of notes or bonds not guaranteed by the state due and payable, the trustee shall first give thirty days'

notice in writing to the authority.

§ 369. Liability of state. The state shall be liable on notes or bonds guaranteed hereunder but shall not be liable on notes or bonds not guaranteed by the state which shall not be a debt of the state.

§ 370. Notes and bonds legal investments for public officers and fiduciaries. The notes and bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The notes and bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 371. Tax exemption. The property of the authority and its income and operations shall be exempt from taxation.

§ 372. Tax covenant. The state covenants with the purchasers and with all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority issued pursuant to this title and the income therefrom and all its fees, charges, rents, gifts, grants, revenues, receipts and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free from taxation except for estate or gift taxes and taxes on transfers.

§ 373. Agreement of the state. 1. The state does pledge to and agree with the holders of notes, bonds, or other obligations of the authority not guaranteed by the state that the state will not limit or alter the rights hereby vested in the authority to establish and collect such fees, rentals and charges as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes, bonds, and other obligations, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged.

2. The state does pledge to and agree with the holders of any notes or bonds of the authority, not guaranteed by the state, secured by a pledge of the tolls or other revenues or any part thereof from any bridge constructed by the authority across the Hudson river south of Bear mountain bridge or from any part of the thruway which includes such bridge, that no bridge or tunnel constituting a connection for vehicular traffic over, under or across the Hudson river between the present location of the Bear mountain bridge and the boundary line between the state of New York and the state of New Jersey at the west side of the Hudson river will be constructed or maintained so long as the obligations of such bonds for principal and interest shall not have been paid or otherwise discharged.

§ 374. Title not affected if in part unconstitutional. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 375. Inconsistent provisions in other acts superseded. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

§ 376. Further additional powers of the authority. The authority shall have the power, in addition to the powers granted in other sections of this title:

1. (a) To enter into a cooperative highway contractual agreement or agreements with the commissioner of transportation for the financing by the authority of expenditures made in advance by the state for design, acquisition, construction, reconstruction or the reconditioning and preservation of transportation facilities pursuant to the provisions of section eighty-eight-b of the state finance law, state highways, state parkways, state arterial highways in cities and related facilities and structures thereon, including bridges, the reconditioning and preservation of structures separating highways and railroads, and the traffic operations program to increase capacity and safety on existing street and highway systems in urban areas, capacity and infrastructure improvements to state, county, town, city or village roads, highways, parkways and bridges, in any case where the expense thereof is paid in whole or in part by the state.

(b) To issue use permits to the commissioner of transportation for projects financed by the authority of expenditures made in advance by the state in accordance with the provisions of a cooperative highway contractual agreement or agreements provided, that such projects are maintained and operated under the supervision of the department of transportation or the municipal agency designated by the commissioner of transportation without cost to the New York State thruway authority for the full term of such agreement or agreements, and, provided further that such use permit shall be granted by the authority for the use of such projects by the department of transportation or the municipal agency designated by the commissioner of transportation on a toll free basis.

2. From time to time to issue emergency highway reconditioning and preservation bonds and notes for the purposes of this section. All the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to the bonds and notes authorized by this section. The authority shall not issue emergency highway reconditioning and preservation bonds and notes in an aggregate principal amount exceeding: (a) one hundred million dollars, excluding bonds issued to refund outstanding notes, in the period from April first, nineteen hundred seventy-two through March thirty-first, nineteen hundred eighty-two; and (b) an additional one hundred thirty-six million dollars, excluding bonds issued to refund outstanding notes, on or after April first, nineteen hundred eighty-two but before April first, nineteen hundred eighty-six.

2-a. From time to time issue emergency highway construction and reconstruction bonds and notes for the purposes of this section. All the provisions of this title relating to bonds and notes which are not inconsistent with the provisions of this section shall apply to the bonds and notes authorized by this section. The authority shall not issue emergency highway construction and reconstruction bonds and notes in an aggregate principal amount exceeding: (a) one hundred million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, before April first, nineteen hundred ninety and (b) an additional thirty-four million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, on or after April first, nineteen hundred ninety and (c) an additional ninety-three million dollars, excluding bonds or notes, issued to refund outstanding bonds or notes on or after April first, nineteen hundred ninety-one and (d) an additional ninety million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, on or after April first, nineteen hundred ninety-two.

2-b. From time to time to enter into agreements with the commissioner of transportation to finance the capital costs of projects authorized pursuant to section eighty-eight-b of the state finance law, and to issue bonds and notes for capital projects approved by metropolitan planning organizations or transportation coordinating committees pursuant to the provisions of such section eighty-eight-b. All the provisions of this title relating to bonds and notes which are not inconsistent with the provisions of this section shall apply to the bonds and notes authorized by this section. No bonds or notes shall be issued for the purposes authorized by this subdivision after the thirty-first day of March, two thousand.

2-c. From time to time to issue additional emergency highway reconditioning and preservation bonds and notes for the purposes of this section. All the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to the bonds and notes authorized by this section. The authority shall not issue such additional emergency highway reconditioning and preservation bonds and notes in an aggregate principal amount exceeding (a) forty-eight million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, on or after April first, nineteen hundred ninety, and (b) an additional eighty-four million dollars excluding bonds or notes issued to refund outstanding bonds or notes on or after April first, nineteen hundred ninety-one, and (c) an additional eighty-five million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, on or after April first, nineteen hundred ninety-two.

3. In addition to the provisions authorized by this title any resolution or resolutions authorizing any bonds or notes for the purposes of this section may contain provisions which may be a part of the contract with the holders of such bonds providing for the creation and establishment and maintenance of reserve funds and payments to such reserve funds as hereinafter in this subdivision set forth.

The authority may create and establish reserve funds to be known as the emergency highway reconditioning and preservation debt service reserve fund, the emergency highway construction and reconstruction debt service reserve fund and the suburban transportation debt service reserve fund and may pay into such reserve funds (a) moneys made available by the state for the purposes of such funds from the emergency highway reconditioning and preservation fund, or the emergency highway construction and reconstruction fund or the suburban transportation fund as created by section eighty-nine, eighty-nine-a or eighty-eight-b of the state finance law, respectively; (b) any proceeds of sale of bonds and notes to the extent provided in the resolution of the authority authorizing the issuance thereof; and (c) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to such debt service reserve funds established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such reserve funds, as the same mature, the purchase of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such funds shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such funds to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve funds, except for the purpose of paying principal and interest on the bonds of the authority secured by such reserve funds maturing and becoming due and for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve funds due to the investment thereof may be transferred to any other fund or account of the authority established for the purposes of this section to the extent it does not reduce the amount of such debt service reserve funds below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve funds.

4. The authority shall not issue bonds at any time for the purposes of this section if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the bonds outstanding and then to be issued and secured by any debt service reserve fund will exceed the amount of such reserve fund at the time of issuance, unless

the authority at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds then to be issued and on all other bonds of the authority then outstanding and secured by such reserve fund.

5. (a) To assure the continued operation and solvency of the authority for the carrying out of the purposes relating to this section provision is made in this section for the accumulation in the debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund. In order further to assure the maintenance of such debt service reserve fund, with respect to bonds of the authority issued pursuant to this section prior to April first, nineteen hundred ninety, there shall be annually apportioned and paid to the authority for deposit in such debt service reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and state director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and state director of the budget his certificate stating the sum, if any, required to restore such debt service reserve fund to the amount aforesaid, and the sum or sums so certified, if any, shall be apportioned and paid to the authority during the then current state fiscal year.

(b) To assure the continued operation and solvency of the authority for the carrying out of the purposes relating to this section, provision is made in this section for the accumulation in the debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund; provided however for such bonds issued by the authority after April first, nineteen hundred ninety-two, such debt service reserve fund may in the discretion of the authority and consistent with any covenants with any existing bondholders and without impairing the rights of any existing bondholders be sized in an amount equal to not less than one-half of the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on such bonds of the authority then outstanding and secured by such debt service reserve fund. In order to further assure the maintenance of such debt service reserve fund, with respect to bonds of the authority issued pursuant to subdivisions two-a, two-b and two-c of this section after April first, nineteen hundred ninety, the authority shall create a special subaccount in each revenue fund established pursuant to any resolution or resolutions authorizing such bonds. Such subaccounts shall consist of the moneys available after April first, nineteen hundred ninety, pursuant to sections two hundred eighty-two-b, two hundred eighty-two-c, two hundred eighty-four-a and two hundred eighty-four-c of the tax law, respectively, in the emergency highway reconditioning and preservation fund reserve account established pursuant to paragraph (b) of subdivision two of section eighty-nine of the state finance law and in the emergency highway construction and reconstruction fund reserve account established pursuant to paragraph (b) of subdivision two of section eighty-nine-a of the state finance law, apportioned and paid to the authority for deposit in such subaccount of the revenue fund. Amounts in each such subaccount shall be kept separate and shall not be commingled with any other moneys in the custody of the authority. Amounts in each such subaccount shall be applied solely to pay such sum, if any, as shall semi-annually, (on such dates as are established under the terms of any cooperative highway contractual agreement of the department of transportation with the New York state thruway authority entered into on or after April first, nineteen hundred ninety which is then in effect), be certified by the chairman of the authority to the governor and state director of the budget as necessary to provide funds in an amount sufficient together with other moneys available to the authority for such purpose, to pay one-half of the total annual principal and interest maturing and becoming due during the next succeeding twelve calendar months on all bonds of the authority issued pursuant to subdivisions two-a, two-b and two-c of this section after

April first, nineteen hundred ninety and maintaining or funding debt service reserve funds therefor. Any surplus of funds in excess of such certified amounts remaining in each such subaccount after such payments, if any, have been made shall on the dates established under the terms of such cooperative highway agreements, be paid over for deposit, respectively, in the emergency highway reconditioning and preservation fund reserve account established pursuant to paragraph (b) of subdivision two of section eighty-nine of the state finance law and in the emergency highway construction and reconstruction fund reserve account established pursuant to paragraph (b) of subdivision two of section eighty-nine-a of the state finance law.

6. In computing the debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

7. The authorization, sale and issuance of bonds, notes or other obligations pursuant to this section shall not be deemed an action as such term is defined in article eight of the environmental conservation law for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the authority and does not exempt the department of transportation or any other entity from compliance with such article.

§ 377. Provision for servicing state vehicles with petroleum, etc. The authority shall have the power to provide and shall provide to state-owned or leased motor vehicles, gasoline and other petroleum by-products that are presently provided or will be provided to motor vehicles owned, leased or operated by the authority. The charge for providing such goods and services shall be equal to the cost to provide such to vehicles owned, leased or used by the authority except that a fee may also be charged to cover the necessary operating costs incurred as a result of providing such goods and services. Payment shall be accomplished by charging such cost-back against the centralized services fund established by state finance law section ninety-seven-g.

§ 378. Specially priced commuter tickets. In the event that the authority offers specially priced commuter tickets for use on its Grand Island bridges, such tickets shall be made available for any vehicle regularly operated by a resident of Grand Island, whether such vehicle is owned by, leased to or loaned by an employer to such resident.

§ 378-a. Emergency service permits. 1. The authority is hereby authorized and directed to issue refunds for tolls incurred by ambulances or fire vehicles engaged in an emergency operation, or, at the option of the authority, to issue emergency services permits for use by ambulances and fire vehicles which shall provide for travel at no charge between interchanges and barriers while such vehicles are engaged in an emergency operation. For purposes of this section, the term "ambulance" shall have the same meaning as such term is defined by section one hundred-b of the vehicle and traffic law, the term "fire vehicle" shall have the same meaning as such term is defined by section one hundred fifteen-a of the vehicle and traffic law, and the term "emergency operation" shall have the same meaning as such term is defined by section one hundred fourteen-b of the vehicle and traffic law. In any rules and regulations promulgated for the implementation of this section, the authority may establish the type of documentation or other proof satisfactory to the authority that an ambulance or fire vehicle was engaged in an emergency operation at the time a toll was incurred.

2. If, upon the completion of an audit conducted by a certified public accountant selected by the authority, the authority can demonstrate that the issuance of refunds or permits as authorized in subdivision one of this section causes a significant loss of revenue to the authority, the authority is authorized, pursuant to a resolution of the board, to offer such refunds or permits at a discount of the cash cost per mile; provided, however, that, prior to such board resolution, the authority shall hold at least two public hearings, at a time and location which will, to the extent practicable, maximize the participation of the

general public.

§ 379. Further additional powers of the authority to finance certain repayment obligations of the state in connection with the purchase of real property for highway purposes. 1. (a) The authority is hereby authorized, as a corporate purpose thereof, to issue bonds and notes in an aggregate principal amount not to exceed fifty million dollars and to make available the proceeds from the sale of such bonds and notes, net of all costs to the authority in connection therewith, to the commissioner, for the purposes of financing a portion of the repayment to the treasurer of the United States of funds in an amount as determined by the secretary of the United States department of transportation to be equal to the amount of federal funds previously expended as adjusted by credits received to acquire real property for the portion of Interstate-478 which was withdrawn from the federal interstate system in accordance with federal law. Provided, however, that the authority shall not issue any bonds or notes authorized by this section until the federal highway administration has ruled on an application by the state, or the state and the city of New York, seeking a waiver of the repayment obligation of the state and city for federal funds expended to acquire real property for a portion of Interstate 478.

(b) Such bonds and notes shall be issued with the approval of the director of the budget and shall be special limited obligations of the authority, secured by and payable solely out of certain lease payments made by the state and funds and accounts held under the resolution pursuant to which such bonds and notes are issued, without recourse against other assets, revenues or funds of or other payments due to the authority.

(c) Such bonds and notes shall contain on the face thereof a statement to the effect that they shall not be deemed to be an obligation of the state and the state shall not be liable thereon.

(d) Such bonds shall be scheduled to mature over a term not to exceed thirty years.

(e) The provisions of title ten of article nine of this chapter, shall not apply in any way to the bonds or notes authorized to be issued by this section.

(f) All the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to the bonds and the notes authorized by this section, including, but not limited to, the power to issue renewal notes or refunding bonds thereof.

2. (a) Notwithstanding any general, special or local law, the state, acting by and through the commissioner, shall have the power to convey to the authority or its successor agency, without public bidding, public sale, or public notice, for such term, and upon such terms and conditions as the parties thereto shall agree, a leasehold interest in the real property purchased in part with federal funds in the name of the state for the portion of then-designated Interstate-478 which was withdrawn from the interstate system in accordance with federal law. Any lease entered into pursuant to the provisions of this section shall be for a period not less than that for which debt service is due and payable on any bonds and notes issued by the authority pursuant to this section and not more than thirty days after the period for which debt service is due and payable on any bonds and notes issued by the authority pursuant to this section.

(b) Notwithstanding the provisions of any general, special or local law, the state, acting by and through the commissioner, is hereby authorized to lease from the authority or its successor agency its interest in the real property purchased in part with federal funds in the name of the state for the portion of the then-designated Interstate-478 which was withdrawn from the interstate system in accordance with federal law, such lease to be upon such terms and conditions as the parties thereto shall agree, provided that such lease shall: (i) be for a period not less than that for which debt service is due and payable on any bonds and notes issued by the authority pursuant to this section and not more than thirty days after the period for which debt service is due and payable on any bonds and notes issued by the authority pursuant to this section, (ii) provide for lease rental payments equal to the amount needed to pay debt service on said notes or bonds as the same become due and equal to the amount needed to cover all direct and/or indirect costs incurred by the authority and not reimbursed from bond proceeds, (iii) provide that during any year in which no debt service is due and payable on any such bonds and notes such lease rental payments shall be in an amount equal to one dollar, (iv) provide that the authority shall have no obligations or duties with respect to such real property except as set forth in this section, (v) provide that during such leasehold any future proposed acquisition, disposition or new or different utilization, development or improvement of the real property subject to such leasehold interest shall be subject to the provision of paragraph b of subdivision five of section three hundred forty-b of the highway law, if applicable by the terms thereof, (vi) provide that the lease rental revenue stream thereunder may be assigned to a trustee for the payment of holders of bonds authorized by this chapter but prohibit the assignment of any other interests in the land subject to such lease to said trustee, and (vii) provide that the obligation of the state to make such lease rental payments shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys made available to the state, and that no liability on account thereof shall be incurred by the state beyond the moneys available for the purpose thereof, and that any obligation to make lease rental payments shall be subject to annual appropriation by the legislature.

(c) The attorney general shall approve or disapprove of the form and sufficiency and manner of execution of any lease executed by the commissioner pursuant to the provisions of this section.

§ 380. Further additional powers of the authority to finance certain local highway and bridge improvements and payments to the authority. 1. (a) The authority is hereby authorized, as additional corporate purposes thereof: (i) to issue bonds and notes and to incur obligations secured by the moneys as provided in the service contracts authorized pursuant to section eleven of chapter three hundred twenty-nine of the laws of nineteen hundred ninety-one, as amended; (ii) to make available the proceeds from the sale of such bonds and notes, net of all costs to the authority in connection therewith, for the purposes of financing all or a portion of the capital costs of local highway and bridge projects pursuant to sections ten-c, ten-f and ten-g of the highway law and sections sixteen and sixteen-a of the chapter of the laws of nineteen hundred ninety-one which enacted this section, section eighty-b of the highway law and section fifteen of chapter three hundred twenty-nine of the laws of nineteen hundred ninety-one which enacted this section, and project costs for: construction, reconstruction, improvement, reconditioning and preservation of rail freight facilities and intercity rail passenger facilities and equipment; construction, reconstruction, improvement, reconditioning and preservation of state, municipal and privately owned ports; construction, reconstruction, improvement, reconditioning and preservation of municipal airports; privately owned airports and aviation capital facilities, excluding airports operated by the state or operated by a bi-state municipal corporate instrumentality for which federal funding is not available provided the project is consistent with an approved airport layout plan; construction, reconstruction, enhancement, improvement, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, highways, parkways and bridges, and construction, reconstruction, improvement, reconditioning and preservation of fixed ferry facilities of municipal and privately owned ferry lines for transportation purposes; (iii) to enter into agreements with the commissioner with respect to financing any such local highways and bridges owned, maintained or operated by a municipality, and (iv) to enter into service contracts, contracts, agreements, deeds and leases with the director of the budget or the commissioner of transportation and project sponsors and others to provide for the financing by the authority of project costs for: construction, reconstruction, improvement, reconditioning and preservation of rail freight facilities and intercity rail passenger facilities and equipment; construction, reconstruction, improvement, reconditioning and preservation of state, municipal and privately owned ports; construction, reconstruction, improvement, reconditioning and preservation of municipal airports; privately owned airports and aviation capital facilities, excluding airports operated by the state or operated by a bi-state municipal corporate instrumentality for which federal funding is not available provided the project is consistent with an approved airport layout plan; construction, reconstruction, enhancement, improvement, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, highways, parkways and bridges;

and construction, reconstruction, improvement, reconditioning and preservation of fixed ferry facilities of municipal and privately owned ferry lines for transportation purposes. The director of the budget and the commissioner of transportation are each hereby authorized to enter into service contracts, contracts, agreements, deeds and leases with the authority, project sponsors or others to provide for the financing by the authority of the project costs specified in subparagraph (iv) of the preceding sentence.

(b) Such obligations shall be issued or incurred with the approval of the director of the budget and shall be special limited obligations of the authority secured by and payable solely out of amounts appropriated by the legislature as authorized pursuant to such section eleven of chapter three hundred twenty-nine of laws of nineteen hundred ninety-one, as amended, and any other funds appropriated by the legislature to the authority therefor without recourse against any other assets, revenues or funds of or other payments due to the authority.

(d) Such obligations shall contain on the face thereof a statement to the effect that they shall not be deemed to be an obligation of the state and that the state shall not be liable thereon.

(e) All of the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to obligations authorized by this section, including but not limited to the power to issue renewal notes or refunding bonds thereof.

(f) Notwithstanding any inconsistent provision of law, any place where reference to paragraph (c) of this subdivision is made in law it shall be deemed to be a reference to paragraph (b) of this subdivision as relettered by chapter six hundred thirty-seven of the laws of nineteen hundred ninety-six which added this paragraph.

2. Not less than one hundred twenty days before the beginning of each state fiscal year, the chairman of the authority shall certify to the comptroller and to the director of the budget a schedule of anticipated cash requirements for such fiscal year. The total amount so certified for such fiscal year shall be equal to the total amount of the debt service due or expected to be due during such fiscal year on obligations of the authority incurred pursuant to subdivision one of this section, including payments of interest and principal (including sinking fund

payments), together with:

(a) the amount, if any, due to any provider of any insurance policy, letter of credit or other letter of enhancement or a related facility with respect to such obligations, representing payments made by it as provided in the applicable resolution or trust indenture as a result of any previous failure of the state to make any payment provided for in this section, including any related reasonable interest, fees or charges so provided;

(b) the amount, if any, required to restore any applicable reserve fund to the applicable reserve fund requirement to the extent any deficiency therein has resulted directly or indirectly from failure by the state to make any payment provided for in this section;

(c) the amount, if any, required to be rebated to the United States to provide for continued exclusion from federal income taxation of interest on obligations of the authority; and

(d) the expenses of the establishment and continued operating expenses of the authority relating to local highway and bridge projects and project costs for: construction, reconstruction, improvement, reconditioning and preservation of rail freight facilities and intercity rail passenger facilities and equipment; construction, reconstruction, improvement, reconditioning and preservation of state, municipal and privately owned ports; construction, reconstruction, improvement, reconditioning and preservation of municipal airports; privately owned airports and aviation capital facilities, excluding airports operated by the state or operated by a bi-state municipal corporate instrumentality for which federal funding is not available provided the project is consistent with an approved airport layout plan; construction, reconstruction, enhancement, improvement, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, highways, parkways and bridges; and construction, reconstruction, improvement, reconditioning and preservation of fixed ferry facilities of municipal and privately owned ferry lines for transportation purposes, funded pursuant to section eleven of chapter three hundred twenty-nine of the laws of nineteen hundred ninety-one, as amended, including, but not limited to, trustees' fees, fees payable to providers of credit facilities, fees for issuing and paying agents, remarketing agents and dealers, legal counsel, financial or other advisors or consultants, independent auditors, providers of interest rate exchange agreements, rating agencies, transfer or information agents, the publication of advertisements and notices, surety arrangements, and printer's fees or charges incurred by the authority to comply with applicable federal and state securities and tax laws; and any other costs of issuance in excess of the amount provided therefor from the proceeds of the sale of such obligations, to the extent that any of the foregoing amounts or expenses are not to be paid from other resources available to the authority for such purpose.

3. The chairman of the authority may revise such certification at such times as shall be determined by the chairman; provided, however, that the chairman of the authority shall revise such certification not later than thirty days after the issuance of any obligations authorized pursuant to subdivision one of this section including refunding bonds, and the adoption of any interest rate exchange or other financial arrangement affecting the cash requirements of the authority with respect to the obligations incurred pursuant to this section.

4. Such certification shall provide for payments on such dates as the authority deems appropriate to ensure that sufficient funds will be available from the sources identified in this section to enable it to meet its current obligations with respect to those obligations incurred pursuant to this section as they become due.

5. Upon receipt of such certification, or any revision thereof, the comptroller shall pay such amount to the authority in accordance with such certification, from the service contracts authorized pursuant to section eleven of chapter 329 of the laws of nineteen hundred ninety-one, as amended, or from any other amount appropriated for such purpose. Such payments shall be made on or before the date specified in each certificate or within thirty days after such receipt, whichever is later, provided that all such amounts shall have been first appropriated by the state.

6. The state, acting through the director of the budget, and the authority may enter into, amend, modify, or rescind one or more

agreements providing for the specific manner, timing, and amount of payments to be made under this section, but only in conformity with this section. The agreement of the state contained in this section shall be deemed executory only to the extent of appropriations available for payments under this section and no liability on account of any such payment shall be incurred by the state beyond such appropriations.

7. The authorization, sale and issuance of bonds, notes or other obligations pursuant to this section shall not be deemed an action as such term is defined in article eight of the environmental conservation law for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the authority and does not exempt the department of transportation or any other entity from compliance with such article.

§ 381. Further additional powers of the authority. 1. The authority is hereby authorized, as additional corporate purposes thereof: (a) to issue bonds and notes and to incur obligations secured by the moneys as provided in the service contracts authorized pursuant to section fourteen of the chapter of the laws of nineteen hundred ninety-one which enacted this section; and (b) to make available the proceeds from the sale of such bonds and notes, net of all costs to the authority in connection therewith, to provide moneys to the authority to achieve the same corporate purposes as set forth in section three hundred sixty-five of this chapter. The authority is further authorized to issue such obligations in an aggregate principal amount not to exceed eighty million dollars, exclusive of the principal amount of bonds, notes or other obligations issued and applied (1) to fund any related debt service fund, or other reserve funds as may be needed, (2) to provide capitalized interest, and (3) to provide fees and other charges and expenses, including underwriters' discount and the purchase of any credit or liquidity enhancement facilities, related to the issuance of bonds, notes or other obligations and the maintenance of such reserves, all as determined by the authority and excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued pursuant to this section. In computing the total principal amount of bonds, notes or other obligations that may at any time be issued for any purpose under this section, the amount of the outstanding bonds, notes or other obligations that constitutes interest under the United States Internal Revenue Code of 1986, as amended to the effective date of this section, shall be excluded. Provided, however, that upon any refunding or repayment, except in connection with the termination of the existence of the authority or if otherwise authorized by the legislature, the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than the amount authorized by this section only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes of this section, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof.

2. Such obligations shall be special limited obligations of the authority, secured by and payable solely out of payments received pursuant to service contract or contracts authorized by section fourteen of the chapter of the laws of nineteen hundred ninety-one which enacted this section, funded by amounts appropriated by the legislature and any other funds appropriated by the legislature to the authority therefor, without recourse against any other assets, revenues or funds of or other payments due to the authority.

3. Such obligations shall contain on the face thereof a statement to

the effect that they shall not be deemed to be an obligation of the state and that the state shall not be liable thereon.

4. Such obligations shall be scheduled to mature over a term not to exceed thirty years.

5. All the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to obligations authorized by this section, including, but not limited to, the power to issue renewal notes or refunding bonds thereof.

§ 384. Additional powers of the authority to undertake and finance certain transportation projects. 1. (a) The authority is hereby authorized and directed, as an additional corporate purpose thereof, to enter into contracts or agreements with any private person or corporation or with the state or local governments or with other public corporations to finance, construct, reconstruct, improve or develop the following transportation projects subject to the limitations prescribed by this section: (i) the projects, or portions thereof, known as the inner harbor project and the intermodal transportation project located in Onondaga county, including but not limited to, the consolidation of the Syracuse canal terminal and the planning, design and construction of an intermodal transportation facility, provided, however, that prior to proceeding with the inner harbor project, the authority and the city of Syracuse shall enter into a memorandum of understanding regarding the undertaking of such project; (ii) the project, or portions thereof, known as the horizons waterfront development project generally located in and around Erie county, and the New York state canal system generally located along the Erie canal in Erie and Niagara counties; and (iii) the project, or portions thereof, known as the Stewart airport access project located in Orange county to provide direct access to Stewart international airport from interstate eighty-four in the vicinity of the airport. Notwithstanding the provisions of article VI-A and section one hundred thirty-eight-c of the canal law and paragraph (m) of subdivision seven of section three hundred eighty-two of this chapter, the New York state thruway authority, or the subsidiary corporation thereof, is authorized to enter into an agreement with the city of Syracuse for the leasing of the land comprising the inner harbor project in Onondaga county. Any projects for the construction, reconstruction or improvement of property or structures undertaken pursuant to this section shall be in full compliance with title thirteen of article twenty-seven of the environmental conservation law and shall be deemed public works for the purposes of section two hundred twenty of the labor law and section one hundred three of the general municipal law, except that any contracts let by the authority for the construction, reconstruction or improvement of such projects shall be subject to section three hundred fifty-nine of this title. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article and its contracts for such projects as provided in this article shall be deemed state contracts within the meaning set forth in such article.

(b) The authority is hereby authorized, as an additional corporate purpose thereof, to issue its bonds, notes and other obligations in conformity with applicable provisions of the uniform commercial code in a principal amount necessary to achieve purposes enumerated in paragraph (a) of this subdivision, including a principal amount necessary to provide capitalized interest for a period not to exceed six months subject to the limitations in subdivision three of this section. In computing the total principal amount of bonds, notes and other obligations that may at any time be issued for any purpose under this section, the amount of the outstanding bonds or notes that constitutes interest under the United States internal revenue code of nineteen hundred eighty-six, as amended to the effective date of this section, shall be excluded.

2. All of the provisions of this title, which are not inconsistent with the provisions of this section, shall apply to the projects and obligations authorized by this section, including but not limited to the power to issue renewal notes or refunding bonds.

3. The authority shall make available a total amount of moneys not exceeding fifty million dollars, exclusive of federal funds and any state and local moneys which may be available, for capital purposes and

for the other purposes enumerated in this section. The fifty million dollar amount shall be distributed as follows: (a) (i) an amount not to exceed fifteen million dollars shall be made available for the project, or portions thereof, known as the inner harbor project located in Onondaga county including, but not limited to, dredging of inner harbor, reconstruction of harbor piers including but not limited to site preparation, utility lines, and hard edging of the pier, marina development including the establishment of dock space, parking, hoists, and lifts, shoreline and west side harbor landscaping, gateway and finger park development, southern pier freighthouse rehabilitation, and the reconstruction of Solars Boulevard including design and construction, excavation, curbing, lighting and paving and infrastructure projects related thereto; (ii) an amount not to exceed five million dollars shall be made available for the project, or portions thereof, known as the intermodal transportation facility located in Onondaga county and infrastructure projects related thereto; (b) an amount not to exceed fifteen million dollars shall be made available for improvements related to the Buffalo inner harbor component of the horizons waterfront development project, or portions thereof, generally located in and around Erie county, and the New York state canal system generally located along the Erie canal in Erie and Niagara counties. The horizons waterfront development project improvements shall include the inner harbor project generally located in the city of Buffalo in the vicinity of the foot of Main street on the Buffalo river and may include, but not be limited to, the development of an automobile, bus, rail, water taxi, cycling, and pedestrian intermodal transportation hub and the waterfront area which will be serviced, including but not limited to design, environmental studies, real estate acquisition, construction, reconstruction, construction inspection, landscaping, excavation and dredging, enhancement related improvements and infrastructure improvements related thereto. The improvements to the New York state canal system may include but not be limited to construction, reconstruction, and development, terminal wall rehabilitation, transient docking, boater services, landscaping, and signage in the city of Tonawanda and the city of North Tonawanda; and (c) an amount not to exceed fifteen million dollars shall be made available for the project, or portions thereof, known as the Stewart airport access project located in Orange county to provide direct access to Stewart international airport from interstate eighty-four in the vicinity of the airport.

§ 385. Additional powers of the authority to issue special dedicated highway and bridge trust fund bonds. 1. (a) The authority is hereby authorized, as an additional corporate purpose thereof: (i) to enter into a dedicated highway and bridge trust fund cooperative agreement or agreements with the commissioner of transportation for the financing by the authority of disbursements made by the state or project sponsor for any of the activities authorized pursuant to the provisions of section eighty-nine-b of the state finance law in any case where the expense thereof is paid in whole or in part by the state or project sponsor; and (ii) to issue use permits or leases to the department of transportation, or project sponsor, as the case may be, for projects financed by the authority of disbursements made by the state or project sponsor in accordance with the provisions of a dedicated highway and bridge trust fund cooperative agreement or agreements, provided that such projects are maintained and operated under the supervision of the department of transportation without cost to the New York state thruway authority for the full term of such agreement or agreements, and provided further that such use permit or lease shall be granted by the authority on a toll free basis. Provided, however, that at any time after April first, nineteen hundred ninety-five, no dedicated highway and bridge trust fund cooperative agreement with the commissioner of transportation pursuant to this section, nor any supplement thereto, need provide any conveyance of an interest in the property to the New York state thruway authority in connection with any obligations incurred pursuant to this section; and any such conveyance evidenced by a dedicated highway and bridge trust fund cooperative agreement before such date shall, consistent with the rights of holders of any such obligations incurred pursuant to this section, revert to the people of the state of New York by appropriate instrument or instruments, by quitclaim deed or otherwise, in confirmation of such reversion and any related use permits shall be voided.

(b) The authority is hereby authorized, as additional corporate purposes thereof solely upon the request of the director of the budget: (i) to issue special emergency highway and bridge trust fund bonds and notes for a term not to exceed thirty years and to incur obligations secured by the moneys appropriated from the dedicated highway and bridge trust fund established in section eighty-nine-b of the state finance law; (ii) to make available the proceeds in accordance with instructions provided by the director of the budget from the sale of such special emergency highway and bridge trust fund bonds, notes or other obligations, net of all costs to the authority in connection therewith, for the purposes of financing all or a portion of the costs of activities for which moneys in the dedicated highway and bridge trust fund established in section eighty-nine-b of the state finance law are authorized to be utilized or for the financing of disbursements made by the state for the activities authorized pursuant to section eighty-nine-b of the state finance law; and (iii) to enter into agreements with the commissioner of transportation pursuant to section ten-e of the highway law with respect to financing for any activities authorized pursuant to section eighty-nine-b of the state finance law, or agreements with the commissioner of transportation pursuant to sections ten-f and ten-g of the highway law in connection with activities on state highways pursuant to these sections, and (iv) to enter into service contracts, contracts, agreements, deeds and leases with the director of the budget or the commissioner of transportation and project sponsors and others to provide for the financing by the authority of activities authorized pursuant to section eighty-nine-b of the state finance law, and each of the director of the budget and the commissioner of transportation are hereby authorized to enter into service contracts, contracts, agreements, deeds and leases with the authority, project sponsors or others to provide for such financing. The authority shall not issue any bonds or notes in an amount in excess of twenty-two billion three hundred nine million two hundred ninety-four thousand dollars $22,309,294,000, plus a principal amount of bonds or notes: (A) to fund capital reserve funds; (B) to provide capitalized interest; and, (C) to fund other costs of issuance. In computing for the purposes of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the authority issued pursuant to this section, as amended by a chapter of the laws of nineteen hundred ninety-six, there shall be excluded the amount of bonds or notes issued that would constitute interest under the United States Internal Revenue Code of 1986, as amended, and the amount of indebtedness issued to refund or otherwise repay bonds or notes.

(c) Such obligations shall be issued or incurred with the approval of the director of the budget and shall be special obligations of the authority secured by and payable solely out of amounts appropriated by the legislature as authorized pursuant to section eighty-nine-b of the state finance law without recourse against any other assets, revenues or funds of or other payments due to the authority. Upon payments of such appropriated amounts from the fund established pursuant to section eighty-nine-b of the state finance law to the account of the authority, such funds may be pledged by the authority to secure its bonds, notes and other obligations authorized by paragraph (b) of this subdivision and shall be held free and clear of any claim by any person arising out of or in connection with articles twelve-A, thirteen-A and twenty-one of the tax law. Without limiting the generality of the foregoing and without limiting the rights and duties of the commissioner of taxation and finance under articles twelve-A, thirteen-A and twenty-one of the tax law, no taxpayer, or any other person, including the state, shall have any right or claim against the authority or any of its bondholders to any moneys appropriated and transferred from the dedicated highway and bridge trust fund established by section eighty-nine-b of the state finance law for or in respect of a refund, rebate, credit, reimbursement or other repayment of taxes paid under such articles of the tax law.

(d) The notes, bonds or other obligations of the authority authorized by this section shall not be a debt of the state and the state shall not be liable thereon, nor shall they be payable out of any funds other than those of the authority pledged therefor; and such bonds and notes shall contain on the face thereof a statement to such effect. In addition, any agreements entered into by the department of transportation pursuant to sections ten-e, ten-f and ten-g of the highway law or any other entity on behalf of the state to effect the implementation of any of the activities financed in whole or in part with proceeds of the obligations of the authority authorized in this section do not constitute or create a debt of the state, nor a contractual obligation in excess of the amounts appropriated therefor and the state has no continuing legal or moral obligation to appropriate money for payments due under such contracts.

(e) All of the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to obligations authorized by this section, including but not limited to the power to establish adequate reserves therefor and to issue renewal notes or refunding bonds thereof, provided, however, that the authority shall be authorized to issue variable rate bonds or notes pursuant to this section only until June thirtieth, two thousand, after which date no bonds or notes issued by the authority pursuant to this section may have interest rates which vary, provided further that the expiration of such authority shall not affect any such bonds or notes issued prior to such date.

2. Not less than one hundred twenty days before the beginning of each state fiscal year, the chairman of the authority shall certify to the comptroller and to the director of the budget a schedule of anticipated cash requirements for such fiscal year pursuant to any agreements entered into by the authority with the commissioner of transportation pursuant to sections ten-e, ten-f and ten-g of the highway law. The amounts so certified shall constitute required dedicated highway and bridge trust fund cooperative agreement payments due pursuant to such agreements under sections ten-e, ten-f and ten-g of the highway law. The total amount so certified for such fiscal year shall be equal to the total amount of the debt service due or expected to be due during such fiscal year on obligations of the authority incurred pursuant to subdivision one of this section, including payments of interest and principal (including sinking fund payments), together with:

(a) the amount, if any, due to any provider of any insurance policy, letter of credit or other letter of enhancement or a related facility with respect to such obligations, representing payments made by it as provided in the applicable resolution or trust indenture as a result of any previous failure of the state to make any payment provided for in this section, including any related reasonable interest, fees or charges so provided;

(b) the amount, if any, required to restore any applicable reserve fund to the applicable reserve fund requirement to the extent any deficiency therein has resulted directly or indirectly from failure by the state to make any payment provided for in this section;

(c) the amount, if any, required to be rebated to the United States to provide for continued exclusion from federal income taxation of interest on obligations of the authority; and

(d) the expenses of the establishment and continued operating expenses of the authority related to the financing of activities funded with the proceeds of obligations authorized by subdivision one of this section, including, but not limited to, trustees' fees, fees payable to providers of credit facilities, fees for issuing and paying agents, remarketing agents and dealers, legal counsel, financial or other advisors or consultants, independent auditors, rating agencies, transfer or information agents, the publication of advertisements and notices, surety arrangements, and printers' fees or charges incurred by the authority to comply with applicable federal and state securities and tax laws; and any other costs of issuance in excess of the amount provided therefor from the proceeds of the sale of such obligations, to the extent that any of the foregoing amounts or expenses are not to be paid from other resources available to the authority for such purpose.

3. The chairman of the authority may revise such certification at such times as shall be determined by the chairman; provided, however, that the chairman of the authority shall revise such certification not later than thirty days after the issuance of any obligations authorized pursuant to subdivision one of this section including refunding bonds, and affecting the cash requirements of the authority with respect to the obligations incurred pursuant to this section.

4. Such certification shall provide for payments on such dates as the authority and the director of the budget deems appropriate to ensure that sufficient funds will be available from the sources identified in this section to enable it to meet its current obligations with respect to those obligations incurred pursuant to this section as they become due.

5. Upon receipt of such certification, or any revision thereof, the comptroller shall pay such dedicated highway and bridge trust fund

cooperative agreement payments to the authority in accordance with such certification, from the dedicated highway and bridge trust fund established by section eighty-nine-b of the state finance law. Such payments shall be made on or before the date specified in each certificate or within thirty days after such receipt, whichever is later, provided that all such amounts shall have been first appropriated by the state.

6. The agreement of the state contained in this section shall be deemed executory only to the extent of appropriations available for payments under this section and no liability on account of any such payment shall be incurred by the state beyond such appropriations. The state, acting through the director of the budget, and the authority may enter into, amend, modify, or rescind one or more agreements providing for the specific manner, timing, and amount of payments to be made under this section, but only in conformity with this section.

7. The authorization, sale and issuance of bonds, notes or other obligations pursuant to this section shall not be deemed an action as such term is defined in article eight of the environmental conservation law for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the authority and does not exempt the department of transportation or any other entity from compliance with such article.

8. The state of New York shall and hereby agrees to and does indemnify and save harmless the New York state thruway authority from and against any and all liability, loss, damage, interest, judgments and liens growing out of, and any and all costs and expenses (including, but not limited to, counsel fees and disbursements) arising out of or incurred in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against the New York state thruway authority arising out of any determinations made or actions taken or omitted to be taken or compliance with any obligations under or pursuant to this section.

9. Nothing contained in this section shall be deemed to restrict the

right of the state to amend, repeal, modify or otherwise alter statutes imposing or relating to any taxes or fees, including the taxes imposed pursuant to section two hundred eighty-four, articles thirteen-A and twenty-one of the tax law and fees imposed by section four hundred one of the vehicle and traffic law. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes and other obligations issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter any such taxes and fees.

10. Any resolution authorizing bonds, notes or other obligations shall reserve the right of the state, upon amendment of the New York state constitution allowing the issuance, or assumption, of bonds, notes or other obligations secured by revenues, which may include the revenues securing bonds, notes or other obligations of the authority, (i) to assume, in whole or in part, such bonds, notes or other obligations of the authority, (ii) to extinguish the existing lien of such resolution, and (iii) to substitute security for the bonds, notes, or other obligations of the authority, in each case only so long as such assumption, extinguishment or substitution is done in accordance with such resolution.

§ 386. Additional powers of the authority to issue special rail and aviation transportation bonds. 1. The authority is hereby authorized, as an additional corporate purpose thereof to enter into service contracts, contracts, agreements, deeds, leases with the director of the budget, the commissioner of transportation, municipalities and others to provide for the financing by the authority of rail and aviation transportation projects as authorized by section fourteen-j of the transportation law.

2. The authority is hereby authorized, as an additional corporate purpose thereof, solely at the request of the director of the budget: a. to issue special rail and aviation transportation bonds, notes or other obligations in an aggregate principal amount not to exceed forty million dollars plus a principal amount of bonds, notes or other obligations

issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest and (iii) to provide fees and other charges and expenses, including but not limited to legal fees, underwriters' discounts, related to the issuance of such bonds, notes and other obligations and the maintenance of such reserves, all as determined by the authority, excluding bonds, notes or other obligations issued to refund outstanding bonds, notes or other obligations issued pursuant to this section. Such bonds, notes or other obligations may be issued for a term not to exceed thirty years and shall be secured by the moneys provided pursuant to a service contract, contract, lease or agreement entered into with the director of the budget, the commissioner of transportation, municipalities or others pursuant to subdivision one of this section for the purpose of financing activities pursuant to section fourteen-j of the transportation law, such service contract, contract, lease or agreement to provide for the payment of debt service, funding of necessary reserves and all other expenses of the authority as agreed to by the parties, provided, however, that such service contract, contract, lease or agreement shall provide that the obligation of the state to make such payments shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys made available to the state, and that no liability on account thereof shall be incurred by the state beyond the moneys available for the purpose thereof and that any obligation to make such payments shall be subject to annual appropriations by the legislature; to make available the proceeds net of all costs to the authority in connection therewith in accordance with such agreements or as authorized and directed by law for the purposes of financing activities pursuant to and in conformance with section fourteen-j of the transportation law.

3. Such obligations shall be issued or incurred with the approval of the director of the budget and shall be special limited obligations of the authority secured by and payable solely out of amounts appropriated by the legislature for payments pursuant to a service contract, contract, lease or agreement authorized pursuant to subdivision one of this section and any other funds appropriated by the legislature to the authority therefor without recourse against any other assets, revenues

or funds of or other payments due to the authority.

4. Such obligations shall contain on the face thereof a statement to the effect that they shall not be deemed to be an obligation of the state and that the state shall not be liable thereon.

5. All of the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section shall apply to obligations authorized by this section, including but not limited to the power to issue renewal notes or refunding bonds thereof, provided, however, that the authority shall be authorized to issue variable rate bonds or notes pursuant to this section only until June thirtieth, nineteen hundred ninety-four, after which date no bonds or notes issued by the authority pursuant to this section may have interest rates which vary, provided further that the expiration of such authority shall not affect any such bonds or notes issued prior to such date.

6. The authorization, sale and issuance of bonds, notes or other obligations pursuant to this section shall not be deemed an action as such term is defined in article eight of the environmental conservation law for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the authority and does not exempt the department of transportation or any other entity from compliance with such article.

7. The attorney general shall approve or disapprove of the form of any service contract, contract, lease or agreement authorized pursuant to this section.

§ 386-a. Financing of metropolitan transportation authority (MTA) transportation facilities. 1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of assisting the metropolitan transportation authority in the financing of transportation facilities as defined in subdivision seventeen of section twelve hundred sixty-one of this chapter or other capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed fifteen billion five hundred fifteen million eight hundred fifty-six thousand dollars $15,515,856,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds. Notwithstanding any other provision of law to the contrary, including the limitations contained in subdivision four of section sixty-seven-b of the state finance law, (A) any bonds and notes issued prior to April first, two thousand twenty-seven pursuant to this section may be issued with a maximum maturity of fifty years, and (B) any bonds issued to refund such bonds and notes may be issued with a maximum maturity of fifty years from the respective date of original issuance of such bonds and notes.

2. Notwithstanding any other provision of law to the contrary, in order to assist the authority, the dormitory authority and the urban development corporation in undertaking the financing of such transportation facilities projects, the director of the budget is hereby authorized to enter into one or more service contracts with the authority, the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the authority, the dormitory authority and the urban development corporation agree, so as to annually provide to the authority, the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for

such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the authority, the dormitory authority and the urban development corporation as security for such bonds and notes, as authorized by this section.

§ 386-b. Financing of peace bridge and transportation capital projects. 1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of financing peace bridge projects and capital costs of state and local highways, parkways, bridges, the New York state thruway, Indian reservation roads, and facilities, and transportation infrastructure projects including aviation projects, non-MTA mass transit projects, and rail service preservation projects, including work appurtenant and ancillary thereto. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed eighteen billion five hundred sixty-two million three hundred eighty-five thousand dollars $18,562,385,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the authority, the dormitory authority and the urban development corporation in undertaking the financing of such transportation facilities projects, the director of the budget is hereby authorized to enter into one or more service contracts with the authority, the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the authority, the dormitory authority and the urban development corporation agree, so as to annually provide to the authority, the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the authority, the dormitory authority and the urban development corporation as security for such bonds and notes, as authorized by this section.

§ 387. Fees for searches and copies of accident and accident reconstruction reports. Notwithstanding any other law to the contrary, the fees for searching the records of the authority for an accident report, for furnishing a copy of an accident report, and for furnishing a copy of an accident reconstruction report shall not exceed the fees charged by the division of state police pursuant to section sixty-six-a of the public officers law and/or by the department of motor vehicles pursuant to section two hundred two of the vehicle and traffic law, provided, however, that no fee shall be charged to any public officer, board or body, or volunteer fire company, for searches or copies of accident reports to be used for a public purpose.

§ 388. Limitation on powers of the authority. A department, authority, division or agency of the state shall not offer or permit any officer or employee of such department, authority, division or agency to use a pass to access and/or use the thruway without the officer's or employee's personal payment of tolls except when the use of such a pass and/or use of the thruway without personal payment of tolls occurs in the normal course of the employment or duties of such officer or employee. This section shall not diminish the rights of any employee pursuant to a collective bargaining agreement.

§ 389. Information concerning services for human trafficking victims in facilities at service areas. 1. In addition to providing information concerning services for human trafficking victims, including the national human trafficking hotline telephone number on its closed circuit television systems, any service area maintained or operated by the authority shall make available in plain view and in a conspicuous place and manner in the public restrooms and in any lactation rooms, informational cards and/or signs developed by:

(a) the office of temporary and disability assistance in consultation with the New York state interagency task force on human trafficking; or

(b) the United States Department of Homeland Security.

2. All informational cards and signs shall only contain information concerning services for human trafficking victims and shall prominently include the national human trafficking hotline telephone number.

3. For purposes of this section, "lactation room" shall mean a hygienic place, other than a restroom, that: (a) is shielded from view; (b) is free from intrusion; (c) contains a chair, a working surface, and, if the building is otherwise supplied with electricity, an electrical outlet; and (d) is intended to be used for the primary purpose of breastfeeding or expressing breast milk.

ARTICLE 3

BRIDGE AND TUNNEL AUTHORITIES

TITLE 2

NEW YORK STATE BRIDGE AUTHORITY

§ 525. Short title. This title may be cited as the "State Bridge Authority Act."

§ 526. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "authority" shall mean the New York State Bridge Authority created by section five hundred twenty-seven of this chapter;

2. The term "commissioner" shall mean the commissioner of transportation in the department of transportation;

3. The term "department" shall mean the state department of transportation;

4. The term "board" shall mean the members of the authority;

5. The term "Franklin Delano Roosevelt Mid-Hudson bridge" shall be deemed to mean the bridge constructed pursuant to chapter nine hundred of the laws of nineteen hundred twenty-three, as amended;

6. The term "Rip Van Winkle bridge" shall be deemed to mean the bridge constructed across the Hudson river north of the village of Catskill and south of the city of Hudson;

7. The term "Bear Mountain bridge" shall be deemed to mean the bridge constructed by the Bear Mountain Hudson River Bridge Company, pursuant to chapter three hundred and fifty-eight of the laws of nineteen hundred twenty-two.

7-a. The term "Hamilton Fish Newburgh-Beacon bridge" shall be deemed to mean both spans of the bridge constructed across the Hudson river between a location in the vicinity of the city of Newburgh and a location in the vicinity of the city of Beacon;

7-b. The term "walkway over the Hudson bridge" shall be deemed to mean the Poughkeepsie-Highland railroad bridge which was constructed across the Hudson river north of the Franklin Delano Roosevelt Mid-Hudson bridge.

8. The term "Kingston-Rhinecliff bridge" shall be deemed to mean the bridge constructed across the Hudson river within five miles of the city of Kingston;

9. The term "bridges" shall be deemed to mean collectively Mid-Hudson bridge, Rip Van Winkle bridge, Bear Mountain bridge, Kingston-Rhinecliff bridge, both spans of the Hamilton Fish Newburgh-Beacon bridge, walkway over the Hudson bridge, and incidental roads, approaches, structures and facilities;

10. The terms "bonds" and "notes" shall mean bonds and notes, respectively, issued by the authority pursuant to this title;

11. The term "comptroller" shall mean the state comptroller.

§ 526-a. Ceremonial designation. All that portion of touring route 199 connecting Ulster and Dutchess counties which is identified and known as the Kingston-Rhinecliff bridge shall be designated and known as the "George Clinton Kingston-Rhinecliff bridge".

§ 526-b. Ceremonial designation of the Bear Mountain bridge. 1. The Bear Mountain bridge, as defined in subdivision seven of section five hundred twenty-six of this title, shall be designated and known as the "Purple Heart Veterans Memorial Bridge".

2. The chairman of the New York State Bridge Authority shall provide for the installation and maintenance of adequate signing of the state highway system as designated pursuant to subdivision one of this section. However, to avoid confusion and to limit any possible

disruption of commerce, the designation called for pursuant to subdivision one of this section shall be one of ceremonial nature and the official name of such bridge shall not be changed as a result of this act.

§ 527. New York State Bridge Authority. 1. The board known as the "New York State Bridge Authority," is hereby continued. Such board shall be a body corporate and politic, shall have a corporate seal and be capable of suing and being sued. It shall consist of seven members who shall be appointed by the governor by and with the advice and consent of the senate. The present members of the board shall continue in office, unless a vacancy occurs, for the remainder of the time for which they were respectively appointed. Of the additional members, one shall be appointed for a term to expire February first, nineteen hundred fifty-one, and one for a term to expire February first, nineteen hundred fifty-two. Their successors and any additional appointees shall be appointed, one annually, for terms of five years each from the first day of February; provided that the person appointed as successor to the member heretofore appointed for a three year term which expired February first, nineteen hundred forty-seven, shall be appointed for a term to expire February first, nineteen hundred fifty. Vacancies in the office of such board occurring otherwise than by expiration of term also shall be filled by the governor by appointment by and with the advice and consent of the senate for the unexpired term, and the provisions of section thirty-nine of the public officers law relating to recess appointments shall apply to such board. Such board shall choose from its members a chairman. The members of such board shall be paid or reimbursed for their necessary expenses incurred under this title, but shall receive no compensation for their services.

2. Such board and its corporate existence shall continue so long as it shall have bonds or other obligations outstanding (including bonds or obligations hereafter issued or incurred) and until its existence shall be terminated by law. Upon ceasing to exist all of its rights and properties shall pass to the state.

3. Notwithstanding any inconsistent provision of this section, on the effective date of this subdivision the term of each board member currently in office, or any vacant position, shall be deemed expired, and each such board members may continue to serve in holdover status until their successor is appointed by the governor and with the advice and consent of the senate and the provisions of section thirty-nine of the public officers law relating to recess appointments shall apply to such appointments. Initial appointments made pursuant to this subdivision shall be for the following terms, the first three of such initial appointments shall be for a term of three years, the second two of such initial appointments shall be for a term of five years, and final two of such initial appointments shall be for a term of seven years. After these initial terms have expired, board members shall be appointed for a term of five years, provided, however, that each board member may serve in holdover until a successor board member is appointed. Vacancies in the office of such board occurring otherwise than by expiration of term also shall be filled by the governor by appointment by and with the advice and consent of the senate for the unexpired term, and the provisions of section thirty-nine of the public officers law relating to recess appointments shall apply to such board.

§ 528. Powers of the authority. The authority shall have power

1. To acquire, hold and dispose of personal property for its corporate purposes;

1-a. To hold in the name of the state any real property acquired for its corporate purposes and, with the approval of the commissioner, to sell, lease, exchange, or otherwise dispose of any real property or rights or easements therein, heretofore or hereafter acquired pursuant to the "state bridge authority act", determined by it to be not necessary for its corporate purposes, and shall accept ownership of the walkway over the Hudson bridge in the name of the state, and acquire such incidental roads, approaches, structures and facilities as may be necessary.

1-b. To accept from any person gifts of money or property for its corporate purposes.

2. To make by-laws for the management and regulation of its affairs;

3. With the consent of the commissioner to use the agents, employees and facilities of the department, paying its proper proportion of the compensation and expenses of such agents and employees and of the cost of such facilities;

4. To appoint officers, agents and employees and fix their compensation; subject, however, to the provisions of the civil service law, which shall apply to the authority as a municipal corporation other than a city;

5. To make contracts, and to execute all instruments necessary or convenient;

6. To conduct a study regarding traffic congestion and capacity needs in and around the Franklin Delano Roosevelt Mid-Hudson bridge and to make recommendations concerning reasonable alternatives designed to alleviate any known capacity deficiencies in and around such bridge. Such study shall include, but is not limited to an investigation to determine whether it is in the public interest to construct a new bridge over the Hudson river at or near the city of Poughkeepsie and in connection therewith to contract with engineers, surveyors, contractors and others for environmental review, preliminary plans, borings, surveys and estimates of cost, and if the authority by resolution, and the commissioner in writing filed with the authority, shall determine that the construction of such bridge is in the public interest, to construct such bridge at a location approved by the commissioner, on lands of the state of New York or lands to be acquired in the name of the state of New York as hereinafter provided, together with incidental roads, approaches, structures and facilities, subject to such consents and approval of federal authorities in any case as may be necessary.

7. To maintain, reconstruct, and operate the bridges so long as its

corporate existence shall continue;

8. To charge tolls for the use of the bridges, with the exception of the walkway over the Hudson bridge, subject to and in accordance with such agreements with bondholders and noteholders as may be made as hereinafter provided, except, however, that subject to such agreements the rates of tolls charged on the Franklin Delano Roosevelt Mid-Hudson bridge, the Kingston Rhinecliff bridge, the Bear Mountain bridge, the Rip Van Winkle bridge, and the Hamilton Fish Newburgh-Beacon bridge shall be the same.

9. To construct and maintain over, or along the bridges, or either of them, telephone, telegraph or electric wires and cables, gas mains, water mains, and other mechanical equipment not inconsistent with the use of the bridges for vehicular traffic, to contract for such construction and to lease the right to construct and/or use the same on such terms and for such considerations as it shall determine, provided, however, that no lease shall be made for a period of more than ten years from the date when it is made;

10. To construct and maintain facilities for the public, not inconsistent with the appropriate use of the bridges, to contract for such construction, and to lease the right to construct and/or use such facilities on such terms and for such considerations as it shall determine, provided, however, that no lease shall be made for a period of more than ten years from the date when it is made;

10-a. Subject to the approval of the commissioner, to construct, reconstruct and improve highway connections to any of the bridges; the construction to be under the supervision and control of the commissioner as agent of the authority. Upon completion thereof, jurisdiction of such connections to be transferred by the authority to the commissioner who shall thereafter maintain such connections in the same manner as other highways maintained by the state;

10-b. To contribute and pay over such amount as the authority shall determine to any city for such city's share of the cost, including damages and expenses, to be borne by or charged against such city for the acquisition of real property acquired by the state within such city for state highways connecting with any of the bridges and approaches situated within a radius of one mile from the nearest bridge abutment.

11. To issue negotiable bonds and notes and to provide for the rights of the holders thereof;

12. To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations;

13. To advertise the facilities and advantages of the bridges;

14. To appoint or designate one or more persons for the purpose of enforcing law, order and the observance of the rules and regulations established by the authority. Each person as and when so appointed or designated may, during the term of such appointment or designation be uniformed and shall be known as a "New York state bridge authority patrolman" and shall be a police officer as defined by paragraph (e) of subdivision thirty-four of section 1.20 of the criminal procedure law and shall have, within the limits of the cities, towns and villages within which any part of a bridge, or any ferry property, operated by the authority shall be located, all the powers of a constable, marshal, police constable or police officer of a city, town or village in the execution of criminal processes; and criminal process issued by any court or magistrate of a county, town, city or village within which any part of a bridge or any ferry property operated by the authority shall be located, may be directed to and executed by any such patrolman notwithstanding the provisions of any local or special act, ordinance or regulation.

15. To do all things necessary or convenient to carry out the powers expressly given in this title.

16. To accept grants, loans or contributions from the United States of America, the state of New York, or any agency or instrumentality of either of them and, subject to any agreement with bondholders or

noteholders, to enter into contracts and to execute all instruments necessary or convenient or desirable in connection therewith, including, its bonds, notes or other obligation evidencing any such loan from the United States of America, the state of New York or any agency or instrumentality of either of them.

17. To enter into a lease or operating agreement, for a period not to exceed ninety-nine years, with the office of parks, recreation and historic preservation for all or a portion of the walkway over the Hudson bridge for the purpose of a state park. Such agreement may assign or allocate responsibility for the construction, operation, maintenance, replacement and management of the deck and approaches and structures providing public access to the state park, but the authority shall retain responsibility for maintaining the superstructure of the walkway over the Hudson bridge. The office of parks, recreation and historic preservation is authorized to enter into such agreement, which may include the installation and maintenance by the office of parks, recreation and historic preservation of any personal property and equipment used in connection therewith. The office of parks, recreation and historic preservation shall propose in its annual budget an amount for all costs and obligations under such agreement and these costs may be supplemented by private donations.

§ 529. Acquisition of land; dedication by counties, towns or villages. 1. Whenever the authority shall determine that any real estate or rights or easements therein are required for any of the bridges or for highway connections, and the commissioner shall approve such determination, the commissioner shall acquire such real estate or rights or easements therein in the name of the state by dedication, by agreement, by acquisition pursuant to the eminent domain procedure law, or by appropriation, in the manner provided by section thirty of the highway law.

2. Notwithstanding the provisions of any other law, the board of supervisors of any county, the town board of any town, the common or city council of any city, or the trustees of any village, without any

election or meeting of the taxpayers or voters or other authorization, is hereby authorized to dedicate to the state for any of the bridges or for highway connections, any real property, easements or rights in land owned by such county, town, city or village which the authority may deem necessary.

§ 530. Construction contracts. The authority shall construct the bridges pursuant to a contract or contracts. Such contracts shall be let under the supervision of the commissioner and shall be subject to his approval. Such contracts shall be let by the authority in the manner, so far as practicable, provided in section thirty-eight of the highway law, but failure to comply with such section shall not invalidate such contracts. Requisitions for the payments to be made pursuant to such contracts shall be approved by the commissioner. The work under such contracts shall be subject to the supervision and approval of the commissioner.

§ 531. Moneys of the authority. 1. All moneys of the authority from whatever source derived shall be paid to the comptroller as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on check of the comptroller on requisition of the chairman of the authority or of such other person as the authority may authorize to make such requisition. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

2. The authority shall have power notwithstanding the provisions of

this section, to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

3. After reserving sufficient moneys to provide for payment of the cost of improvement and repair of the existing bridges, the authority shall apply the remainder of its funds not otherwise obligated in reduction or extinguishment of any bonds of the authority outstanding at the time this act takes effect.

4. Except as otherwise provided by this act, any moneys of the authority which are not immediately required may be invested in obligations of the categories specified in subdivisions one to five, both inclusive, of section ninety-eight of the state finance law maturing or redeemable at the option of the holder within two years of the date of such investments or in a certificate of deposit of a bank or trust company in this state.

§ 532. Bonds of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any corporate purpose in the aggregate principal amount not to exceed one hundred fifty-three million two hundred fifty-five thousand dollars.

2. In addition to the bonds authorized in subdivision one of this section, the authority shall have power from time to time and whenever it deems refunding expedient, to issue bonds in such principal amount as the authority may determine for the purpose of refunding bonds then outstanding and to issue such additional bonds as may be necessary to

pay the costs incurred in connection with said refunding, whether the bonds to be refunded have or have not matured. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded, provided, however, that upon any such refunding or repayment the aggregate principal amount of outstanding bonds may be greater than one hundred fifty-three million two hundred fifty-five thousand dollars only if the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds and of the aggregate debt service of the bonds so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds from the payment dates thereof to the date of issue of the refunding or repayment bonds and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof.

3. Bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding fifty years from their respective dates, bear interest at such rate or rates, payable semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (not inconsistent with subdivision four of this section) as such resolution or resolutions may provide. Any bonds of the authority may be sold at public or private sale for such price or prices as the authority shall determine.

4. Every issue of bonds shall be subject to redemption prior to maturity at the election of the authority on notice by publication in a newspaper published in the city of New York of not more than ninety days, and if the state shall furnish the authority with sufficient money

therefor, the authority shall redeem the bonds in accordance with the terms of redemption then applicable.

5. Except as otherwise may be expressly provided by the authority every issue of bonds and notes shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreement with the holders of particular bonds or notes pledging any particular tolls or revenues.

6. Any resolution or resolutions authorizing any bonds or notes may contain provisions, which shall be a part of the contract with the holders of the bonds or notes, as to

(a) Pledging the tolls and revenues of the bridges or any of them to secure the payment of the bonds or notes;

(b) The rates of the tolls to be charged, and the amount to be raised in each year by tolls, and the use and disposition of the tolls and other revenues;

(c) The setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) Limitations on the right of the authority to restrict and regulate the use of the bridges;

(e) Limitations on the purposes to which the proceeds of sale of any issue of bonds or notes then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue thereof;

(f) Limitations on the issuance of additional bonds or notes or on other debt;

(g) The procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;

(h) Limitations on the amount of moneys derived from any of the bridges to be expended for operating, administrative or other expenses of the authority;

(i) Vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section five hundred thirty-seven hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) Any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes.

7. Neither the members of the board nor any person executing such bonds or notes shall be liable personally on said bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority shall have power out of any funds available therefor to purchase any bonds or notes issued by it. The authority may hold, cancel, or resell such bonds or notes subject to and in accordance with agreements with bondholders or noteholders.

9. It is the intention hereof that any pledge of tolls or other revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

§ 532-a. Notes of the authority. The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code and from time to time to issue renewal notes, maturing not later than five years from their respective dates in an amount which together with bonds shall not exceed one hundred fifty-three million two hundred fifty-five thousand dollars pursuant to subdivision one of section five hundred thirty-two of this chapter, excluding bonds issued to fund said notes. Subject to any agreements with bondholders or noteholders thereof the authority may pledge such moneys or revenues for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

§ 533. Agreement of the state. The state of New York does pledge to and agree with the holders of any bonds or notes that the state will not authorize the construction or maintenance of any additional highway crossings for vehicular traffic over, under or across the waters of the Hudson river in addition to the bridges authorized by this title which will be competitive with the bridges, nor will it limit or alter the rights hereby vested in the authority to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreement made with the holders of the bonds or notes, or in any way impair the rights and remedies of bondholders or noteholders, until the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any actions or proceedings by or on behalf of the bondholders or noteholders, are fully met and discharged. For the purposes of this section, any such crossing shall be considered as competitive only if it shall form a connection for vehicular traffic over, under or across the Hudson river south of a line drawn across the Hudson river fifteen miles north of the Rip Van Winkle bridge, and north of the Bear Mountain bridge.

§ 534. State not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state and the state shall not be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 535. Bonds and notes legal investments for fiduciaries. The bonds and notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 536 Tax contract by the state. (1) The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds and notes issued by the authority pursuant to this title, in consideration of the making of any payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds, tolls and other revenue pledged to pay or secure the payment of such bonds and notes, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

(2) Nothing herein shall be construed to repeal or supersede any tax exemptions heretofore or hereafter granted by general or other laws.

§ 537. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any of the bonds as the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the clerk of the county of Dutchess, Ulster, Greene or Columbia and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee, to represent the bondholders for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of the bonds then outstanding shall, in his or its own name

(a) By suit, action or special proceeding, enforce all rights of the bondholders, including the right to require the authority and the board to collect tolls and rentals adequate to carry out any agreement as to, or pledge of, such tolls and rentals, and to require the authority and the board to carry out any other agreement with the bondholders and to perform its and their duties under this title;

(b) Bring suit upon the bonds;

(c) By action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders;

(d) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(e) Declare all bonds due and payable and if all defaults shall have been made good, then upon written request of twenty-five per centum in principal amount of the bonds then outstanding, shall annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceeding shall be laid in Dutchess, Ulster, Greene or Columbia county.

4. Before declaring the principal of all bonds due and payable the trustee shall first give notice in writing to the authority and to the attorney-general of the state of New York and if, when such notice is given to the attorney-general the legislature shall be in session, the trustee shall not declare the principal of the bonds due before the legislature adjourns sine die, or if the legislature be not then in session the trustee shall not declare the principal of the bonds due until such an adjournment of the next regular session. If at such session the legislature shall take any action as a result of which past due principal and interest with interest on past due interest, together with the fees, counsel fees and expenses of the trustee and of the receiver, if any, as fixed by the court, shall be paid within sixty days of its adjournment, default in the payment thereof shall thereby be cured.

5. Any such trustee shall, whether or not all bonds have been declared due and payable, be entitled as of right to the appointment of a receiver who may enter and take possession of the bridges or any part or parts thereof and operate and maintain the same and collect and receive all tolls, rentals and other revenues thereafter arising therefrom in the same manner as the authority itself might do and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceedings by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any tolls, rentals and other revenues derived from the bridges.

6. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

7. Whenever the word "bonds" or the word "bondholders" shall have been used in this section five hundred and thirty-seven said word shall be

deemed to apply only to the bonds or the holders of the bonds of the particular series affected by the default or failure, and the remedies conferred by this section shall be available only to the holders of the bonds of the series, and shall apply only to the bridge or bridges affected by such default or failure.

§ 538. Tolls, rules and regulations. 1. The authority shall have power to make rules and regulations for the preservation and use of the bridges and for the payment of tolls. Such rules and regulations shall be subject to the approval of the commissioner. Violations of such rules shall constitute an offense punishable by a fine of not more than one hundred dollars; provided, however, that violators of such rules relating to traffic or pedestrian use of a bridge or highway within the jurisdiction of the authority, shall be apprehended and prosecuted in the same manner as provided for the apprehension and prosecution of violators of the vehicle and traffic law who commit violations thereof upon the public highways. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of those rules of the authority which are defined as offenses shall nevertheless be deemed misdemeanors for the sole purpose of making applicable all procedural provisions of law relating to misdemeanors. The rates of tolls shall be determined by the authority subject to the approval of the commissioner, and to the provisions and limitations of any agreement with the bondholders or noteholders. Nothing herein shall give the commissioner any power or authority to require any act or thing which will constitute a breach of any agreement with the bondholders or noteholders.

2. The authority shall continue to maintain and collect tolls on the bridges and shall, subject to the terms of any agreement, now outstanding or hereafter made, with bondholders or note holders or with the commissioner, apply tolls and other revenues from the operation of the bridges to the following charges in the order named:

(a) For payment of the cost of maintenance and operation of the bridges;

(b) For payment of installments of principal and of interest maturing upon bonds of the authority, if any;

(c) For payments from time to time in such amounts as the authority shall deem necessary to be contributed to a city pursuant to subdivision ten-b of section five hundred twenty-eight of this chapter.

3. None of the bridges constructed prior to January first, nineteen hundred fifty-eight, shall be free from tolls until all of such bridges are free therefrom, subject to such agreements with bondholders and noteholders as may be made as hereinafter provided, and the rates of tolls on the Franklin Delano Roosevelt Mid-Hudson bridge, the Kingston-Rhinecliff bridge, the Bear Mountain bridge, the Rip Van Winkle bridge, and the Hamilton Fish Newburgh-Beacon bridge shall be uniform.

§ 539. Powers of the comptroller. Whenever the state and the funds of which the comptroller is custodian or trustee, or any of them, shall be the owner of any bonds or notes of the authority the comptroller is hereby authorized as to any of such bonds or notes: (a) by agreement with the authority to modify the terms of such bonds or notes or the terms of any contract affecting or securing such bonds or notes, provided that no such agreement shall reduce the principal amount of such bonds or notes or in the opinion of the comptroller jeopardize the payment of the principal thereof or the interest thereon at the rate thereafter payable thereon and provided that any agreement relating to toll rates shall be approved by the commissioner; (b) to sell such bonds or notes to the authority at a price not less than the principal amount thereof and accrued interest; (c) to surrender such bonds or notes to the authority in exchange for other bonds or notes of the authority in a principal amount not less than the principal amount of the bonds or notes surrendered, with such cash adjustments as the comptroller may deem proper; (d) to make such agreements and to do such acts and things as the comptroller shall deem necessary or convenient to exercise the powers hereby conferred; provided, however, that nothing done under the provisions of this section shall in any manner affect the rights of other bondholders or noteholders.

§ 540. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been filed within the time limit established by and in compliance with section fifty-e of the general municipal law.

3. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 541. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 542. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

TITLE 3

TRIBOROUGH BRIDGE AUTHORITY

§ 550. Short title. This title may be cited as the "Triborough bridge and tunnel authority act".

§ 551. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "authority" shall mean the Triborough bridge and tunnel authority, the corporation organized pursuant to section five hundred fifty-two of this chapter as consolidated pursuant to section five hundred fifty-two-a of this chapter;

2. The term "city" shall mean the city of New York;

3. The term "bonds" shall mean bonds issued by the authority pursuant to this title or by authorities consolidated with the authority;

4. The term "board" shall mean the members of the authority;

5. The term "comptroller" shall mean the comptroller of the city;

6. The term "the project" shall mean any project or one or more or all of the projects described in subdivision nine of section five hundred fifty-three or in section five hundred fifty-three-a of this chapter;

7. The term "parkway" shall include elevated, surface or subsurface parkways and parking fields and other facilities connected therewith, and any bridge, viaduct, embankment or other structure that is part thereof or crosses the same;

8. The term "highway" shall mean any road, street, avenue or boulevard, whether elevated, surface or subsurface, and includes any parking fields and other facilities connected therewith and any bridge, viaduct, embankment or other structure that is a part thereof or crosses the same.

9. The term "metropolitan transportation authority" shall mean the corporation created by section twelve hundred sixty-three of this chapter.

10. The term "New York city transit authority" shall mean the corporation created by section twelve hundred one of this chapter.

§ 552. Triborough bridge and tunnel authority. 1. A board, to be known as "Triborough bridge and tunnel authority" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of seventeen members, all serving ex officio. Those members shall be the persons who from time to time shall hold the offices of chairman and members of metropolitan transportation authority. The chairman of such board shall be the chairman of metropolitan transportation authority, serving ex officio, and, provided that there is an executive director of the metropolitan transportation authority, the executive director of the authority shall be the executive director of the metropolitan transportation authority, serving ex officio. Notwithstanding any provision of law to the contrary, the chairman shall be the chief executive officer of the authority and shall be responsible for the discharge of the executive and administrative functions and powers of the authority. The chairman and executive director, if any, each shall be empowered to delegate his or her functions and powers to the executive officer of the Triborough bridge and tunnel authority or to such person as may succeed to the powers and duties of said executive officer. The chairman and other members of the board hereby created, and the executive director, if any, shall not be entitled to compensation for their services hereunder but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

2. A majority of the whole number of members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Except as otherwise specified in this title for the transaction of any business or the exercise of any power of the authority, the authority shall have the power to act by a majority vote of the members present at any meeting at which a quorum is in attendance and except further, that in the event of a tie vote the chairman shall cast one additional vote. For the purposes of the voting and quorum requirements of this subdivision, the voting and quorum requirements set forth in subdivision three of section twelve hundred sixty-three of this chapter and in any by-law of the metropolitan transportation authority adopted pursuant to the provisions of such subdivision shall be applicable hereto. Such board and its corporate existence shall continue only for a period of five years and thereafter until all its liabilities have been met and its bonds, notes and other obligations have been paid in full or such liabilities or bonds, notes or other obligations have otherwise been discharged, including bonds, notes or other obligations issued by the metropolitan transportation authority that are payable in whole or in part by revenues of the authority. When all liabilities incurred by the authority of every kind and character have been met and all its bonds, notes and other obligations have been paid in full, including bonds, notes or other obligations issued by the metropolitan transportation authority that are payable in whole or in part by revenues of the authority, or such liabilities or bonds, notes or other obligations have otherwise been discharged, all rights and properties of the authority shall pass to and be vested in the city, except those rights and properties held by it relating to the convention center which shall pass to and be vested in the state. The authority shall retain full jurisdiction and control over all its projects, with the right and duty,

subject to the limitations of subdivision nine of section five hundred fifty-two-a of this title, to charge tolls and collect revenues therefrom, for the benefit of the holders of any of its bonds, notes or other obligations or other liabilities, even if not issued or incurred in connection with the project. Upon the authority's ceasing to exist all its remaining rights and properties shall pass to the city, except those rights and properties held by it relating to the convention center which shall pass to the state.

3. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state or of any public corporation as defined in the general corporation law shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of being a member or the chairman of the authority.

§ 552-a. Consolidation. 1. (a) Triborough bridge authority, the corporation created pursuant to section five hundred fifty-two of this chapter, as originally enacted, and the New York city parkway authority, the corporation created by section two hundred seventy-seven of this chapter, are hereby consolidated into a single corporation to be known as Triborough bridge authority, which shall be a continuance of the corporate existence of the authorities so consolidated.

(b) Triborough bridge authority, the corporation as consolidated pursuant to paragraph one-a of this section, and New York city tunnel authority, the corporation created pursuant to section six hundred twenty-seven of this chapter, are hereby consolidated into a single corporation to be known as Triborough bridge and tunnel authority, which shall be a continuance of the corporate existence of the authorities so consolidated.

2. In this section the words "original authorities" refer to authorities which are consolidated pursuant to subsection one of this section before their consolidation, and the words "consolidated

authority" refer to the single authority resulting from consolidation.

3. The board created by section five hundred fifty-two of this chapter shall be the board of the consolidated authority and all powers of the consolidated authority shall be vested in and exercised by said board.

4. All property, rights and powers of each of the original authorities are hereby vested in and shall be exercised by the consolidated authority, subject, however, to all pledges, covenants, agreements and trusts made or created by the original authorities, respectively.

5. All debts, liabilities, obligations, agreements and covenants of the original authorities are hereby imposed upon the consolidated authority.

6. All bondholders and other creditors of the original authorities and persons having claims against or contracts with the original authorities of any kind or character may enforce such debts, claims and contracts against the consolidated authority in the same manner as they might have against the original authorities respectively, and the rights and remedies of such bondholders, creditors and persons having claims or contracts shall not be limited or restricted in any manner by this title.

7. In continuing the functions and carrying out the contracts, obligations and duties of any of the original authorities, the consolidated authority is hereby authorized to act in its own name or in the name of the original authorities as may be convenient or advisable.

8. All employees of the original authorities shall become employees of the consolidated authority. Nothing in this title shall affect the civil service status of such employees or their rights, privileges, obligations or status with respect to any pension or retirement system.

9. The foregoing provisions of this section and of all other sections of this title are subject to the following limitation: that the consolidated authority, after the consolidation effected by subdivision

one-b of this section, shall not apply any tolls or revenues derived from projects which before such consolidation were under control of one of the original authorities to the payment of bonds, or interest thereon, either issued, or for the issuance of which a contract has been made, before such consolidation by the other of the original authorities, or to the payment of any certificate of indebtedness issued, at any time, for unpaid interest on such bonds; but this shall not limit the application of tolls or revenues from any project to the payment of bonds (including refunding bonds) authorized by the consolidated authority after consolidation.

§ 553. Powers of the authority. The authority shall have power

1. to sue and be sued;

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

* 3. To acquire, hold and dispose of personal property for its corporate purposes, including, the power to dispose of personal property with a value of five hundred thousand dollars or less by public auction in accordance with guidelines adopted by the authority pursuant to title five-A of article nine of this chapter. The board shall adopt guidelines that shall provide for advertising and such other safeguards as the authority may deem appropriate in the public interest.

* NB Effective until June 30, 2028

* 3. To acquire, hold and dispose of personal property for its corporate purposes;

* NB Effective June 30, 2028

4. To acquire, in the name of the city, by purchase or condemnation real property or rights or easements therein necessary or convenient for its corporate purposes, and, except as may otherwise be provided herein, to use the same so long as its corporate existence shall continue;

4-a. Whenever any real property is determined by the authority to be unnecessary for its corporate purpose.

(a) to surrender such real property to the board of estimate of the city for other public use or purpose of such city, or

(b) to sell and convey or lease in behalf of such city any real property acquired by the city at the expense of the authority. The proceeds of any such sale or lease shall be paid to the authority and applied to its corporate purpose. Any such lease shall run for a term not to exceed ten years, and a renewal thereof for a term not to exceed ten years.

4-b. To apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person, government or agency whatever, which it may use to meet capital or operating expenses and for any other use within the scope of its powers, and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable. Subject to the rights of the holders of any outstanding bonds, notes or other obligations of the authority, metropolitan transportation authority, and New York city transit authority, and to facilitate the efficient financial management of the authority, metropolitan transportation authority, its subsidiary corporations, and New York city transit authority and its subsidiary corporations (the "affiliated entities"), the authority may, and may permit and direct any affiliated entity to, transfer revenues, subsidies and other monies or securities to one or more funds or accounts of another affiliated entity for use by such other affiliated entity, provided at the time of such transfer it is reasonably anticipated that the monies and securities so transferred will be reimbursed, repaid or otherwise provided for by the end of the next succeeding calendar year if reimbursement or repayment is required by law or by any agreement to which any of the affected affiliated entities is subject. Any revenues of an affiliated entity that are transferred to another affiliated entity, which transfer was not authorized by a provision of law other than this subdivision, shall be considered to be required to be repaid to the affiliated entity which was the source of such revenues by the end of the next succeeding calendar year following such transfer.

5. To make by-laws for the management and regulation of its affairs, and subject to agreements with bondholders, rules and regulations for

the regulation of the use of the project and the establishment and collection of tolls thereon. Violations of such rules and regulations shall be a misdemeanor punishable by a fine of not exceeding fifty dollars or by imprisonment for not longer than thirty days, or both, except that violation of any rule or regulation governing or regulating traffic on the projects of the authority shall be a traffic infraction as the same is defined in the vehicle and traffic law and shall be punishable as such;

6. With the consent of the city to use agents, employees and facilities of the city, paying its proper proportion of the compensation or cost, and to use the corporation counsel as legal adviser;

7. To appoint officers, agents and employees and fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

7-a. Notwithstanding any inconsistent provision of law, the bridge and tunnel officers employed by the authority shall have the power to issue simplified traffic informations for traffic infractions as defined in section one hundred fifty-five of the vehicle and traffic law, committed on the sites owned, operated and maintained by the triborough bridge and tunnel authority, such informations to be administered pursuant to the provisions of title A of chapter forty of the administrative code of the city of New York or article two-A of the vehicle and traffic law, as applicable and also shall have the power to issue notices of violation for transit infractions committed in and about any or all of the facilities, equipment or real property owned, occupied or operated by the metropolitan transportation authority or its subsidiaries and the New York city transit authority and its subsidiaries, as provided and in accordance with section twelve hundred nine-a of this chapter. Nothing set forth in this subdivision shall be construed to impede, infringe or diminish the rights and benefits that accrue to employees and employers through collective bargaining agreements, or impact or change an employee's membership in a bargaining unit.

8. To make contracts, and to execute all instruments necessary or

convenient;

9. To acquire, design, construct, maintain, operate, improve and reconstruct, so long as its corporate existence shall continue, the following projects,

(a) a bridge heretofore constructed, known as Robert F. Kennedy bridge, over the East river from the borough of Queens to the boroughs of Manhattan and the Bronx, over and across Ward's island and Randall's island in said river, together with such incidental bridges and structures as shall be necessary or convenient in order to give access from the bridge to both of said islands, together with approaches to said bridges (herein collectively referred to as the "Robert F. Kennedy bridge project"); and

(b) a bridge heretofore constructed, known as Bronx-Whitestone bridge, over the East river from a point at or near Whitestone in the borough of Queens to the borough of the Bronx, together with approaches to such bridge (herein collectively referred to as the "Whitestone bridge project"); and

(c) a bridge heretofore constructed, known as Henry Hudson bridge, across the Harlem river ship canal together with approaches to such bridge and together with so much of the parkway known as Henry Hudson parkway as extends southerly from said bridge through Inwood Hill park to the northerly end of Riverside drive, (as it was before the construction of said parkway) (herein collectively referred to as the "Henry Hudson bridge project"); and

(d) a bridge heretofore constructed, known as Marine parkway bridge, to be known hereafter as the Marine parkway-Gil Hodges memorial bridge, from the borough of Brooklyn across the waters of Rockaway inlet to Jacob Riis park in the borough of Queens, together with the approaches to such bridge and together with the parkway of which said bridge is a part, (and the parking field connected therewith), from and including the toll plaza north of said bridge extending eastwardly from said bridge to the easterly boundary of Jacob Riis park (herein collectively referred to as the "Marine parkway bridge project"); and

(e) a bridge heretofore constructed known as Cross Bay parkway bridge, to be known hereafter as the Cross Bay Veterans Memorial bridge, from Big Egg marsh in Jamaica bay in the borough of Queens across the waters of Beach channel to Rockaway peninsula in said borough, together with the parkway known as Cross Bay parkway, of which said bridge is a part, from and including the toll plaza north of said bridge southerly to the right of way of the Long Island railroad on Rockaway peninsula (herein collectively referred to as the "Cross Bay parkway bridge project"); and

(f) a vehicular tunnel or tunnels heretofore constructed, known as Queens Midtown tunnel, under the East river from the borough of Manhattan to the borough of Queens, together with such incidental bridges and tunnels, including but not limited to, a tunnel or tunnels or bridge across Newtown creek from the borough of Queens to the borough of Brooklyn and such other structures, appurtenances, facilities and approaches as shall be necessary or convenient; and

(g) a vehicular tunnel or tunnels under construction, known as Hugh L. Carey tunnel, under the East river from the southerly end of the borough of Manhattan to the general vicinity of Hamilton avenue in the borough of Brooklyn, together with such incidental tunnels and such other structures, appurtenances, facilities and approaches as shall be necessary or convenient; and

(h) a vehicular tunnel or tunnels or bridge, herein called the Brooklyn Richmond project, under or across New York bay from the borough of Richmond to the borough of Brooklyn, together with such incidental tunnels, bridges and such other structures, appurtenances, facilities and approaches as shall be necessary or convenient; and

(i) a vehicular tunnel or tunnels or arterial highway across the borough of Manhattan connecting the Queens Midtown tunnel with the Lincoln (Midtown Hudson) tunnel, together with such incidental tunnels and such other structures, appurtenances, facilities and approaches as shall be necessary or convenient; and

(j) Bus stations or terminals or automobile parking garages at or in the vicinity of the Columbus circle in the borough of Manhattan and of the Manhattan plazas of the Queens Midtown and Hugh L. Carey tunnels. Any such project may, subject to zoning restrictions, include space and facilities for any or all of the following: public recreation, business, trade and other exhibitions, sporting and athletic events, public meetings, conventions and all kinds of assemblages, and in order to obtain additional revenues, space and facilities for business and commercial purposes. Whenever the authority deems it to be in the public interest, the authority may lease any such project or any part or parts thereof or contract for the management and operation thereof or of any part or parts thereof. Any such lease or contract may be for a period of not exceeding ten years, or, if any of the revenues therefrom are or are to be pledged to secure bonds then such lease or contract may be for a period extending not later by more than one year than the last maturity of such bonds.

(k) Subject to and in accordance with all contract provisions with respect to any bonds and the rights of the holders of bonds, a vehicular bridge across the East river between the boroughs of the Bronx and Queens, east of the Bronx-Whitestone bridge, together with such incidental bridges and other structures, appurtenances, facilities and approaches as shall be necessary or convenient (herein collectively referred to as the "Throgs Neck bridge project"). With the consent of the United States of America, the Throgs Neck bridge project or a portion thereof, if deemed necessary or convenient by the authority, may be constructed upon or pass over any part of the military reservation known as Fort Schuyler and owned by the United States of America. No lands, easements or rights in land shall be acquired by the authority for the purposes of this paragraph without the prior consent of the board of estimate of the city.

(l) Subject to section five hundred fifty-three-b of this title, a convention and exhibition center, including facilities ancillary or functionally related thereto, to be built in New York county at a location generally bounded by thirty-ninth street on the north, thirtieth street on the south, eleventh avenue on the east and twelfth avenue on the west (herein referred to as the convention center).

(m) Subject to section five hundred fifty-three-c of this title, the acquisition of new rapid transit cars and the transfer of the same to the New York city transit authority for a nominal consideration. The authority shall have no obligation to operate, repair, maintain or reconstruct such cars subsequent to their acquisition and transfer nor shall it be liable to the New York city transit authority by reason of any warranty, express or implied, in respect to such cars. Manufacturers or other warranties furnished to the authority in connection with the purchase of such cars shall be assigned to the New York city transit authority for enforcement.

(n) Subject to section five hundred fifty-three-c of this title, the rehabilitation of existing rapid transit cars of the New York city transit authority upon such terms and conditions as shall be agreed to by the parties. The authority shall have no obligation to operate, repair, maintain or reconstruct such cars subsequent to the rehabilitation and transfer back to the New York city transit authority nor shall it be liable to the New York city transit authority by reason of any warranty, express or implied, in respect to such cars. Manufacturers or other warranties furnished to the authority in connection with the purchase of parts or materials for such cars shall be assigned to the New York city transit authority for enforcement.

(o) Subject to section five hundred fifty-three-c of this title, the acquisition of new diesel self-propelled railroad passenger cars and the transfer of the same to the metropolitan transportation authority, for a nominal consideration, for use on commuter railroads owned or controlled by the metropolitan transportation authority. The authority shall have no obligation to operate, repair, maintain or reconstruct such cars subsequent to their acquisition and transfer, nor shall it be liable to the metropolitan transportation authority by reason of any warranty, express or implied, in respect of such cars. Manufacturers or other warranties furnished to the authority in connection with the purchase of such cars shall be assigned to the metropolitan transportation authority for enforcement.

(p) Subject to section five hundred fifty-three-c of this title, the acquisition of land in the name of the authority in the vicinity of Penn Station in the city of New York and/or the improvement of such land for the benefit of the Long Island Rail Road for a lay-up yard and other railroad purposes and the transfer of the said land and any improvements thereon to the metropolitan transportation authority, parent corporation of the said railroad, for a nominal consideration. The authority shall have no obligation to operate, repair, maintain or reconstruct such land or its improvements subsequent to such transfer.

(r) In its discretion and subject to and in accordance with all contract provisions with respect to any bonds and the rights of the holders of bonds, at the request of the New York city transit authority or the metropolitan transportation authority, (i) the planning for and the design, acquisition, construction, improvement, reconstruction or rehabilitation, in the name of the authority, of any capital asset, whether in the nature of personal or real property (or any interest therein) which is used or useful for a transit or transportation purpose other than a marine or aviation purpose of the requesting authority or its designated subsidiary (and in the case of such assets then owned, operated by or under lease to the requesting authority or its designated subsidiary, the receipt by the authority of the use, occupancy, control or possession of such assets for the purpose of planning, designing, constructing, improving, reconstructing or rehabilitating the same) and the transfer or transfer back of such asset to the requesting authority, its designated subsidiary or other designee for a nominal consideration upon its acquisition or upon the completion of such improvement, construction, reconstruction or rehabilitation; or, alternatively or in combination with the foregoing, (ii) the making of capital grants to the requesting authority or its designated subsidiary to permit it to undertake and to finance such planning, design, acquisition, improvement, construction, reconstruction or rehabilitation, or, alternatively or in combination with the foregoing, (iii) the financing of all or any part of the costs to the authority or to any other person or entity, public or private, of such planning, design, acquisition, construction, improvement, reconstruction or rehabilitation of any such capital asset through or accompanied by a leasing of the asset by such person or entity to the authority or through or accompanied by a sale by the authority to any such person or entity and leaseback to the authority, in each case for subleasing to the requesting authority, its designated subsidiary or other designee for a nominal rental, except that such leasing or leaseback from such person or entity may be directly to the requesting authority or its designated subsidiary or other designee, for consideration, with the consent and at the expense of the authority. The foregoing authorization shall extend to and include the continuation of projects enumerated in paragraphs (m), (n), (o) and (p) of this subdivision without regard to any limitations set forth in section five hundred fifty-three-c of this title. The authority shall have no obligation to operate or, except as may otherwise be provided in any lease to which it may be a party as aforesaid, repair or maintain any capital asset after its acquisition, construction, improvement, reconstruction or rehabilitation and subsequent transfer, lease or sublease, nor shall it be liable to the transferee, lessee or sublessee by reason of any warranty, express or implied, in respect thereof. Warranties furnished in connection with such acquisition, improvement, construction, reconstruction or rehabilitation shall be assignable and assigned as directed by the requesting authority and approved by the authority.

(s) The central business district tolling program to the extent specified in article forty-four-C of the vehicle and traffic law and in this title.

The word "approaches" shall include all structures necessary or convenient to give access to the project from connecting streets and roads;

10. In its discretion

(a) in the case of the Robert F. Kennedy bridge project and the Whitestone bridge project to pay to the city not exceeding thirty-five per centum of the cost (including awards for damages and expenses) of the acquisition of land for the widening of existing roads, streets, parkways or avenues and for new roads, streets, parkways or avenues, connecting with the approaches.

(b) to purchase from the persons, partnerships, associations or corporations who were the owners of any land acquired for the widening of existing roads, streets, parkways or avenues or for new roads, streets, parkways or avenues connecting with the approaches or of any interest in such land at the date title to such land was vested in the city in any proceeding heretofore or hereafter instituted for the acquisition thereof by condemnation, or from their successors in interest or legal representatives, their right, title, interest and/or claim in and to the award or awards or any part thereof to be made in such proceeding after the date of such purchase, and to take an assignment thereof to the authority, provided, however, that in the case of the Robert F. Kennedy bridge project and the Whitestone bridge project the aggregate amount expended by the authority on account of all such purchases together with the aggregate amount paid to the city in accordance with paragraph (a) of this subdivision, shall not exceed thirty-five per centum of the cost (including awards for damages and expenses) of the acquisition of land for the widening of existing roads, streets, parkways or avenues, and for new roads, streets, parkways or avenues, connecting with the approaches,

(c) to construct, in whole or in part, an elevated parkway in the borough of Brooklyn from the southerly terminus of the Gowanus creek bridge project to a point at or near Owls Head park connecting with the Gowanus creek bridge project, and

(d) with the consent of the city to construct and develop for the purpose of public parks so much of the area of lands, selected as in this title provided, or otherwise acquired or to be acquired and used in connection with the project and with new or existing roads, streets, parkways or avenues connecting with such projects, and so much of the area of lands now owned by the city to be used in connection with such projects or with new or existing roads, streets, parkways or avenues connecting with such projects, as shall be agreed upon under a contract or contracts hereby authorized to be entered into between the authority and the city, at the sole expense of the authority and done under construction contracts let and supervised by the authority, pursuant to plans and specifications prepared by the authority, the commissioner of parks and recreation of the city or other agency.

The city shall maintain such connecting roads, streets, parkways and avenues as provided by law. The public parks and the parkways herein referred to as connecting with the approaches, any part of the cost of which is paid by the authority, shall be under the jurisdiction of the department of parks and recreation of the city and shall be maintained by that department. Service roads appurtenant to said parkways shall be under the jurisdiction of the city commissioner of transportation and shall be maintained by him;

11. To design and with the consent of the city, to construct new parks, parkways or highways or improvements to existing parks, parkways or highways either connecting directly or indirectly with the project or for the purpose of attracting or facilitating traffic or improving approaches to and connections with the project. The authority shall have no jurisdiction or control over any new parks, parkways or highways constructed by it pursuant to the provisions of this paragraph eleven

after the completion of the construction thereof. The general powers conferred in this subdivision eleven shall include the power heretofore conferred on the parkway authority to construct a northerly extension of Cross Bay parkway in the borough of Queens, as authorized in sections two hundred seventy-eight, two hundred eighty-two-a and two hundred eighty-two-b of this chapter, and such general powers shall not be construed to be limited by the provisions of this act granting the power to construct any particular improvement, but shall be construed as an extension of the powers of the authority.

12. To charge tolls, fees or rentals for the use of the project, subject to and in accordance with such agreement with bondholders as may be made as hereinafter provided. The toll rates charged for the use of either the Triborough or Whitestone bridge project shall, however, never be less than the toll rates charged for the use of the other, and this clause shall be deemed an obligation to the holders of any and all bonds at any time issued secured by the revenues of said projects. Subject to contracts with bondholders, all tolls and other revenues derived from any project shall be applied to the payment of operating, administration and other necessary expenses of the authority properly chargeable to such project and thereafter to the payment of interest or principal of bonds or for making sinking fund payments for bonds, not otherwise adequately provided for, whether issued in connection with such project or any other project. It is the intention hereof that surplus funds from any project remaining after providing for the payment of all operating, administration and other necessary expenses of the authority and all contract provisions with respect to any bonds, may be used to meet obligations incurred for other projects and if not so used or reserved for such use shall, at the discretion of metropolitan transportation authority, be transferred to metropolitan transportation authority or New York city transit authority pursuant to section five hundred sixty-nine-c of this title. Subject to contracts with bondholders, the authority may treat one or more projects as a single enterprise in respect of revenues, expenses, the issuance of bonds, maintenance, operation or other purposes;

12-a. To establish and charge variable tolls, fees and other charges for vehicles entering or remaining within the central business district and to make rules and regulations for the collection of such tolls, fees and other charges, subject to and in accordance with such agreement with bondholders and applicable federal law as may be made as hereinafter provided. Subject to agreements with bondholders and applicable federal law, all tolls, fees and other revenues derived from the central business district tolling program shall be applied to the payment of operating, administration, and other necessary expenses of the authority properly allocable to such program, including the capital costs of such program, and to the payment of interest or principal of bonds, notes or other obligations of the authority or the metropolitan transportation authority issued for transit and commuter projects as provided in section five hundred fifty-three-j of this title, and shall not be subject to distribution under section five hundred sixty-nine-c of this title or section twelve hundred nineteen-a of this chapter. The provisions of section twenty-eight hundred four of this chapter shall not be applicable to the tolls and fees established by the authority pursuant to this subdivision. Any such fares, tolls, and other charges shall be established and changed only if approved by resolution of the authority adopted by not less than a majority vote of the whole number of members of the authority then in office, with the chairman having one additional vote in the event of a tie vote, and only after a public hearing.

13. To construct and maintain over, under, along or across the project telephone, telegraph, or electric wires and cables, gas mains, water mains and other mechanical equipment not inconsistent with the appropriate use of the project, to contract for such construction and to lease the right to construct and/or use the same on such terms and for such considerations as it shall determine, provided, however, that no lease shall be made except with the approval of the board of estimate of the city, or for a period of more than twenty years from the date when it is made;

14. To construct and maintain facilities for the public, not inconsistent with the use of the project, to contract for such construction, and to lease the right to construct and/or use such

facilities on such terms and for such considerations as it shall determine, provided, however, that no lease shall be made for a period of more than five years from the date when it is made except with the approval of the board of estimate of the city;

15. To issue negotiable bonds and to provide for the rights of the holders thereof;

16. To enter on any lands, waters, and premises for the purpose of making surveys, soundings and examinations;

16-a. With the consent of the city and notwithstanding any other provision of law, whenever real property having dwellings or other structures thereon has been acquired by the authority or the city for the purpose of constructing any project authorized by this title, (a) to acquire real property by purchase, gift, devise or condemnation in the manner provided in this title, and as the agent of the city, for the purpose of providing new sites on which such dwellings or other structures may be relocated; (b) to sell such dwellings or other structures or to provide for the removal, relocation and improvement of such dwellings or other structures on new foundations at such new sites by contract or by its own labor force or by a combination of methods; (c) to contract for the installation of water, sewer, gas and electrical facilities and other necessary appurtenances required for the completion and restoration of such dwellings or other structures; (d) to landscape such new sites; (e) to contract with any person, firm or corporation or with the city for the improvement or installation of streets, sewers, water lines or other facilities in connection with the relocation of such dwellings or other structures and to pay the cost thereof; (f) to contract with the several owners of such property for the conveyance of the new sites with improvements thereon to such owner in settlement in part or in whole of the compensation and damage to which they are entitled; and (g) to sell such sites with or without dwellings or other structures and improvements thereon.

The authority may agree with the owners of property acquired, in settlement in part or in whole of the damages to which they are entitled, to compensate such owners for the cost of acquiring new sites, removing dwellings thereto on new foundations, the installation of water, sewer, gas and electrical facilities and other necessary appurtenances required for the complete restoration of such dwellings or other structures and landscaping of the new site.

For the purposes of this subdivision, the term "structures" shall mean and include buildings used as and for hospitals, schools, community and religious institutions, cultural and recreational and other neighborhood and community facilities, but shall exclude retail stores, factories and commercial and industrial establishments of any kind.

17. To do all things necessary or convenient to carry out the powers expressly given in this title and to assist and cooperate with the metropolitan transportation authority to carry out the powers of the metropolitan transportation authority in furtherance of the purposes and powers of the authority as provided in this article, including, without limitation, the transactions described in sections twelve hundred sixty-six-c, twelve hundred sixty-nine, and twelve hundred seventy-d of this chapter.

18. A copy of any report submitted by the authority pursuant to sections twenty-eight hundred, twenty-eight hundred one and twenty-eight hundred two of this chapter shall be submitted contemporaneously to the mayor of the city.

19. To acquire in its own name certain real or personal property, or any interest therein, including leasehold interests, air and subsurface rights, easements and lands under water at a site located in New York county and generally bounded by thirty-third street on the north, thirtieth street on the south, tenth avenue on the east and eleventh avenue on the west, such property or any interest therein to be acquired for railroad or other corporate purposes, and in the event such real or personal property or any interest therein is determined by the authority to be unnecessary for railroad or other corporate purposes, to sell, convey or lease in its own name such real or personal property or any interest therein.

20. Prior to the adoption after January first, nineteen hundred eighty-seven by the authority of a general resolution pursuant to which it is authorized to issue any general or special obligation bonds or notes to finance a project pursuant to the authorization contained in paragraph (r) of subdivision nine of this section, not including any series resolution or resolutions, and prior to the adoption of any amendment to a general resolution, whenever adopted, pursuant to which it is authorized to issue any general or special obligation bonds or notes for such purpose, not including a series resolution or resolutions, the authority shall submit a copy of such proposed resolution to the metropolitan transportation authority capital program review board (hereinafter referred to as the "board"). Within fifteen days of such submission, the board may notify the authority of its unanimous approval of the same by the members entitled to vote thereon, or if the resolution is not approved and no individual member of the board who is entitled to vote on such resolution has notified the authority in writing of his disapproval, the resolution shall be deemed to have been approved. Neither the board nor any member thereof shall disapprove a proposed resolution by reason of any covenant requiring the authority to charge and fix tolls, rentals and other charges sufficient to pay its operating expenses and the debt service, including the funding of requisite reserves, on the bonds and notes authorized by such resolution. If the board or any member thereof entitled to vote thereon shall disapprove a proposed resolution, the authority may, at any time, resubmit a reformulated resolution. Within ten days of the submission of such reformulated resolution the board may notify the authority of its unanimous approval of the same by the members entitled to vote thereon, or, if the reformulated resolution is not approved and no individual member of the board who is entitled to vote thereon has notified the authority in writing of his disapproval within such period, the reformulated resolution shall have been deemed to have been approved. Any individual member of the board who votes against a resolution or a reformulated resolution or who notifies the authority of his disapproval shall state his reasons therefor. The member appointed on the recommendation of the mayor of the city of New York shall participate in the action of the board with respect to any resolution of the authority

submitted pursuant to this subdivision. The authority shall not adopt a resolution or any amendment to a resolution disapproved by the board as herein provided.

21. To invest any funds, accounts or other monies not required for immediate use or disbursement, at the discretion of the authority, in any of the investments in which the metropolitan transportation authority is permitted to invest its monies pursuant to subdivision four of section twelve hundred sixty-five of this chapter.

* 22. Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided that (i) a contract for services in the actual or estimated amount of less than one hundred thousand dollars shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for services in the actual or estimated amount of one hundred thousand dollars or more shall require approval by the board of the authority regardless of the length of the period over which the services are rendered unless such a contract is awarded to the lowest responsible bidder after obtaining sealed bids and (ii) the board of the authority may by resolution adopt guidelines that authorize the award of contracts to small business concerns, to service disabled veteran owned businesses certified pursuant to article seventeen-b of the executive law, or minority or women-owned business enterprises certified pursuant to article fifteen-a of the executive law, or purchases of goods or technology that are recycled or remanufactured, in an amount not to exceed four hundred thousand dollars without a formal competitive process and without further board approval. The board of the authority shall adopt guidelines which shall be made publicly available for the awarding of such contract without a formal competitive process.

* NB Repealed June 30, 2028

§ 553-a. Additional powers in relation to Brooklyn Richmond project.

1. If and when the Port of New York authority (herein called the "port authority") is authorized to make agreements with the authority relating

to the construction, ownership, maintenance and operation of the Brooklyn Richmond project as a bridge (herein sometimes collectively referred to as the "Narrows bridge project") and to acquire land, easements and rights in land necessary or convenient therefor, the authority shall have power, in its discretion and subject to and in accordance with all contract provisions with respect to any bonds and the rights of the holders of bonds to make such agreements with the port authority on such terms and conditions and with such payments and considerations as the authority and the port authority shall deem in the public interest, as to any one or more of the following:

(a) the acquisition of such land, easements and rights in land for, and the design, construction and financing of, the Narrows bridge project by the port authority, including the payment therefor by the authority and the transfer of title thereto and the right of possession and use thereof, provided, however, that the agreement shall contain provisions as to the land, easements and rights in land to be acquired, and that such provisions of such agreement shall be subject to the approval of the mayor of the city, and provided further that such agreement shall provide that no other land, easements or rights in land will be acquired for Narrows bridge purposes by the port authority.

(b) the construction, with the consent of the city, either by the authority or the port authority, of new parks, parkways, highways, or improvements to existing parks, parkways or highways, either connecting directly or indirectly with the Narrows bridge project, for the purpose of attracting or facilitating traffic or improving approaches to and connections with such project, and the acquisition of land, easements and rights in land therefor,

(c) leasing the Narrows bridge project, in whole or in part, by the authority from the port authority and the payment by the authority of rents or other payments therefor, and for the operation, maintenance, construction and reconstruction thereof by the authority pursuant to and to the extent provided by the terms of such agreement for leasing,

(d) charging and fixing tolls, fees and rentals for the use of such project, sufficient to provide for the payment by the authority of the costs of construction, maintenance and operation thereof and all rents and other payments under any such agreement for leasing, for the payment of the principal of and interest on any bonds or other obligations to be issued by the authority to pay the cost of such project and all other payments to be made by the authority including reserves and sinking funds therefor, in accordance with any such agreement for leasing or other agreement made between the port authority and the authority in connection with such project,

(e) securing the payment of rents and other payments under any such agreement for leasing, or other agreement made between the port authority and the authority in connection with such project, by pledging such tolls, fees, rentals and revenues of such project and providing for the use and disposition of such tolls, fees, rentals and revenues, and for the setting aside of reserves or sinking funds and the regulation and disposition thereof, and, subject to and in accordance with all contract provisions with respect to any bonds, by pledging for such security tolls, fees, rentals and revenues of any or all of the projects,

(f) limiting the construction by the authority of vehicular crossings between Brooklyn and Richmond,

(g) acquiring from the port authority all or any part of the right, title and interest of the port authority in such project and the lands, easements and rights in land acquired for such project by the port authority,

(h) defining events of default under such agreement, fixing periods of grace and providing rights and remedies of the parties in case of default thereunder including the right to terminate and fix the terms and conditions for the termination of the same, and

(i) any other matters of like or different character for the protection of the interest of the port authority or the authority or the respective holders of bonds thereof or the public with respect to the acquisition, construction, reconstruction, improvement, operation or maintenance of the Narrows bridge project.

2. The authority shall have power to do any acts or things, transfer such rights or interests and execute and deliver such papers as the authority may deem necessary or desirable to carry out any of the foregoing.

3. The authority, so long as its corporate existence shall continue,

shall have power to operate, maintain, construct, improve and reconstruct the Narrows bridge project and to exercise all of the powers herein granted to the authority with respect to the Narrows bridge project in connection with any agreements between the port authority and the authority or otherwise, and subject to any such agreements shall have the use and occupancy of any lands, easements or rights in land acquired in the name of the city for such project. The powers conferred in this section shall be in addition to and shall not limit the other powers conferred in this title.

§ 553-b. Additional powers and provisions in relation to convention center. 1. In relation to the convention center and for the purpose of effectuating the development of the same, the authority shall have power, in its discretion and subject to and in accordance with all contract provisions with respect to any bonds and the rights of the holders of bonds, to:

(a) Finance all or any part of the costs of and incidental to studies, the site acquisition, planning, design, construction and development of the convention center, through the issuance of its negotiable notes or bonds or other obligations;

(b) Lease in its own name the convention center from the subsidiary of New York state urban development corporation (such subsidiary being herein referred to as the development corporation) created pursuant to a chapter of the laws of nineteen hundred seventy-nine for studies, site acquisition, planning, design, construction and development of the convention center, and sublease its interest therein to the state (acting by and through the commissioner of general services), each of such lease and sublease to be upon such terms and conditions as the parties thereto shall agree, provided that (i) such lease shall (a) provide for an initial lump-sum rental in the amount of the aggregate of those costs of and incidental to the studies, site acquisition, planning, design, construction and development of the convention center theretofore temporarily financed by the State and for a nominal rental thereafter, (b) provide to the lessee the option to purchase for a nominal price the leased property in its own name at the expiration or earlier termination of the term of the lease, and (c) relieve the development corporation of any obligation to operate, repair, maintain or reconstruct the convention center, and (ii) such sublease shall (a) provide for rental payments equal to the amount needed to pay debt service on said notes, bonds or other obligations as the same becomes due, (b) provide that the obligations of the state to make such rental payments shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys made available to the state, and that no liability on account thereof shall be incurred by the state beyond the moneys available for the purpose thereof, (c) provide to the sublessee the option to purchase for a nominal price any interest of the authority in the subleased property at the expiration or earlier termination of the term of the sublease, and (d) relieve the authority of any obligation to operate, repair, maintain or reconstruct the convention center;

(c) Agree with the development corporation (in the lease referred to in paragraph (b) above or by separate agreement) to make payments to the development corporation from the proceeds of the sale of the obligations referred to in paragraph (a) above upon requisition therefor by the development corporation, in an aggregate amount equal to the costs of and incidental to the studies, site acquisition, planning, design, construction and development of the convention center less the amount theretofore paid to the development corporation as rentals under the lease referred to in paragraph (b) above; and

(d) Additionally participate in the site acquisition, planning, design, construction and development of the convention center through representation on the board of directors of the development corporation.

2. Bonds, notes or other obligations issued for the purposes enumerated in paragraph (a) of subdivision one of this section shall be issued in the manner provided in section five hundred sixty-one of this chapter, subject only to the following limitations:

(a) The aggregate principal amount of such bonds, notes or other obligations shall not exceed three hundred seventy-five million dollars ($375,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than three hundred seventy-five million dollars ($375,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof; and

(b) Bonds issued for such purposes may be issued as a single issue or in series from time to time provided that (i) such issue or each such series shall be scheduled to mature over a term of not less than twenty and not more than forty years, (ii) with respect to bonds issued prior to the date of completion of the convention center, as estimated by the authority, any principal payments or principal installments to be made or provided for shall commence not later than two years following the estimated date of such completion, (iii) with respect to bonds issued on or after the date of completion of the convention center, as certified by the authority, any principal payments or principal installments to be made or provided for shall commence not later than one year following the date of issue of such bonds, and (iv) the aggregate amount of principal and interest or principal installments and interest payable in each year during which such principal payments or installments are made or provided for shall, (1) with respect to such issue, or (2) with respect to each such series or the aggregate of all such series, as the authority shall elect, be as nearly equal as practicable.

3. The authority shall have power to enter into such other agreements with the city, the state, New York state urban development corporation and the development corporation to effectuate the provisions of this article, and to perform any act or thing, transfer such rights or interests and execute and deliver such instruments, documents or papers as it may deem necessary, convenient or desirable to carry out any of the foregoing. The powers conferred in this section shall be in addition to and not in limitation of the other powers conferred in this title.

§ 553-c. Additional powers and provisions in relation to railroad and rapid transit projects. 1. The authority shall have the power to finance all or any part of the costs of railroad and rapid transit costs enumerated in paragraphs m, n, o and p of subdivision nine of section five hundred fifty-three of this article through the issuance of its negotiable bonds, notes or other obligations in the manner provided in section five hundred sixty-one of this chapter subject only to the following limitations:

(a) The aggregate principal amount of such bonds, notes or other obligations shall not exceed three hundred million dollars ($300,000,000) excluding (i) bonds issued to fund any reasonably required debt service reserve fund, and (ii) bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for any of the purposes set forth in this subdivision, and

(b) Bonds issued for such purposes may be issued as a single issue or in series from time to time provided that (i) such issue or each such series shall be scheduled to mature over a term of not less than twenty and not more than thirty years, (ii) the aggregate amount of principal and interest or principal installments and interest payable in each year during which such principal payments or installments are made or provided for shall not exceed twenty-six million dollars, and (1) with respect to such issue, or (2) with respect to each such series or the aggregate of all such series, as the authority shall elect, be as nearly equal as practicable.

2. Moneys expended pursuant to subdivision one of this section shall be utilized insofar as practical to: (a) purchase at least one hundred twenty-four new subway cars for the New York city transit authority, (b) rehabilitate at least two hundred eighty existing subway cars for the New York city transit authority, (c) acquire at least fifteen new diesel self-propelled railroad passenger cars for the metropolitan transportation authority commuter service area and (d) provide a passenger car lay-up yard and other facilities for the Long Island Rail Road in Manhattan. The authority shall either apply for or make reasonable effort to secure federal assistance in support of each of the programs herein authorized and to the extent such federal assistance is forthcoming and/or other cost savings are realized with respect to any such program shall have the power to expand the size of that or any of the foregoing programs.

§ 553-d. Special Triborough bridge and tunnel authority special obligation bonds and notes. In addition to the powers contained elsewhere in this title with respect to the projects authorized by paragraphs (m), (n), (o), (p) and (r) of subdivision nine of section five hundred fifty-three of this title, and subject to the application of the revenues and other monies and assets of the authority pursuant to section twelve hundred seventy-d of this chapter, the authority may issue its bonds and notes to finance such projects payable from and secured by all or any part of the moneys received by the authority from the metropolitan transportation authority special assistance fund established under section twelve hundred seventy-a of this chapter, provided however that such bonds and notes may also be payable from and secured by any other moneys, securities and funds designated by the authority as additional security therefor. Debt service on bonds and notes issued by the authority pursuant to this section which is paid or reimbursed from moneys received by the authority from the metropolitan transportation authority special assistance fund shall not be deemed to constitute debt service incurred by the authority for purposes of subdivision three of section twelve hundred nineteen-a of this chapter. Such bonds or notes shall be issued in the manner provided in section five hundred sixty-one of this title.

§ 553-e. Laws applicable to certain activities. 1. (a) In its performance of any project authorized by paragraph (m), (n), (o), (p) or (r) of subdivision nine of section five hundred fifty-three of this title, the authority shall not be deemed the agent or instrumentality of any other public benefit or municipal corporation notwithstanding the fact that title to any real or personal property (or any interest therein) which is the subject of or is a part of such project is held by, or upon completion of such project is to be transferred to, any such entity, and the provisions of section five hundred fifty-nine of this title shall not be applicable with respect to any such project. In its performance of any such project for the New York city transit authority, however, the provisions of section twelve hundred nine of this chapter shall apply to the authority as if it were the "authority" referred to therein.

(b) Neither the provisions of section one hundred ninety-seven-c of the New York city charter, relating to a uniform land use review procedure, nor the provisions of any other local law of the city of New York of like or similar tenor or import shall apply (i) to the acquisition of any real property (or any interest therein) for the purposes of any such project by the city or by the New York city transit authority or any of its subsidiaries; (ii) to the subsequent transfer of any real property (or interest therein) so acquired to the authority or its designee for the purposes of such project or to the transfer to the authority or its designee for such purposes of any real property (or interest therein) then owned by the city or by the New York city transit authority or any such subsidiary; nor (iii) to the transfer to the authority or its designee for such purposes of the right of use, occupancy, control or possession of any real property (or interest therein), whether presently owned or hereafter acquired by the city or by the New York city transit authority or any such subsidiary; provided in each such case, however, that if at the time of such proposed acquisition or transfer the real property which is the subject of such acquisition or transfer is not then being utilized for a transit or transportation purpose or is not an insubstantial addition to such property contiguous thereto; (a) the authority proposing to acquire or receive such property shall, unless a submission with respect to such property has previously been made and approved as herein provided, submit to the community board for the community district in which such property is located, data with respect to the proposed use of such property and to the design of any facility proposed to be constructed thereon; (b) such community board shall inform the board of estimate of the city of New York, with copies to the city planning commission of the city of New York and the proposing authority, of its views and recommendations with respect thereto within forty-five days of such submission, and if the community board shall fail to so inform the board of estimate within such period it shall be deemed to have recommended the proposal; and (c) the board of estimate shall, within forty-five days of the recommendation of the community board, approve or disapprove such acquisition or transfer, and if the board of estimate shall fail to act within such period it shall be deemed to have approved the same.

2. After the transfer, transfer back, lease or sublease by the authority of any such project or part thereof, actions for damages to real or personal property or for the destruction thereof, or for personal injuries or death, based upon the use, condition or state of such project or part thereof may not be instituted against the authority, which shall have no liability or responsibility to the transferee, lessee or sublessee or to third parties therefor.

3. If any property, real or personal (or any interest therein), needed or useful for or in connection with any such project is owned by any municipal corporation, such corporation may transfer the same, with or without consideration, to the authority for such purpose, and if such property is owned by the city of New York, such transfer may be by action of its mayor alone.

4. The authority, upon suitable notice to and an offer to consult with an officer designated by the city of New York, may occupy the streets of the city of New York for the purpose of doing any work over or under the same in connection with any such project without the consent of or payment to the city of New York.

5. The providing of any such project for the use or benefit of the New York city transit authority or any of its subsidiaries shall not relieve the city of its obligations under law or by lease to pay the capital costs of the said authority or of its subsidiaries.

6. Except as the authority shall otherwise agree, title to any such project or any part thereof or interest therein which shall have been transferred, leased or subleased to the New York city transit authority or its designated subsidiary, shall remain in such transferee, lessee or sublessee, any provisions of title nine of article five of this chapter or of any lease or other agreement entered into under the provisions of that title to the contrary notwithstanding.

7. The metropolitan transportation authority, the New York city transit authority and the designated subsidiaries of each of them are each hereby authorized (i) to request the authority to undertake any such project; (ii) to acquire in its own name by gift, purchase or condemnation, and, additionally, in the case of the metropolitan transportation authority, by appropriation pursuant to section twelve hundred sixty-seven-a of this chapter, any real or personal property (or any interest therein), which is needed or useful for or in connection with such project, the provisions of any lease or other agreement with the city to the contrary notwithstanding, and to surrender the use, occupancy, control or possession of or to transfer the same, or of any other such real or personal property (or any interest therein) which it owns, leases, operates or controls, to the authority; (iii) to accept a transfer, transfer back, lease or sublease of any such project or part thereof upon its completion; (iv) to undertake any such project itself, or to finance, through loans, leases or otherwise, any other person or entity, public or private, to do so, in each case using funds granted by the authority to pay all or any part of the costs thereof (such undertaking, in the case of the New York city transit authority and its subsidiary, the Manhattan and Bronx surface transit operating authority, being free of any restriction set forth in subparagraph (ii) of paragraph b of subdivision one of section twelve hundred three or in paragraph (c) of subdivision five of section twelve hundred three-a of this chapter); and (v) to make its agents, employees and facilities

available to the authority in connection therewith.

8. No such project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article. Nor shall any project or acts or activities in connection therewith taken by any person or entity, public or private, pursuant to paragraph (m), (n), (o), (p), or (r) of subdivision nine of section five hundred fifty-three of this title be subject to the provisions of article eight of the environmental conservation law if such project, acts or activities to be taken in connection therewith require the preparation of a statement under or pursuant to any federal law or regulation as to the environmental impact thereof.

9. In connection with the negotiation, award and implementation of contracts of the authority relating to any project hereafter initiated pursuant to paragraphs (m), (n), (o), (p) and (r) of subdivision nine of section five hundred fifty-three of this title, the provisions of paragraphs (a), (b), (c) and (d) of subdivision thirteen of section twelve hundred sixty-six-c of this chapter shall apply to the authority as if it were the "authority" referred to therein, and the officer designated by the metropolitan transportation authority pursuant to paragraph (e) of that subdivision shall perform the duties therein described with respect to such contracts of the authority.

10. The financing of any such project through the issuance of bonds or notes of the authority shall be subject to the provisions of section twelve hundred sixty-nine-b of this chapter.

11. The aggregate principal amount of bonds and notes issued and outstanding at any time to finance projects authorized by paragraphs (m), (n), (o), (p) and (r) of subdivision nine of section five hundred

fifty-three of this title shall not exceed one billion one hundred million dollars through December thirty-first, nineteen hundred eighty-six and three billion two hundred million dollars thereafter, provided however that such latter amount shall not exceed two billion two hundred million dollars for all bonds and notes other than those issued pursuant to section five hundred fifty-three-d of this title. This limitation shall not include (i) bonds and notes issued to refund or otherwise repay bonds or notes theretofore issued for such purposes, (ii) bonds issued to fund any reasonably required debt service reserve fund for bonds and notes, and (iii) an amount equal to any original issue discount from the prinicipal amount of any bonds or notes issued and then outstanding. From the proceeds of the bonds and notes provided for in the first sentence of this subdivision, other than bonds or notes authorized by section five hundred fifty-three-d of this title, the authority shall not expend more than one billion three hundred twenty million dollars for transit projects as defined in section twelve hundred sixty-six-c of this chapter nor more than eight hundred eighty million dollars for transportation facilities as such term is defined in subdivision fourteen of section twelve hundred sixty-one of this chapter other than marine or aviation facilities. For the purposes of this subdivision, facilities under the jurisdiction of the Staten Island rapid transit operating authority shall be considered transit projects.

§ 553-f. Tokens. Notwithstanding any inconsistent provision of law, but subject to agreements with noteholders and bondholders, the authority shall offer for sale tokens with respect to residents of the county of Richmond and may, except as otherwise provided herein, regulate the use thereof. Tokens for residents of the county of Richmond shall entitle the purchaser to crossings over the Verrazzano-Narrows bridge at a reduced cost of eighty per centum of the regular crossing fare imposed on nonresidents of the county of Richmond. In the event the authority shall impose a surcharge in addition to the regular toll for crossings over the Verrazzano-Narrows bridge, such surcharge shall not be deemed a part of the regular crossing fare for purposes of this section, and the tokens offered for sale to the residents of the county of Richmond as herein provided shall also entitle the purchaser to a permanent exemption from the payment of any such surcharge in an amount equal to the amount of any such surcharge imposed during calendar year nineteen hundred ninety-three. Application for such tokens or other payment devices shall be made in such manner as prescribed by the authority and shall contain such information as the authority may reasonably require.

§ 553-g. Fire training. All persons appointed to the position of bridge and tunnel officer and maintenance division employees of the Triborough bridge and tunnel authority on or after the effective date of this section shall participate in a training course of at least twenty-eight hours on the subject of fire prevention and control. The training courses shall be conducted by the Fire Academy of the New York city fire department. Such academy shall also administer any retraining or refresher courses attended by personnel of the authority. Any costs incurred by the city of New York for the aforementioned training shall be reimbursed by the authority.

§ 553-h. Tokens. Notwithstanding any inconsistent provision of law, but subject to agreements with noteholders and bondholders, the authority shall offer for sale tokens and may, except as otherwise provided herein, regulate the use thereof. Such tokens shall entitle the purchaser to crossings over the Cross-Bay Veteran's Memorial bridge at a reduced cost of sixty-six and two-thirds per centum of the regular crossing fare imposed. In the event the authority shall impose a surcharge in addition to the regular toll for crossings over the Cross-Bay Veteran's Memorial bridge, such surcharge shall not be deemed a part of the regular crossing fare for purposes of this section, and the tokens or other payment devices offered for sale shall also entitle purchasers who are residents of Broad Channel or the Rockaway peninsula to a permanent exemption from the payment of any such surcharge in an amount equal to the amount of any such surcharge imposed during calendar year nineteen hundred ninety-three. Application for such tokens or other payment devices shall be made in such manner as prescribed by the authority and shall contain such information as the authority may reasonably require.

§ 553-i. Marine Parkway Bridge; tokens. Notwithstanding any inconsistent provision of law, but subject to agreements with noteholders and bondholders, the authority shall offer for sale tokens and may, except as otherwise provided herein, regulate the use thereof. Such tokens shall entitle the purchaser to crossings over the Marine Parkway Bridge at a reduced cost of sixty-six and two-thirds percentum of the regular crossing fare. In the event the authority shall impose a surcharge in addition to the regular toll for crossings over the Marine Parkway Bridge, such surcharge shall not be deemed a part of the regular crossing fare for purposes of this section, and the tokens or other payment devices offered for sale shall also entitle purchasers who are residents of Broad Channel or the Rockaway Peninsula to a permanent exemption from the payment of any such surcharge in an amount equal to the amount of any such surcharge imposed during calendar year nineteen hundred ninety-three. Application for such tokens or other payment devices shall be made in such manner as prescribed by the authority and shall contain such information as the authority may reasonably require.

§ 553-j. Metropolitan transportation authority capital lockbox fund. 1. The authority shall establish a fund to be known as the metropolitan transportation authority capital lockbox fund which shall be kept separate from and shall not be commingled with any other monies of the authority. The fund shall consist of two separate and distinct accounts: (i) the "2020 to 2024 capital program account" and (ii) the "2025 to 2029 capital program account".

(a) The 2020 to 2024 capital program account shall consist of all monies received by the authority pursuant to article forty-four-C of the vehicle and traffic law, subdivision twelve-a of section five hundred fifty-three of this title, and revenues of the real estate transfer tax deposited pursuant to subdivision (b) of section fourteen hundred twenty-one of the tax law, and sales tax pursuant to subdivision (c) of section eleven hundred forty-eight of the tax law, subparagraph (B) of paragraph five of subdivision (c) of section twelve hundred sixty-one of the tax law, and funds appropriated from the central business district trust fund established pursuant to section ninety-nine-ff of the state finance law.

(b) The 2025 to 2029 capital program account shall consist of all monies deposited pursuant to subdivision four of section twelve hundred seventy-h of this chapter.

2. Monies in the 2020 to 2024 capital program account shall be applied, subject to agreements with bondholders and applicable federal law, to the payment of operating, administration, and other necessary expenses of the authority, or to the city of New York subject to the memorandum of understanding executed pursuant to subdivision two-a of section seventeen hundred four of the vehicle and traffic law properly allocable to such program, including the planning, designing, constructing, installing or maintaining of the central business district tolling program, including, without limitation, the central business district tolling infrastructure, the central business district tolling collection system and the central business district tolling customer service center, and the costs of any metropolitan transportation authority capital projects included within the 2020 to 2024 MTA capital program or any successor programs. Monies in the 2020 to 2024 capital program account may be: (a) pledged by the authority to secure and be applied to the payment of the bonds, notes or other obligations of the authority to finance the costs of the central business district tolling program, including, without limitation, the central business district tolling infrastructure, the central business district tolling collection system and the central business district tolling customer service center, and the costs of any metropolitan transportation authority capital projects included within the 2020 to 2024 MTA capital program or any successor programs, including debt service, reserve requirements, if any, the payment of amounts required under bond and note facilities or agreements related thereto, the payment of federal government loans, security or credit arrangements or other agreements related thereto; or (b) used by the authority for the payment of such capital costs of the central business district tolling program and the costs of any metropolitan transportation authority capital projects included within the 2020 to 2024 MTA capital program or any successor programs; or (c)

transferred to the metropolitan transportation authority and (1) pledged by the metropolitan transportation authority to secure and be applied to the payment of the bonds, notes or other obligations of the metropolitan transportation authority to finance the costs of any metropolitan transportation authority capital projects included within the 2020 to 2024 MTA capital program or any successor programs, including debt service, reserve requirements, if any, the payment of amounts required under bond and note facilities or agreements related thereto, the payment of federal government loans, security or credit arrangements or other agreements related thereto, or (2) used by the metropolitan transportation authority for the payment of or to reimburse the costs, including debt service, of any metropolitan transportation authority capital projects included within the 2020 to 2024 MTA capital program or any successor programs. Such revenues shall only supplement and shall not supplant any federal, state, or local funds expended by the authority or the metropolitan transportation authority, or such authority's or metropolitan transportation authority's affiliates or subsidiaries for such respective purposes. Central business district toll revenues may be used as required to obtain, utilize, or maintain federal authorization to collect tolls on federal aid highways.

2-a. Monies in the 2025 to 2029 capital program account shall be applied, subject to agreements with bondholders and applicable federal law, to the payment of the costs of any metropolitan transportation authority capital projects included within the 2025 to 2029 MTA capital program or any successor programs. Monies in the 2025 to 2029 capital program account may be: (a) pledged by the authority to secure and be applied to the payment of the bonds, notes or other obligations of the authority to finance the costs of any metropolitan transportation authority capital projects included within the 2025 to 2029 MTA capital program or any successor programs, including debt service, reserve requirements, if any, the payment of amounts required under bond and note facilities or agreements related thereto, the payment of federal government loans, security or credit arrangements or other agreements related thereto; or (b) used by the authority for the payment of such capital costs of any metropolitan transportation authority capital projects included within the 2025 to 2029 MTA capital program or any successor programs; or (c) transferred to the metropolitan transportation authority and (1) pledged by the metropolitan transportation authority to secure and be applied to the payment of the bonds, notes or other obligations of the metropolitan transportation authority to finance the costs of any metropolitan transportation authority capital projects included within the 2025 to 2029 MTA capital program or any successor programs, including debt service, reserve requirements, if any, the payment of amounts required under bond and note facilities or agreements related thereto, the payment of federal government loans, security or credit arrangements or other agreements related thereto, or (2) used by the metropolitan transportation authority for the payment of or to reimburse the costs, including debt service, of any metropolitan transportation authority capital projects included within the 2025 to 2029 MTA capital program or any successor programs. Such revenues shall only supplement and shall not supplant any federal, state, or local funds expended by the authority or the metropolitan transportation authority, or such authority's or metropolitan transportation authority's affiliates or subsidiaries for such respective purposes.

3. Any monies deposited in the fund shall be held in the fund free and clear of any claim by any person arising out of or in connection with article forty-four-C of the vehicle and traffic law, subdivision twelve-a of section five hundred fifty-three of this title, and article twenty-three of the tax law. Without limiting the generality of the foregoing, no person paying any amount that is deposited into the fund shall have any right or claim against the authority or the metropolitan transportation authority, any of their bondholders, any of the authority's or the metropolitan transportation authority's subsidiaries or affiliates to any monies in or distributed from the fund or in respect of a refund, rebate, credit or reimbursement of monies arising out of or in connection with article forty-four-C of the vehicle and traffic law, subdivision twelve-a of section five hundred fifty-three of this title, and article twenty-three of the tax law.

3-a. Of the capital project costs paid by this fund: eighty percent shall be capital project costs of the New York city transit authority and its subsidiary, Staten Island Rapid Transit Operating Authority, and MTA Bus with priority given to the subway system, new signaling, new subway cars, track and car repair, accessibility, buses and bus system improvements and further investments in expanding transit availability to areas in the outer boroughs that have limited mass transit options; ten percent shall be capital project costs of the Long Island Rail Road, including but not limited to, parking facilities, rolling stock, capacity enhancements, accessibility, and expanding transit availability to areas in the Metropolitan Commuter Transportation District that have limited mass transit options; and ten percent shall be capital project costs of the Metro-North Commuter Railroad Company, including but not limited to, parking facilities, rolling stock, capacity enhancements, accessibility, and expanding transit availability to areas in the Metropolitan Commuter Transportation District that have limited mass transit options.

4. The authority shall report annually on all receipts and expenditures of the fund and each account within the fund. The report shall detail operating expenses of the central business district tolling program and all fund expenditures including capital projects. The report shall be readily available to the public, and shall be posted on the authority's website and be submitted to the governor, the temporary president of the senate, the speaker of the assembly, the mayor and council of the city of New York, the metropolitan transportation authority board, and the metropolitan transportation authority capital program review board.

5. Any operating funding used for the purposes of a central business district tolling program shall only be from the 2020 to 2024 capital program account and shall be approved, annually, in a plan of expenditures, by the director of the budget.

§ 553-k. Traffic mobility review board. 1. The authority's board shall establish the "traffic mobility review" board (board), which shall consist of a chair and five members, that shall be made up of regional representation, one of whom shall be recommended by the mayor of the city of New York, one of whom shall reside in the Metro North Region, and one of whom shall reside in the Long Island Rail Road Region. Members of the board must have experience in at least one of the following areas: public finance; transportation; mass transit; or management. The chair and the members of the board shall be appointed by the authority.

2. The board shall make a recommendation regarding the central business district toll amounts to be established pursuant to article forty-four-C of the vehicle and traffic law, which shall include a variable-pricing structure, no sooner than November fifteenth, two thousand twenty and no later than December thirty-first, two thousand twenty, or no later than thirty days before a central business district tolling program is initiated, whichever is later. Such recommendation shall be submitted to the board of the Triborough bridge and tunnel authority for consideration before the Triborough bridge and tunnel authority board may approve central business district toll amounts that may be established and adopted.

3. For purposes of recommending a central business district toll or tolls in addition to the goal of reducing traffic within the central business district, the board shall, at minimum, ensure that annual revenues and fees collected under such program, less costs of such program, provide for revenues into the central business district tolling capital lockbox fund, established pursuant to section five hundred fifty-three-j of this chapter, necessary to fund fifteen billion dollars for capital projects for the 2020 to 2024 capital program, and any additional revenues above that amount to be available for any successor program. The board shall consider for purposes of its recommendations, factors including but not limited to, traffic patterns, traffic mitigation measures, operating costs, public impact, public safety, hardships, vehicle type, discounts for motorcycles, peak and off-peak rates and environmental impacts, including but not limited to air quality and emissions trends. The board shall recommend a plan for credits, discounts, and/or exemptions for tolls paid on bridges and crossings which shall be informed by a traffic study associated with the impact of any such credits, discounts and/or exemptions on the

recommended toll. The board shall recommend a plan for credits, discounts, and/or exemptions for for-hire vehicles defined, and subject to a surcharge imposed by, article twenty-nine-C of the tax law for a for-hire transportation trip based on factors including, but not limited to, initial market entry costs associated with licensing and regulation, comparative contribution to congestion in the central business district, and general industry impact. The board shall produce a detailed report that provides information regarding the board's review and analysis for purposes of establishing its recommendations, including but not limited to, all of the considerations referred to in this subdivision. The board shall not recommend a toll that provides for charging passenger vehicles registered pursuant to subdivision six of section four hundred one of the vehicle and traffic law more than once per day.

4. The authority, its subsidiaries, affiliates, and subsidiaries of affiliates, the city of New York, and any state agency or authority shall provide any assistance necessary to assist in the completion of the board's work and promptly respond to any requests for information or consultation consistent with the purposes of this section.

5. The Metropolitan Transportation Authority capital plan shall be reviewed by the traffic mobility review board.

6. Members of the board shall serve without compensation.

§ 554. Transfer of officers and employees. 1. Officers and employees of any board or department in or of the city may be transferred to the authority, and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Notwithstanding the provisions of this title, the officers and employees of the city, who are members or beneficiaries of any existing pension or retirement system, shall continue to have the rights, privileges, obligations and status with respect to such system or systems, as are now prescribed by law; and all such employees, who have been appointed to positions in the service of the city under the rules and classifications of the municipal civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. Any person appointed by the authority under the rules and classifications of the municipal civil service commission of the city, originally or by transfer or otherwise, including persons employed or eligible for appointment under the board of education of the city or of any agency of any kind whatsoever subject to the rules and classifications of the municipal civil service commission of the city, shall have and shall continue to have all the rights, privileges, obligations and status with respect to such pension or retirement systems, including not only the right to admission therein, but continuance and reinstatement therein, to the same extent and in like manner as though he had been appointed, transferred or restored to the civil service of the city, the board of education or any other agency of any kind whatsoever subject to the rules and classifications of the municipal civil service commission of the city. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law under the jurisdiction of the municipal civil service commission of the city.

2. Notwithstanding any inconsistent provision of this section, no person shall be eligible for original appointment to a position of bridge and tunnel officer with the authority, unless such person has earned a high school diploma recognized as valid by the department of education.

§ 555. Selection of site. Notwithstanding any provisions of any other statute, the authority in conjunction with the commissioner of parks of the city or his successor, the commissioner of parks and recreation, and with the approval of the board of estimate of such city and with the separate approval of the mayor thereof, is hereby authorized to select sites in the boroughs of the Bronx and Queens of the city for the Whitestone bridge project and parkways connecting therewith, which sites may be in or through existing public parks, and to select sites for new public parks contiguous to such project or contiguous to the roads, streets, parkways or avenues connecting with such project. A site or sites may be selected for any or all of the aforementioned purposes and thereafter the use thereof shall be allocated by the commissioner of parks and recreation as herein provided. The property so selected solely for such project, not already owned by the city, shall be acquired at the sole expense of the authority in the manner provided for under this title. The property so selected solely for new public parks shall be acquired by the city at its sole expense. The cost of the property so selected for such project, combined with any other aforementioned purposes the use of which is to be thereafter determined, shall be divided between the city and the authority as may be determined by a contract or contracts hereby authorized to be entered into between the city and the authority, subject to the approval of the board of estimate of the city. So much of the sites so selected and acquired or such easements or rights of way therein as may be necessary or convenient for the corporate purposes of the authority may be assigned by the commissioner of parks and recreation of the city to the authority for its use so long as its corporate existence shall continue.

§ 556. Acquisition of lands by the city for the project. The city shall have power to acquire by purchase, or by condemnation in the manner provided by chapter twenty-one of the Greater New York charter, title in the name of the city to any lands, easements, or rights in land not owned by the city on the seventh day of April, nineteen hundred thirty-three, which may be required for the project, and payment therefor, and for any lands theretofore acquired but not paid for by the city, shall be made by the authority. The power hereby conferred upon the city shall not limit or restrict the power of the authority itself to acquire lands, easements, or rights in land in the name of the city.

§ 557. Grant of land by the city to the authority. The city shall have power and authority by resolution of the board of estimate of the city to assign to the authority, without consideration, any land owned by the city on the seventh day of April, nineteen hundred thirty-three, or thereafter acquired by it, needed or convenient for the project, including lands released or to be released by the state to the city pursuant to chapter three hundred seventy-nine of the laws of nineteen hundred twenty-nine as amended.

§ 557-a. Lands, easements and rights in land. 1. Lands in fee simple, easements and rights in land, including the right to cut off light, air and access (any and all of which are in this section referred to as "lands") shall after January first, nineteen hundred forty be acquired as provided in this section for the project and other authorized purposes, and the provisions of sections five hundred fifty-five, five hundred fifty-six and five hundred fifty-seven of this chapter shall not apply.

2. The authority may acquire lands for said project in the name of the city at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law. The authority shall have the use and occupancy of such lands so long as its corporate existence shall continue.

3. The city may, by resolution of the board of estimate, or by deed authorized by such a resolution, convey, with or without consideration, to the authority for the project the use and occupancy, for so long as its corporate existence shall continue, of any lands then owned by the city including lands which, by any other law, are inalienable by the city, and such conveyance may reserve to the city such rights as shall not restrict the authority in the construction, reconstruction, operation and maintenance of the project.

4. The city may acquire lands in the name of the city for the project or for the widening of existing roads, streets, parkways, avenues or elevated highways or for new roads, streets, parkways, avenues or elevated highways connecting with said project, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of land by the city. Contracts may be entered into between the city and the authority providing for the lands to be acquired by the city, and the part or proportion of the cost and expense to be paid by the authority, the balance to be paid by the city, and terms and conditions of payment to

be made by the authority. Such contracts may also determine the improvements and construction to be done by the authority. Such roads, streets, parkways, avenues and elevated highways connecting with the project shall be operated, maintained, and reconstructed by the city, and except for the original construction and improvement thereof by the authority, the city shall have exclusive jurisdiction over them.

5. The mayor may authorize a contract between the city and the authority and no other authorization on the part of the city for such a contract shall be necessary. Any such contract may be so authorized and entered into by the city and the payments required to be made by the city may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by such capital budget of the city thereafter made, to the extent that they may appropriately be included therein.

§ 558. Consent of state. 1. The state of New York does hereby agree (a) to the use by the authority, so long as its corporate existence shall continue, of any lands necessary or convenient for the project in which the state has any right, title or interest situate, lying or being on Randall's island or Ward's island or in the waters adjacent thereto, provided, however, that no buildings used by or for the state, shall be razed or removed until the same have been vacated and (b) to the use by the authority, so long as its corporate existence shall continue, of any lands under water necessary or convenient for the project.

2. The state of New York does hereby agree to the use by the authority of any lands, lands under water or the air space over any of such lands in which the state has any right, title or interest and which are necessary or convenient for the Throgs Neck bridge project and, after title to the Narrows bridge project shall vest in the authority, for the Narrows bridge project.

§ 559. Construction contracts. The authority shall do all construction pursuant to a contract or contracts in the manner, so far as practicable, provided in the charter of the city for contracts of such city except that where the estimated expense of a contract does not exceed ten thousand dollars such contract may be entered into without public letting, but failure to comply with this section shall not invalidate such contracts.

§ 560. Moneys of the authority. All moneys of the authority from whatever source derived shall be deposited as soon as practicable in banks or trust companies to be designated by the authority. All deposits of such moneys shall, if required by the authority, be secured by obligations of the United States or of the state of New York or of the city of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall have power notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

§ 561. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any corporate purpose or power. The authority shall have power from time to time and whenever it deems refunding advantageous or desirable, to refund, redeem or otherwise pay, including by purchase or tender any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose or power. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. The authority may issue general or special obligation bonds. Every issue of general obligation bonds shall be payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular tolls or revenues. Every issue of special obligation bonds shall be payable out of any revenues, receipts, monies or assets of the authority, the metropolitan transportation authority and its subsidiary corporations and the New York city transit authority and its subsidiary corporations identified for such purposes in accordance with agreements with the holders of particular bonds.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding fifty years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine. Notwithstanding the foregoing provisions, such bonds as may be authorized by resolution of the board and issued on or before June thirtieth, nineteen hundred sixty-five, shall bear interest at such rate or rates as such resolution may provide.

3. The bonds may be issued for any corporate purpose of the authority.

4. Any resolution or resolutions authorizing any bonds or any issue of

bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to

(a) pledging all or any part of the tolls and revenues of the project or of all or any part of any or all such projects to secure the payment of the bonds or of any issue of the bonds subject to such agreements with bondholders as may then exist;

(b) the rates of the tolls to be charged, and the amounts to be raised in each year by tolls, and the use and disposition of the tolls and other revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of the project in connection with which such bonds are issued;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from any project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section five hundred sixty-seven hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under section five hundred sixty-seven hereof or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4-a. Any resolution or resolutions authorizing any bonds or any issue of bonds maturing in not exceeding ten years from their date (hereafter in this subdivision four-a referred to as "short term obligations") may contain, in addition to all other provisions authorized by this title, provisions, which shall be a part of the contract with the holders of the short term obligations thereby authorized, as to (a) refunding the short term obligations and, if so provided, outstanding bonds by the issuance of bonds of the authority either by the sale of bonds and the application of the proceeds to the payment of the short term obligations and outstanding bonds or by the exchange of bonds for the short term obligations and outstanding bonds; provided, however, that the authority shall make no covenant to refund which shall require it to issue bonds, the aggregate principal amount of which shall exceed by more than ten per centum the aggregate principal amount of the short term obligations and outstanding bonds to be refunded thereby;

(b) satisfying, paying or discharging the short term obligations, at the election of the authority, by the tender or delivery of bonds of the authority in exchange therefor; provided, however, that the aggregate principal amount of bonds shall not exceed by more than ten per centum the aggregate principal amount of the short term obligations to satisfy, pay or discharge which the bonds are tendered or delivered;

(c) exchanging or converting the short term obligations, at the election of the holder thereof, for or into bonds of the authority; provided, however, that the aggregate principal amount of the bonds shall not exceed by more than ten per centum the aggregate principal amount of the short term obligations to be exchanged for or converted into bonds;

(d) pledging bonds of the authority as collateral to secure payment of the short term obligations and providing for the terms and conditions of the pledge and manner of enforcing the pledge, which terms and conditions may provide for the delivery of the bonds in satisfaction of the short term obligations; provided, however, that the aggregate principal amount of the bonds pledged shall not exceed by more than ten per centum the aggregate principal amount of the short term obligations to secure which they are pledged;

(e) depositing bonds in escrow or in trust with a trustee or fiscal agent or otherwise providing for the issuance and disposition of the bonds as security for carrying out any provisions in any resolution adopted pursuant to the foregoing paragraphs (a), (b), (c) and (d) hereof and providing for the powers and duties of the trustee or fiscal agent or other depositary and the terms and conditions on which the bonds are to be issued, held and disposed of;

(f) any other matters of like or different character which relate to any provision or provisions of any resolution adopted pursuant to the foregoing paragraphs (a), (b), (c), (d) and (e) hereof.

In computing the amount of bonds of the authority which may be outstanding at any one time, short term obligations shall be excluded to the extent that the resolution authorizing the issuance of such short term obligations shall provide for the issuance of bonds pursuant to paragraphs (a), (b), (c) or (d) of this section, but the bonds provided to be issued by such resolution shall be included in making such computation whether or not such bonds are outstanding.

The authority shall have power to make contracts for the future sale from time to time of short term obligations, by which the purchasers shall be committed to purchase short term obligations from time to time on the terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments.

4-b. The authority shall have power from time to time to issue notes (herein referred to as notes) for any corporate purpose or power and from time to time to issue renewal notes maturing not later than five years, from their respective dates whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner as herein provided for bonds or otherwise. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments.

4-c. It is the intention hereof that any pledge of tolls or other revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the board nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

§ 562. Redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, either the state of New York or the city may, upon furnishing sufficient funds therefor, require the authority to redeem as a whole any issue of the bonds issued before January first, nineteen hundred thirty-nine on any semi-annual interest payment date after January first, nineteen hundred forty-seven at one hundred and five per centum of their face value and accrued interest, or at such lower redemption price as may then be provided by contract, on not exceeding sixty days' notice by publication in such manner as may be provided by the authority upon the issuance of such bonds. Either the state of New York or the city may, upon furnishing sufficient funds therefor, require the authority to redeem as a whole any issue of bonds issued after January first, nineteen hundred thirty-nine (provided such bonds are subject to redemption) at the time and at the price and in accordance with the terms upon which such bonds are redeemable.

All bonds issued for the Narrows bridge project or for the Throgs Neck bridge project shall be redeemable on such dates and on such terms as the authority shall determine, but shall, in any event, be redeemable as a whole on any interest payment date fifteen or more years after their date at not more than one hundred four per centum of their face value and accrued interest.

§ 563. Agreement of the state. 1. The state of New York does pledge to and agree with (a) the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to maintain, reconstruct and operate the project, to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged, and (b) the holders of any bonds of the port authority issued in accordance with the terms of any agreement with the authority authorized hereby to finance the Narrows bridge project or secured in whole or in part by a pledge of the revenues thereof or both so issued and so secured until title to the Narrows bridge is vested in the authority or the city, that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements authorized hereby and made with the port authority respecting the Narrows bridge project or in any way impair the rights and remedies of the port authority thereunder until the obligations of the authority thereunder are fully met and discharged.

2. The state of New York does covenant and agree with the holders of

any bonds issued after January first, nineteen hundred forty that no tunnel, bridge, parkway, causeway, street, road, highway or other connection for vehicular traffic (other than one of the projects), which will be competitive with the Robert F. Kennedy bridge project or the Whitestone bridge project or the Throgs Neck bridge project or the Marine parkway bridge project or the Cross Bay parkway bridge project will be constructed or maintained until the bonds together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged; provided that a tunnel, bridge, parkway, causeway, street, road, highway or other connection for vehicular traffic shall be considered as competitive with the Robert F. Kennedy bridge project or Whitestone bridge project or the Throgs Neck bridge project only if it shall form a connection for vehicular traffic over, under, or across the East river north of an extension to the east of the center line of Seventy-third street in the borough of Manhattan, and shall be considered as competitive with the Marine parkway bridge project or Cross Bay parkway bridge project only if such tunnel, bridge, parkway, causeway, street, road, highway or other connection for vehicular traffic shall form a connection for vehicular traffic with Rockaway peninsula across any part of the waters of Jamaica bay or Rockaway inlet west of seventy-three degrees, forty-six minutes of west longitude. The covenant herein contained restricting competitive traffic connections with any project or projects shall be only for the benefit of the holders of bonds secured in whole or in part by the pledge of the revenues of such project or projects. All covenants of the state made with the holders of bonds issued before January first, nineteen hundred and forty, are hereby confirmed and shall not be affected hereby.

3. The state of New York does pledge to and agree with the holders of any bonds that no tunnel, bridge, parkway, causeway, street, road, highway or other connection for vehicular traffic, which will be competitive with the Queens Midtown tunnel or the Hugh L. Carey tunnel or the Brooklyn Richmond tunnel or the Narrows bridge will be constructed; provided that a tunnel, bridge, parkway, causeway, street, road, highway or other connection for vehicular traffic shall be

considered as competitive if it shall form a connection for vehicular traffic over, under or across the East river south of Queensboro bridge, or, if it shall form a connection for vehicular traffic between the boroughs of Manhattan, Brooklyn or Richmond over, under or across New York bay. The covenant herein contained restricting competitive traffic connections with any project or projects shall be only for the benefit of the holders of bonds secured in whole or in part by the pledge of the revenues of such project or projects and subject to and in accordance with all contract provisions with respect to any bonds outstanding on January first, nineteen hundred fifty-five and the rights of the holders of such bonds, the covenant herein contained shall not be deemed to prevent the construction of any bridge or tunnel exclusively for railway rapid transit purposes.

§ 564. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 565. Bonds legal investments for fiduciaries. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 566. Exemptions from taxation. It is hereby found, determined and declared that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, for the improvement of their health, welfare and prosperity, and, in the case of some of the said purposes, for the promotion of their traffic, and is a public purpose, and that, in the case of those purposes which consist of vehicular bridges, vehicular tunnels and approaches thereto, the project is an essential part of the public highway system, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state of New York covenants with the holders of the bonds that the authority shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of the project or any tolls, revenues or other income received by the authority and that the bonds of the authority and the income therefrom shall at all times be exempt from taxation, except for transfer and estate taxes. This section shall constitute a covenant and agreement with the holders of all bonds issued prior to January first, nineteen hundred thirty-nine.

§ 566-a. Tax contract by the state. 1. It is hereby found, determined and declared that the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, for the improvement of their health, welfare and prosperity, and, in the case of some of the said purposes, for the promotion of their traffic, and that said purposes are public purposes and, in the case of those purposes which consist of vehicular bridges, vehicular tunnels and approaches thereto and the central business district tolling program, the project is an essential part of the public highway system and the authority will be performing an essential governmental function in the exercise of the powers conferred by this title, and the state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds issued after January first, nineteen hundred thirty-nine by the authority pursuant to this title, in consideration of the acceptance of any payment for the bonds that the bonds of the authority issued after January first, nineteen hundred thirty-nine pursuant to this title and the income therefrom, and all moneys, funds, tolls and other revenues pledged to pay or secure the payment of such bonds, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

2. Nothing herein shall be construed to repeal or supersede any tax exemptions heretofore or hereafter granted by general or other laws.

§ 567. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of New York, or Queens or the Bronx or Kings and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority and the board to collect tolls and rentals adequate to carry out any agreement as to, or pledge of, such tolls and rentals, and to require the authority and the board to carry out any other agreements with the holders of such bonds and to perform its and their duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of New York, Queens, the Bronx, or Kings.

4. Before declaring the principal of all such bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the tolls or other revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the project and subject to any pledge or agreement with bondholders shall take possession of all moneys and other property derived from or applicable to the construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with any construction thereon which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all tolls and other revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all

costs and disbursements allowed by the court shall be a first charge on any tolls, rentals and other revenues derived from such project.

6. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 568. Continuity of jurisdiction. The authority shall be deemed and held to constitute a continuation, as to matters within its jurisdiction, of the department of plant and structures of the city for the purpose of succession to all such of the rights, powers, duties and obligations of the city and of the department of plant and structures of the city as relate to the designing and construction of the project.

§ 569. Protection of prior bondholders. Nothing in this title contained shall be deemed in any way to limit or alter the rights vested in the authority to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders of bonds issued or authorized to be issued prior to January first, nineteen hundred forty-six, or in any way to impair the rights and remedies thereunder of the holders of such bonds.

§ 569-a. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been filed within the time limit established by and in compliance with section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 569-b. Restrictions on signs and billboards. 1. No outdoor advertising sign or device which refers to any subject other than the business actually conducted on the premises or to sale or rental of such premises and no such outdoor advertising sign or device exceeding ten feet in height above the sidewalk adjacent to the property on which such sign or device is located, shall be erected, reconstructed, painted, or repainted, after the applicable date hereinafter specified in this section, within five hundred feet of the Whitestone bridge project, the Throgs Neck bridge project, the Narrows bridge project or the Hugh L. Carey tunnel project or the approaches and connections of such projects, if within view thereof.

2. In the case of the Whitestone bridge project, the applicable date shall be April three, nineteen hundred thirty-nine, except that with respect to reconstruction, painting or repainting of any such sign or device within view of such bridge project, the applicable date shall be the effective date of this subdivision two.

3. In the case of the Throgs Neck bridge project, the Narrows bridge project and the Hugh L. Carey tunnel project, the applicable date shall be the effective date of this subdivision three.

4. A violation of any of the provisions of this section may be

restrained at the suit of the authority.

§ 569-c. Transfer and receipt of surplus funds. Notwithstanding any provision of this title or any other provision of law, general, special or local, the authority shall, at the direction of the metropolitan transportation authority, from time to time transfer and pay over all or any part of its surplus funds to (a) metropolitan transportation authority or (b) New York city transit authority, all in accordance with the provisions of subdivision twelve of section five hundred fifty-three of this title and the determination of the proportional allocation of such amounts of surplus funds so deposited as between the New York city transit authority and the commuter railroads operated by metropolitan transportation authority shall be governed by the provisions of section twelve hundred nineteen-a of this chapter and the authority may accept and use any moneys transferred and paid over to it by metropolitan transportation authority or New York city transit authority.

§ 569-d. Protection of bondholders. Nothing in this title contained shall be deemed to limit or alter in any way the rights and obligations of the authority to establish and collect such tolls, fees, rentals and other charges as may be necessary or required to produce sufficient revenues to meet and to fulfill the terms and provisions of the contracts made with the holders and registered owners of the bonds or in any way impair the constitutional rights of the holders and registered owners of the bonds.

§ 570. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 571. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

TITLE 4

THOUSAND ISLANDS BRIDGE AUTHORITY

§ 575. Short title. This title may be cited as the "Thousand Islands Bridge Authority Act."

§ 576. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section five hundred seventy-seven of this chapter;

2. The term "supervisors" shall mean the Jefferson county board of supervisors;

3. The term "bridge complex" shall mean all bridges which, together with their approaches and connecting roads, form a crossing from one particular area in the United States across the St. Lawrence river to a particular area in Canada, and shall include such approaches and roads as well as all buildings, facilities and other improvements which are necessary or incidental to the operation and maintenance of such bridges, approaches and roads or which serve the traffic over such bridges;

4. The term "bonds" shall mean bonds issued by the authority pursuant to this title;

5. The term "board" shall mean the members of the authority;

6. The term "treasurer" shall mean the treasurer of the authority;

7. The term "county" shall mean the county of Jefferson;

8. The term "state" shall mean the state of New York;

9. The term "comptroller" shall mean the comptroller of the state;

10. The term "revenues" shall mean all moneys received by or due to the authority from tolls, rentals, user fees, charges or other payments derived from the operation of the properties or facilities of the authority, as well as interest earned on deposits or securities, and other income of the authority, from whatever source it may emanate, but shall not include gifts, grants, or the principal of any loan, or the proceeds of any bond issue;

11. The term "political subdivision" shall mean any city, town, front,

village, riding, municipality, water district, fire district, fire protection district, school district, improvement district, commission, bureau, division, agency, instrumentality, public corporation, public benefit corporation, board or department of the governmental body indicated, whether the same be in the United States or in Canada;

12. The term "real property" shall mean lands, structures, improvements to land, franchises and interests in land, waters, lands under water, riparian rights, space rights, air rights, and any and all other things and rights usually included within said term and includes not only fees simple and absolute but also any and all lesser interests, including but not limited to appurtenances thereto, easements, rights of way, uses, leases, leaseholds, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real property;

13. The term "properties" shall mean all the real property of the authority and all tangible and intangible personal property thereof of every kind, including but not limited to vehicles, equipment, plants, works, franchises, and contract rights;

14. The term "facilities" shall mean any of the properties of the authority or any other real property or personal property controlled or operated by the authority which is used or intended to be used in the furtherance of any of its corporate purposes;

15. The term "indebtedness" shall mean any obligation for the payment of a fixed or determinable amount of money, enforceable by an action at law, including but not limited to bonds, bond anticipation notes, notes, contractual obligations, rentals owed as lessee, and other financial liabilities.

§ 577. Thousand Islands Bridge Authority. 1. A board to be known as "Thousand Islands Bridge Authority" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of five members who shall be appointed by the chairman of the board of supervisors subject to the approval of the supervisors.

2. The term of office of the members of the board hereby created who are first appointed shall be one, two, three, four and five years respectively, dating from January first, nineteen hundred thirty-three, and thereafter the term of office of members shall be five years. In addition, at any time when the authority has control of properties physically situated in Canada, the number of members of such board may, at the option of the supervisors, be increased to seven, any three of whom may be residents or citizens of Canada, with such additional two members to be appointed in the same manner. Members shall hold office until their successors are appointed and qualify. An appointment to fill a vacancy shall be for the unexpired term. The chairman, vice-chairman and secretary of such board shall be elected annually by such board. The members of the board shall be entitled to such compensation, if any, for their services as shall be fixed by the supervisors and shall be entitled to reimbursement for their actual and reasonable expenses incurred in the performance of their official duties. The power of such corporation shall be vested in and exercised by a majority of the members of such board then in office. Such board may delegate to one or more of its members, or to its agents and employees, such powers and duties as it may deem proper.

3. Such board and its corporate existence shall continue until all of its indebtedness created prior to April first, nineteen hundred eighty-one, and all notes and bonds issued as provided in this title shall have been paid in full, and thereafter until such existence is terminated by formal action of the supervisors, which shall specifically provide for the assumption by and agreement of the county to pay any and all liabilities, indebtedness and obligations of the authority.

4. The authority's right to own, control and operate properties or facilities situated within the Dominion of Canada depends and shall continue to depend upon grants in its favor by the federal government of Canada and the government of the province of Ontario, agreements between

the authority and such foreign governments, or political subdivisions thereof and by the laws of such foreign jurisdictions.

5. When all of its notes and bonds have been paid in full and all of its other liabilities and obligations have either been met or paid in full or assumed by the county and when the existence of the authority has been terminated by the supervisors as hereinabove provided, then all its rights and properties, so far as the same are located in the United States, including the right to fix, charge and collect tolls for the use of the American channel bridge or bridges, shall be conveyed without cost or expense to the county and all its rights and properties, so far as the same are located in the Dominion of Canada, shall be conveyed without cost or expense to the province of Ontario, or otherwise as the lieutenant-governor in council thereof may designate. Such conveyance to the province of Ontario may also be made in the same manner at any time when the authority's right to own or control or operate properties or facilities in Canada has been terminated even though its existence and right to operate in the state or county may be unimpaired.

§ 578. Powers of the authority. The authority shall have power and is hereby authorized:

1. To sue and be sued in courts of general jurisdiction, whether federal, state, or foreign, including but not limited to the supreme court of the state of New York;

2. To have a seal and alter the same as its pleasure;

3. To acquire real property or rights or easements therein by condemnation, pursuant to the condemnation law, and to acquire, purchase, hold, dispose of and use any real or personal property or any interest therein necessary, convenient or desirable to carry out any purpose described in this title and to sell, at public or private sale, convey, transfer, assign and dispose of any property or interest therein at any time required by it in the exercise of its powers or when it may determine it no longer needs the same for its corporate purposes, upon

such terms and for such consideration, if any, as it shall deem fit;

4. To lease, as lessor or as lessee, any real or personal property or any interest therein for any purposes consistent with any purposes described in this title or with the appropriate use of the authority's facilities or with the convenience of the public using such facilities, upon such terms and for such consideration, if any, as it shall deem fit, provided, however, that no lease shall be made for a term of more than ten years, including all renewal options, without the prior express and formal approval and consent of the supervisors;

5. To make by-laws for the management and regulation of its affairs, and to establish and change a fiscal year for its operations and financial reporting purposes;

6. To determine as matters of policy what courses of action are in the best interests of any bridge complex or other authorized purpose and to pursue the same;

7. To appoint and remove such officers, agents and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ and discharge counsel, auditors, engineers, architects and private consultants on a contract basis or otherwise for rendering professional or technical services and advice. To establish a practicable merit system for the appointment and promotion of its employees. Neither the authority nor any of its officers, employees, or agents shall be subject to the provisions of the civil service law nor be under the jurisdiction or subject to the rules of any civil service commission;

8. To use the agents, employees, facilities and equipment of the county or of any town or political subdivision within the county or of any board, agency or department thereof, to the extent agreement therefor may be reached with the appropriate governing body, and to pay such county, town or political subdivision its agreed proportion of the compensation or costs;

9. To make contracts and agreements and to execute all instruments necessary or convenient;

10. To construct, maintain, repair and operate the following bridges and approaches thereto and roads:

One or more bridges across the easterly or American channel of the Saint Lawrence river at a point at or near Collins landing in the town of Orleans, in Jefferson county, New York, from the mainland to Wellesley or Wells island.

One or more bridges across the westerly or Canadian channel of the Saint Lawrence river at a point at or near Ivy Lea in the county of Leeds, in the province of Ontario, from the mainland to Hill island.

One or more bridges across the International rift from a point on such Wellesley or Wells island to such Hill island.

One or more roads on such Wellesley or Wells island connecting any bridge across the American channel with any bridge across the International rift.

One or more roads on such Hill island connecting any bridge across the Canadian channel with any bridge across the International rift.

The approach roads connecting any of such bridges and tunnels with the state highway system in New York and with the nearest highway in the province of Ontario.

Any road connecting any of its facilities with any other or with any state, county or town road, or any public highway, or any road providing access for vehicles or pedestrians from one part of its real property to another;

11. To construct and maintain over, under, along or across the bridges and roads hereby authorized, telephone, telegraph or electric wires and cables, gas mains, water mains, and other mechanical equipment not

inconsistent with the appropriate use of the bridges and roads or such other facilities. To contract for such construction and maintenance and to lease the right to construct, maintain and/or use the same on such terms and for such consideration as it shall determine, provided, however, that no lease shall be made for a term of more than ten years, including all renewal option, without the prior express and formal approval and consent of the supervisors;

12. To construct and maintain such buildings, structures, improvements, roads, parking and other facilities as may be necessary or convenient, to contract for such construction and maintenance and to lease the right to construct, maintain and/or use such facilities on such terms and for such considerations as it shall determine, provided, however, that no lease shall be made for a term of more than ten years, including all renewal options, without the prior express and formal approval and consent of the supervisors;

13. To fix, charge and collect tolls for traffic across its bridges, subject to any approval thereof or limitations or regulatory restrictions thereto as required, fixed, or imposed by federal law of either the United States of America or Canada, which shall in the opinion of the authority be adequate to provide complete operation and maintenance of all its facilities and programs, repay any indebtedness of the authority as scheduled and agreed, establish and fund reserves for the repair, improvement or replacement of any or all of its facilities or the construction of any new facility which it may be authorized to construct under this title, or which shall accomplish as many of the foregoing purposes as may be practicable, and at a level which shall not jeopardize or be unreasonably competitive with any other similar toll charging facilities within a radius of fifty miles of Collins Landing, New York;

14. To construct, maintain, repair and operate within the county one or more facilities for the performance or display of any medium of the arts, including but not limited to concerts, plays, exhibitions, and any activity which could reasonably contribute to the cultural improvement of the communities in the area of its influence;

15. To construct, maintain, repair and operate within the county one or more facilities for conventions, meetings, sporting events of all kinds, museums, any activity which could reasonably contribute to the attraction of tourists and recreational development and industrial and commercial developments;

16. To cooperate with the Watertown airport commission, the city of Watertown, the county and any other agency or agencies to assist in the improvement, enlargement, development, operation and promotion of the Watertown international airport as an essential transportation facility for the county and the adjacent territory, and to agree with said city and county for the acquisition by the authority of such airport and to operate and manage such airport;

17. To cooperate with the county and the municipalities therein bordering on the Saint Lawrence river and on Lake Ontario and to assist in the study, development, operation and promotion of suitable port and docking facilities on said river and lake within or bordering the county and the improvement of water-borne transportation, and to construct, operate and manage such port and docking facilities as it may determine to be in the public interest;

18. To make studies and surveys of the needs of the county for the development and improvement of its transportation facilities, whether by land, air or water and to report the results thereof and its recommendations to the supervisors;

19. To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations;

20. To fix and collect any payments, fees and other charges for the use of any facility under its control other than bridges;

21. To borrow money and issue its negotiable bonds and notes or other obligations for any of its corporate purposes and to provide for and secure the payment thereof and to provide for the rights of the holders

thereof, subject to any limitations or conditions imposed thereon as elsewhere in this title provided;

22. To put into effect and maintain fiduciary bonds on its members and on any employee or agent who handles or controls money or assets of the authority which could be embezzled or stolen, in such amounts as the authority may deem reasonable or as requested by the county;

23. To put into effect and maintain insurance coverage protecting the authority and its individual members from liability for errors and omissions or from any act other than a willful violation of law which constitutes a crime;

24. To make payments to any domestic or foreign subdivision of government in which any of its facilities are situated, whether in lieu of taxes or otherwise, in such amounts and at such times as the authority may in its sole discretion determine, provided, however, that if the authority is at the time of reference operating both in the county and in the province of Ontario it shall endeavor in good faith to make any such payments to Canadian political subdivisions or municipalities and those to the county or subdivisions or municipalities of such county in proportion to its income generated in such different jurisdictions, as nearly as practicable, after taking into account any taxes which are required to be paid and any services or facilities which are required to be or are supplied for less than full payment;

25. To engage in such advertising and promotion of the bridges, bridge complex, and of the areas adjacent thereto and within a radius of fifty miles thereof, and of such of its other authorized purposes, as it in its sole discretion shall determine. Such promotion shall be deemed to include but not be limited to the promotion of tourism in the county and the southern portion of the province of Ontario, Canada, including the Front of Leeds and Lansdowne;

26. To cooperate and participate in or to initiate any public promotions, parades, special events, area promotions, historical pageants, and the like held within fifty miles of Collins Landing, New

York;

27. To invest any funds held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority in (a) obligations of the state or the United States government, or any political subdivision, agency and instrumentality of either; (b) obligations of the province of Ontario or of the federal government of Canada, or any political subdivision or agency and instrumentality of either, (c) obligations the principal and interest of which are guaranteed by the state or the United States government, or by the province of Ontario or the federal government of Canada, (d) certificates of deposit of banks or trust companies in this state or in the province of Ontario secured, if the authority shall so require, by obligations described in (a), (b), or (c) above or other marketable securities eligible as security for the deposit of trust funds under regulations of the Board of Governors of the Federal Reserve System with a market value equal at all times to the amount on deposit;

28. To combine any two or more of its purposes or facilities into a single project for financing purposes;

29. To use revenues, income or funds from any source to create, construct, reconstruct, support, operate, repair and maintain any one or more of its other purposes or facilities;

30. To make rules and regulations governing the use by the public of the bridges, the bridge complex, and any facility owned or operated by it;

31. To establish a code of ethics and rules regarding conflict of interest for the members of its board and its employees and agents;

32. To accept public or private gifts or grants of funds or property;

33. To engage in any activity permitted by law which in its judgment would be convenient for the public using any of its facilities;

34. To enter into agreements with the government of the Dominion of Canada or the province of Ontario, or any political subdivision of either, for the construction and operation in Canada of any of the bridges and facilities authorized hereunder and for the application of revenues collected by the authority for the use of the bridges and facilities operated by it in Canada;

35. To do in the province of Ontario anything it is authorized or permitted to do in the state of New York and which is permitted by the laws of such foreign jurisdiction;

36. To exercise any of its powers alone or in conjunction with any political subdivision;

37. To do all things necessary or convenient to carry out the powers enumerated above and to effectuate their general intent and purpose. The foregoing specification of powers shall not be construed as in any way limiting or denying the usual implied powers, it being the intent that the authority shall have full power to manage its affairs generally with the same freedom from the restrictions which apply to municipalities as do boards of directors of privately owned corporations.

38. Notwithstanding any of the foregoing, the authority shall not initially enter into any general activity category authorized in subdivisions fourteen through seventeen of this section, including but not limited to the construction or operation of any performing arts center, cultural improvement project, convention hall, sports arena, museum, industrial or commercial development project, airport, port, marina or docking facility, until and unless it has been formally requested to do so by the supervisors by resolution duly adopted.

§ 579. Transfer of real property to and by the authority. 1. Title to any real property which has heretofore been or may hereafter be acquired by or for the authority, whether with the proceeds of bonds issued pursuant to this title or otherwise, shall be vested in the authority.

2. Notwithstanding the provisions of any other law, the governing body or the supervisors of any county, the town board of any town, or the trustees of any village, without any election or meeting of the taxpayers or voters or other authorization are hereby authorized to convey to the authority any land, easement or interest in land, including a public highway, which the authority may deem necessary.

3. The authority shall have the right to convey to the state of New York or the province of Ontario, or to any county, town or front thereof, any road or any part of any road which lies within the territorial boundary of the grantee whenever such grantee shall undertake to maintain the same as a public highway. Notwithstanding the above the authority shall not convey real property in Canada to any unit of government in the United States nor shall it convey land in the United States to any unit of government in Canada.

§ 580. Moneys of the authority. Subject to the provisions of any agreement with the holders of any bonds or notes of the authority which may provide otherwise, and except as otherwise provided or authorized herein, all moneys of the authority from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in a bank or banks designated by the authority. The moneys in such accounts shall be withdrawn on the order of such person or persons as the authority may authorize. All deposits of such money shall, if required by the authority, be secured in such manner as the authority may determine. The treasurer of the county and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, reserves, sinking funds, investments and any other records and papers relating to its financial standing, or to accept from the authority, in lieu of such an examination, an external examination of its books and accounts made at the request of the authority.

Notwithstanding the foregoing provisions of this section or any other provision of this title to the contrary, the authority shall have the power to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment, and payment of any moneys of the authority, whether held in trust or otherwise, and to carry out such contract, and the provisions of such contract shall supersede any provisions of this chapter which are contrary thereto or inconsistent therewith.

§ 581. Bonds and notes of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such amount as may be necessary to pay the entire cost of financing any one or more of the purposes authorized pursuant to section five hundred seventy-eight of this chapter, or for the purpose of refunding any bonds or notes previously issued, and such cost of financing shall be deemed to include but not be limited to refunding of any bonds or notes previously issued and then outstanding as well as any redemption premium thereon and any interest to accrue to the date of redemption of such bonds or notes, such other expenses as may be incident to the issuance of such new bonds or notes, interest prior to and during construction and for six months after completion thereof, and such other expenses as may be deemed necessary or incident thereto for placing the same in operation. The issuance of such bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect of the same, shall be governed by the provisions of this title.

2. (a) Such bonds shall be authorized by resolution of the authority, subject to the approval of the supervisors, and shall bear such date or dates, and shall mature at such time or times, not exceeding fifty years from the date of issue, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. Such bonds may be sold at public or private sale for such price or prices as the authority shall determine.

(b) Whether or not the bonds or notes are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds or notes shall be and hereby are made negotiable instruments within the meaning and for all purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds for registration.

3. Any resolution or resolutions authorizing any bonds or notes may contain provisions which shall be a part of the contract with the holders of the bonds or notes as to:

(a) pledging the tolls and revenues of the authority to secure the payment of the bonds or notes;

(b) the rates of the tolls to be charged for use of the bridges and roads and the amounts to be raised in each year by tolls and the use and disposition of the tolls and other revenues;

(c) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) limitations on the right of the authority and its successors to restrict and regulate the use of the bridges hereby authorized;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds or notes then or thereafter to be issued may apply;

(f) limitations on the issuance of additional bonds or notes;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

4. Neither the members of the board nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

5. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders

as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the bridges or other facilities, and the custody, safeguarding and application of all moneys, and may provide that the bridges and roads shall be constructed and paid for under the supervision and approval of consulting engineers. Nothwithstanding the provisions of section five hundred eighty of this chapter, the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the authority to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as an operating cost of the authority. If the bonds shall be secured by a trust indenture, the bondholders shall have no power to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section five hundred eighty-six of this chapter upon a trustee appointed by bondholders.

6. The authority shall have the power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of such notes, including renewals thereof shall not exceed seven years from the date of issue of such original note. Such notes may be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale. Such notes shall be as fully negotiable as the bonds of the authority.

7. The authority shall also have the power and is hereby authorized to issue negotiable notes and renewals thereof in conformity with the

applicable provisions of the uniform commercial code provided, however, that it shall not issue such notes in an aggregate amount of more than one hundred thousand dollars without the prior approval of the supervisors by resolution duly adopted. Such notes may be issued for any corporate purpose of the authority. The maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note, unless otherwise approved by the supervisors. Such notes may be paid from any moneys of the authority available therefor and not otherwise pledged and the authority may pledge its revenues for the payment thereof. The resolution or resolutions authorizing such notes may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale. Such notes shall be as fully negotiable as the bonds of the authority.

§ 582. Agreement of the state. The state does pledge to and agree with the holders of any bonds that the state will not authorize the construction of any causeway, bridge, tunnel, road, highway or other connection for vehicular traffic, which will be competitive with the bridges authorized pursuant to this title nor will it limit or alter the rights hereby vested in the authority to establish and collect tolls and fix and collect payments, charges and fees or in any way impair the rights and remedies of bondholders; provided that a causeway, bridge, tunnel, road, highway or other connection for vehicular traffic shall be considered as competitive only if it shall form a connection for vehicular traffic between the state and the province of Ontario, Canada, across the Saint Lawrence river within a distance of thirty miles from the bridges authorized pursuant to this title.

§ 583. State and county not liable on bonds or notes. The bonds, notes, and other obligations of the authority shall not be a legal or moral debt of the state, nor a legal debt of the county, and neither the state nor the county shall be liable thereon, nor shall the same be payable out of any funds other than those of the authority, unless the county voluntarily and formally assumes liability therefor. No recent action by the state in recognizing any legal or moral obligation for any indebtedness of any other authority shall in any way be construed as creating any liability for any indebtedness of this authority.

§ 584. Bonds as legal investments. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings institutions and associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries in the state and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized. Notwithstanding any other provision of law, the notes of the authority are hereby made securities in which the county may properly and legally invest funds, including capital in its control or belonging to it, when approved by the supervisors.

§ 585. Bonds and notes to be tax exempt. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities, or upon the income therefrom.

2. Any bonds or notes issued pursuant to this title, together with the

income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

§ 586. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding by instrument or instruments, filed in the office of the clerk of the county of Jefferson and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of the bonds then outstanding shall, in his or its own name:

(a) by suit, action or special proceeding, enforce all rights of the bondholders, including the right to require the authority and the board to collect tolls and rentals adequate to carry out any agreement as to, or pledge of, such tolls and rentals, and to require the authority and the board to carry out any other agreements with the bondholders and to perform its and their duties under this title;

(b) bring suit upon the bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(e) declare all bonds due and payable and if any default shall be made good to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceedings shall be laid in Jefferson county.

4. Before declaring the principal of all bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver who may enter and take possession of the bridges and road then under the jurisdiction of the authority or any part or parts thereof and operate and maintain the same and collect and receive all tolls, rentals and other revenues thereafter arising from the American channel bridge in the same manner as the authority itself might do and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any tolls, rentals and other revenues derived from the American channel bridge.

6. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

§ 587. Actions against the authority. 1. In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee, agent or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice.

2. Except in an action for wrongful death, no action or special proceeding shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor until at least

thirty days have elapsed since the notice of claim referred to in the preceding subdivision was so served upon the authority, and the complaint or petition in any such action or special proceeding shall contain an affirmative allegation to that effect and must also allege that the authority has neglected or refused to make an adjustment or payment of such claim or otherwise satisfy the same for thirty days after such service. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

3. All actions by or against the authority of whatsoever nature shall be brought in the county or where it has facilities involved in the action.

§ 588. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 589. Construction. This title shall not be considered as a new act, but a restatement, clarification, amendment and continuation of title four as heretofore amended; nor shall this title affect or impair any right presently existing, including by way of specification but not of limitation, the rights of the county in and to the properties, franchises, and rights of the authority.

§ 590. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

§ 591. Membership, quorum, removal, funds and accounts, and eminent domain taking. Notwithstanding the provisions of any general, special or local law, or any other provision of this chapter:

1. No public officer or employee shall be ineligible for appointment as a member of the board, and any public officer or employee may accept such appointment and serve as such member without forfeiture of any other public office or position of public employment by reason thereof;

2. A majority of the whole number of the members of the board shall constitute a quorum at a meeting duly held at a time fixed by law or by any by-law duly adopted by such board, or as fixed at any previous meeting duly held, or at any meeting duly held upon reasonable notice to all of the members of such board, or at any duly adjourned meeting of any such meeting, and not less than a majority of the whole number of the members of such board may perform and exercise the powers authorized and provided in this title, and the words "whole number" shall be construed to mean the total number which such board would have were there no vacancies and were none of the members disqualified from acting, and shall mean either five or seven, depending only upon the circumstances set forth in section five hundred seventy-seven;

3. Every member of the board shall be removable by the chairman of the board of supervisors, with the consent of the supervisors, for inefficiency, neglect of duty, or misconduct in office, provided, however, that such member shall be given a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice;

4. The authority is empowered to establish such funds and accounts as it may deem necessary subject to such agreements as it shall conclude with the holders of its bonds or notes or other obligations;

5. When real property of the authority is taken in the exercise of the power of eminent domain, just compensation shall be made to the authority in the same manner, to the same extent and subject to the same limitations as though it were private property.

§ 592. Reports of the authority. In addition to any report required to be made to the state pursuant to any provision of law, the authority shall furnish to the chairman of the board of supervisors, the clerk of such board, the county attorney, the county treasurer, and the chairman and members of the planning committee of such board, the following reports:

1. Within ninety days after the end of its fiscal year, its annual report, which shall be a complete and detailed report setting forth; (a) its operations and accomplishments; (b) its receipts and disbursements, or revenues and expenses, during such fiscal year in accordance with the categories or classifications established by the authority for its own operating and capital outlay purposes; (c) its assets and liabilities at the end of its fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds; and (d) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year;

2. Within thirty days after the end of each calendar month, a condensed monthly financial statement;

3. Not less than sixty days before the commencement of its fiscal year, in the form submitted to its members, budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year;

4. Within thirty days after receipt thereof by the authority, a copy of the final report of every external examination of the books and accounts of the authority.

TITLE 7

NASSAU COUNTY BRIDGE AUTHORITY

§ 651. Short title. This title may be cited as the "Nassau county bridge authority act."

§ 652. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "authority" shall mean the corporation created by section six hundred fifty-three of this chapter;

2. The term "county" shall mean the county of Nassau;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interests in land, including lands under water and riparian rights, and any and all things and rights usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate;

6. The term "Reynolds channel" shall mean the waterway on the northerly side of the island of Long Beach, extending easterly from East Rockaway inlet and includes said inlet;

6-a. The term "Bannister creek" shall mean the waterway known by that name in the county of Nassau connected with Reynolds channel.

7. The term "Atlantic Beach bridge" shall mean the existing bridge known by that name crossing Reynolds channel;

8. The term "project" shall mean Atlantic Beach bridge and any new bridge constructed by the authority across Reynolds channel, or either of said bridges, and any park, playground, beach or other recreational facility created or acquired by the authority, including any land within the county of Nassau which has been acquired by the authority for such purposes, together with such structures, appurtenances, facilities and approaches as may be necessary or convenient in connection therewith;

9. The term "approaches" shall mean all structures necessary or convenient to give access to the bridge from connecting streets, roads and parkways;

10. The term "connections" shall mean all roads, streets, parkways or avenues connecting with the approaches.

11. The terms "note" or "notes" shall mean bond anticipation notes as authorized in this title.

§ 653. Nassau county bridge authority. A board to be known as "Nassau county bridge authority" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members who shall be appointed by the county executive of the county with the approval of the county legislature. The original appointments shall be made in such manner that the term of one member shall expire on the December thirty-first next after the appointment of the board and one member on the second December thirty-first after the appointment of the board and one member on the third December thirty-first after the appointment of the board. Their successors shall be appointed one annually for terms of five years each from the first day of January following the end of the term of his or her predecessor. Each member shall continue to serve until the appointment and qualification of his or her successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The county executive may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him or her a copy of the charges against him or her and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days' notice. The members of the board shall be entitled to such compensation, if any, for their services as shall be fixed by ordinance of the county legislature and shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue until March first of the year nineteen hundred eighty-five, and thereafter until all its liabilities have been met and its notes and bonds have been paid in full or such liabilities or notes and bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the county.

§ 654. Powers of the authority. The authority shall have power

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes;

4. To acquire in the name of the county by purchase or condemnation, and use real property necessary or convenient for its corporate purposes, including real property of municipal corporations, public utilities and railroads. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the eminent domain procedure law, or in the Nassau county administrative code. The power to acquire real property hereby granted shall include the power to acquire Atlantic beach bridge and any or all rights or franchises connected with the operation of said bridge which it may be necessary or convenient for the authority to acquire;

* 4. a. To acquire in the name of the county by purchase, lease or gift, and use real property necessary or convenient for its corporate purposes, including real property of municipal corporations, public utilities and railroads except that no real property may be acquired by the authority for any park, playground, beach or other recreational facility which is not owned by the county of Nassau on April first, nineteen hundred seventy-three, and such real property must be located within the county of Nassau and, in addition, must be located within one mile and one-half from any point of the Atlantic Beach bridge. The power to acquire real property hereby granted shall include the power to

acquire Atlantic beach bridge and any or all rights or franchises connected with the operation of said bridge which it may be necessary or convenient for the authority to acquire;

b. The Nassau county bridge authority, having been granted the power to acquire real property owned by the county of Nassau for a park, playground, beach or other recreational facility, shall have the power and authority with respect to such property, to pay or transfer out of any authority funds available to it, annual sums in lieu of taxes to the affected taxing jurisdiction, in order that no inequitable loss of revenue shall be suffered by virtue of such park, playground, beach or other recreational facility; provided further, that the amount so paid or transferred for any year shall not exceed the sum last levied for the benefit of such taxing jurisdiction as an annual tax on such property prior to the time of its acquisition for such purpose or purposes;

c. As used in this subdivision, the term "taxing jurisdiction" means any municipal corporation or district corporation, including any school district or any special district, having the power to levy and collect taxes and benefit assessments upon real property which has been acquired by the authority for park, playground, beach or other recreational facility purpose, or in whose behalf such taxes or benefit assessments may be levied or collected.
* NB Expired June 30, 1976

5. To make by-laws for the management and regulation of its affairs, and subject to agreements with the noteholders and bondholders, for the regulation of the use of the project and the establishment and collection of tolls, fees, rentals and other charges;

6. With the consent of the county to use agents, employees and facilities of the county, including the county attorney, paying to the county its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To make contracts, and to execute all instruments necessary or convenient;

9. To construct a new bridge across Reynolds channel, together with the approaches thereto, and all structures and facilities necessary or convenient in connection therewith. Such new bridge shall be in the county of Nassau within one-half mile of the Atlantic beach bridge. Pursuant to an agreement with, or the consent of, the city of New York, the authority shall have power (but shall be under no obligation except as provided in any such agreement), to design, construct, reconstruct, widen, grade, surface and otherwise improve, existing or new roads, streets, avenues, parkways or service roads in said city as approaches to or connections with said new bridge on lands or rights of way now owned or hereafter acquired by said city. Such agreement may provide for the improvements to be made by the authority and the city, respectively, for the acquisition of land or rights of way by the city, for the part or share of the cost of such improvements and acquisitions to be paid by the authority and the city, respectively, and for the manner of payment thereof. The city shall maintain all the roads, streets, avenues, parkways and service roads so improved and shall pay the cost and expense thereof.

9-a. To relocate Bannister creek to the east of its present location, in case such relocation is necessary or desirable.

10. To reconstruct, improve, maintain and operate the project or part or parts thereof;

11. After the acquisition of the Atlantic Beach bridge and after the construction of a new bridge over Reynolds channel in its discretion to demolish and take down the Atlantic Beach bridge.

12. To accept grants, loans or highway contributions from the United States, the state of New York, or any agency or instrumentality of either of them and to expend the proceeds for any corporate purposes;

13. To fix and collect tolls, fees, rentals and other charges for the use of the project subject to and in accordance with such agreements with noteholders and bondholders as may be made as hereinafter provided;

14. To construct and maintain over, under, along, within or across the project telephone, telegraph, or electric wires and cables, gas mains, water mains and other mechanical equipment not inconsistent with the appropriate use of the project and to contract for such construction and to lease the right to construct or use the same on such terms and for such considerations as it shall determine; provided, however, that no such lease shall be made except with the approval of the county legislature nor for a period of more than twenty years from the date when it is made;

15. To construct and maintain facilities for the public, not inconsistent with the use of the project, to contract for such construction, and to lease the right to construct or use such facilities on such terms and for such considerations as it shall determine; provided, however, that no such lease shall be made for a period of more than five years except with the approval of the county legislature, nor, with such approval, for a period of more than twenty years from the date when it is made.

16. To lease property of the authority to the Atlantic Beach fire district or its designee for the purpose of constructing and operating a rescue station on such property; provided, however, that no such lease shall be made except with the approval of the county legislature nor for a period of more than thirty years from the date when it is made.

§ 655. Civil service status of officers and employees. Officers and employees of any board, commission or department of the county may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the county who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the county under the rules of the county civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the county civil service commission.

§ 656. Acquisition of land by the county for the authority. The county shall have power to acquire by purchase or by condemnation title in its name to any real property which may be needed or convenient for the project or in connection therewith, including real property of municipal corporations, public utility corporations and railroad corporations. Any municipal corporation may convey, with or without consideration, to the county any right, title or interest in real property without any election or vote of the electors, taxpayers or freeholders. Payment for real property so acquired by the county may be made by the authority. The power to acquire real property hereby granted shall include the power to acquire the Atlantic beach bridge and any or all rights or franchises connected with the operation of said bridge which it may be necessary or convenient for the authority to acquire. The power hereby conferred upon the county shall not limit or restrict the power of the authority itself to acquire real property in the name of the county.

§ 657. Grant of use of land by the county to the authority and agreements between them. 1. The county shall have power and authority by resolution of the county legislature to grant to the authority, without consideration, the use of any real property of the county needed or convenient for the project or in connection therewith.

2. In connection with any new bridge, park, playground, beach or other recreational facility to be constructed by the authority, the authority and the county may enter into an agreement determining the real property

necessary for such bridge or project and for the approaches and connections thereto, and agreeing on the parts of such real property of which the authority shall have the use; determining what real property shall be acquired in the name of the county for the bridge or project and its approaches and connections, and what portion of the cost and expense of acquiring such real property shall be paid by the authority and the county respectively; determining the extent of the park, playground or other recreational facility and the approaches and connections, and agreeing on what parts thereof shall be constructed by the authority as part of the project and what parts thereof shall be constructed by the county as part of the connections, and agreeing on the portion of the cost of such construction to be borne by them, respectively; agreeing on what parts of said park, playground or other recreational facility and approaches and connections shall, after construction, be maintained by and at the cost of the authority and of the county, respectively; and determining and agreeing upon any other like or different matters relating to the respective rights and duties of the county and the authority in respect to the project. The authority may pledge any such agreement to secure notes and bonds and thereafter such agreement shall not be modified except as may be permitted by the agreement with the bondholders and noteholders.

3. Real property may be acquired, construction of park, playground or other recreational facilities and approaches and connections may be done, the payment of the cost of such acquisition or construction may be made, or such park, playground or other recreational facilities and approaches and connections may be maintained, either by the state of New York or by the county, as may be agreed between them, and any agreements with the authority made by the county in respect of such acquisition, construction, payment or maintenance may be carried out and performed either by the county or the state as may be agreed between them.

§ 658. Consent and transfer by the state. The state of New York does hereby agree to the use by the authority of any lands under the waters of Reynolds channel or of Bannister creek necessary or convenient for the project or in connection therewith. The state of New York does hereby release and transfer to the county any and all interest which it now has or may hereafter have in and to the Atlantic Beach bridge.

§ 659. Construction contracts. The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the county, except that where the estimated expense of a contract does not exceed two thousand five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

§ 660. Moneys of the authority. All moneys of the authority shall be paid to the treasurer of the county as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by said treasurer on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The comptroller of the county is hereby authorized to audit the accounts of the authority. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its notes and bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of notes and bonds or in any way to secure notes and bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of notes and bonds or in any way to secure notes and bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

The accounts of the authority shall be subject to the supervision of the state comptroller.

§ 661. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any corporate purpose in the aggregate principal amount of not exceeding an amount fixed by the county legislature from time to time by ordinance. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, every issue of the bonds shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular tolls or revenues.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such rate or rates, as the board shall determine and shall be payable semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine.

3. The bonds may be issued for any corporate purpose of the authority.

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

(a) Pledging all or any part of the tolls and revenues of the project to secure the payment of the bonds subject to such agreements with bondholders as may then exist;

(b) the rates of the tolls to be charged, and the amounts to be raised in each year by tolls, and the use and disposition of the tolls and other revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of the project in connection with which such bonds are issued;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from any project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section six hundred sixty-six hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section hereof or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

5. It is the intention hereof that any pledge of tolls or other revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

6. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

§ 661-a. Notes of the authority. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions, or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale at not less than par and shall bear such rate or rates of interest as the board shall determine.

Such notes shall be as fully negotiable as the bonds of the authority. In the case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

§ 662. Agreements of the state. 1. The state of New York does pledge to and agree with the holders of the notes and bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project, to establish and collect charges and tolls and to fulfill the terms of any agreements made with the holders of the notes and bonds, or in any way impair the rights and remedies of the note and bondholders, until the notes and bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the note and bondholders, are fully met and discharged.

2. The state of New York does covenant and agree with the holders of the notes and bonds that no tunnel, bridge, parkway, causeway, street, road, highway or other connection for vehicular traffic which will be competitive with the project will be constructed or maintained until the notes and bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the note and bondholders are fully met and discharged; provided that a tunnel, bridge, parkway, causeway, street, road, highway or other connection for vehicular traffic shall be considered as competitive with the project only if it shall form a connection for vehicular traffic over, under or across Reynolds channel west of seventy-three degrees and forty minutes of west longitude.

§ 663. State and county not liable on notes and bonds. The notes and bonds and other obligations of the authority shall not be a debt of the state of New York or of the county, and neither the state nor the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 664. Notes and bonds legal investments for public officers and fiduciaries. The notes and bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in notes and bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The notes and bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of notes and bonds or other obligations of this state is now or may hereafter be authorized.

§ 665. Tax contract by the state. It is hereby found, determined and declared that the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, for the improvement of their health, welfare and prosperity, and for the promotion of their traffic and recreation, and that said purposes are public purposes and the project is an essential part of the public highway, park and recreational system and the authority will be performing an essential governmental function in the exercise of the powers conferred by this title, and the state of New York covenants with the purchasers and with all subsequent holders and transferees of notes and bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the notes and bonds that the notes and bonds of the authority issued pursuant to this title and the income therefrom, and all moneys, funds, tolls and other revenues pledged to pay or secure the payment of such notes and bonds, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

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

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect tolls and revenues adequate to carry out any agreement as to, or pledge of, such tolls and revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Nassau.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the tolls or other revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of Atlantic Beach bridge or of any real property necessary or convenient in connection with Atlantic Beach bridge or any new bridge that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all tolls and other revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any tolls, rentals and other revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess

all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 666-a. Limitation of liability. Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance or operation of the properties or any of the improvements or from carrying out any of the powers expressly given in this title.

§ 666-b. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. An action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limit established by, and in compliance with all requirements of section fifty-e of the general municipal law.

3. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 667. Title not affected if in part unconstitutional. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 668. Inconsistent provisions in other acts superseded. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

TITLE 8

OGDENSBURG BRIDGE AUTHORITY

717. Inconsistent provisions in other acts superseded.

§ 700. Short title. This title may be cited as the "Ogdensburg bridge authority act."

§ 701. Definitions. As used in this title, the following words and terms shall have the following meanings, unless some other meaning is plainly intended.

1. The word "authority" shall mean the corporation created by section seven hundred two of this chapter.

2. The word "board" shall mean the members of the authority.

3. The word "bridge" shall include approaches and all construction necessary to give access to the bridge from connecting roads, toll houses, toll booths and such facilities as may be necessary to the collection of tolls, buildings and structures necessary for the housing of customs and immigration officials and such other buildings and appurtenances necessary to the operation of the bridge as an international toll bridge.

§ 702. Ogdensburg bridge authority. A board to be known as "Ogdensburg bridge authority" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of seven members who shall be appointed by the governor. The terms of office of the members shall be five years except as hereinafter provided. Of the two members first appointed to fill a vacancy created by reason of the increase in the membership of the authority to seven in number one shall be appointed for an initial term of three years and one for an initial term of four years. Each of the above terms provided for shall commence on the first day of January in the year in which the vacancy occurs. Each member shall hold office until the appointment and qualification of his successor. An appointment to fill a vacancy shall be for the unexpired term. The board shall elect annually a chairman, a vice-chairman, a secretary and a treasurer of the board. The members of the board shall not be entitled to compensation for their services but shall be entitled to reimbursement for all expenses necessarily incurred in the performance of their duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. The board may delegate to one or more of its members or to its officers, agents or employees such powers and duties as it may deem proper. When all its liabilities shall have been met and its bonds shall have been paid in full, all its rights and properties, so far as the same are located in the United States of America, including the right to charge tolls, shall be conveyed without cost or expense to the state of New York, and all its rights and properties so far as the same are located in the Dominion of Canada, including the right to charge tolls, shall be conveyed without cost or expense to the province of Ontario or otherwise disposed of in accordance with the laws of the Dominion of Canada. The authority and its corporate existence shall continue until all its liabilities shall have been met and its bonds paid in full and until all its rights and properties shall have been conveyed as hereinabove provided.

§ 703. Powers of the authority. The authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes;

4. To acquire, by purchase or condemnation pursuant to the condemnation law, such real property or rights or easements therein, as may be necessary or proper for the construction or operation of the bridge, and to sell any such property not needed for its corporate purposes;

5. To make by-laws for the management and regulation of its affairs;

6. To contract for professional services and to employ consulting engineers for the design of the bridge and supervision of its construction, and to employ legal consultants in both the United States and Canada; to appoint officers, agents and employees and engineers, and fix their compensation;

7. To make contracts and to execute all instruments necessary or convenient;

8. By contract or contracts or by its own employees to construct and to maintain and operate a bridge across the Saint Lawrence river at or near the city of Ogdensburg, in the county of Saint Lawrence, New York, and the approach roads which are necessary to connect the bridge with the state highway system in the state of New York at a point and in a manner approved by the state department of transportation and with the nearest highway in the province of Ontario and to acquire any property or rights of any person, firm or corporation deemed by the authority to be necessary or desirable in connection with the construction or operation of the bridge;

9. To charge tolls for the use of the bridge at rates sufficient to provide for payment of all expenses of the authority, the conservation, maintenance and operation of the bridge, the payment of the interest on and the principal of all bonds issued by the authority under the provisions of this title, and reserves for such purposes, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

10. To exercise in Canada all rights, powers and authority which shall be granted or permitted to the authority by the proper authorities of Canada or of the province of Ontario, including the entering upon lands and acquiring, condemning, occupying, possessing, and using such real estate and other property in Canada as may be needed by the authority in carrying out the powers herein granted;

11. Prior to the opening of the bridge for automotive traffic, to purchase, maintain and operate all or any ferries across the Saint Lawrence river within five miles of the location which shall be selected for said bridge, subject to the conditions and limitations contained in this title, and subject to the approval of the proper authorities in the government of Canada, subject to the approval of the comptroller of the state of New York and subject to the approval of the form of contract by the attorney general of the state of New York. Nothing contained in this title shall require the authority or its successors to maintain or operate any ferry or ferries purchased under the authority of this title and upon opening of the bridge for automotive traffic such automotive ferry or automotive ferry operations shall be terminated, but nothing in this article shall prohibit any party from operating a non-automotive ferry between Ogdensburg and Prescott. Upon the termination of such ferry or ferries operations any ferry or ferries so purchased, with the appurtenances and property thereto connected and belonging, shall be sold in such manner, at such time or times and for such amounts as shall be approved by the director of the budget of the state of New York. The authority and its successors may fix such rates and tolls for the use of such ferry or ferries as it may deem proper, subject to the same conditions provided by this title as to tolls for traffic over the bridge. All tolls collected for the use of the ferry or ferries and the proceeds from any sale or disposition of any ferry or ferries shall be used, as far as may be necessary, to pay the cost of maintaining, repairing and operating the same, and any residue thereof shall be paid to the state comptroller as agent of the authority and deposited by him to the credit of the Ogdensburg bridge fund;

12. To construct and maintain over, under, along or across the bridge and approach roads telephone, telegraph or electric wires and cables, gas mains, water mains, and other mechanical equipment not inconsistent with the appropriate use of the bridge and approach roads, and to contract for such construction and to lease the right to construct or use the same on such terms and for such considerations as it shall determine; provided, however, that no such lease shall extend for a period of more than twenty years or beyond the final date of maturity of any bonds issued and outstanding under the authority of this title;

13. To purchase, construct and maintain facilities for the public, consistent with the use of the bridge, to contract for such construction, and to lease the right to construct or use such facilities on such terms and for such considerations as it shall determine; provided, however, that no lease shall be made for a period of more than thirty years from the date when it is made;

14. To issue its negotiable bonds and to provide for the rights of the holders thereof;

15. To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations;

16. To accept grants of money or real or personal property from the federal or state governments or agencies thereof, or from municipal corporations, or any other lawful source for its corporate purposes;

17. To do all things necessary or convenient to carry out the powers expressly given in this title except that the construction of the bridge herein authorized shall not be begun or any property acquired until after the necessary consents and approvals of the federal government and of the government of Canada or any subdivision or agency thereof having jurisdiction shall have been obtained.

18. To establish, maintain and operate, either by contract or contracts or by its own employees, a public bus transportation system, from an area in the vicinity of Sophia street in the city of Prescott, province of Ontario, Canada, over and across the Ogdensburg bridge to an area in the vicinity of Saint Lawrence avenue in the city of Ogdensburg, county of Saint Lawrence, state of New York, in a manner to be determined by the authority subject to the laws, rules and regulations pertaining to public bus transportation of the government of Canada, province of Ontario and the city of Prescott and subject to the laws, rules and regulations pertaining to public bus transportation of the government of the United States of America, state of New York, county of Saint Lawrence and the city of Ogdensburg.

19. To rehabilitate and modernize the building known as "Garden Cottage" and utilize, operate and maintain such building as a port facilities building including therein suitable accommodations for the authority's administration headquarters, a tourist information and service center and other office accommodations which may be leased or rented for public or private purposes.

20. To assist and cooperate with the Ogdensburg port authority and other official agencies in promoting the development and use of the Ogdensburg bridge, harbor and port facilities and when requested by it to make available to the Ogdensburg port authority at a nominal rental suitable accommodations in the port facilities building for the administration headquarters of such port authority.

§ 703-a. Financing ferries. 1. In addition to other powers granted to the authority under the provisions of this title the authority shall have power to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code in such amount as may be necessary to pay the cost of the ferries purchased by it under the provisions of this title, the costs of any improvements thereof and such expenses as may be deemed necessary or incident to such financing.

2. The issuance of such notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect of the same, shall be governed by the provisions of this title which relate to bonds in so far as the same may be applicable.

3. Neither the authority nor the state of New York or any agency, department or instrumentality thereof shall proceed with the construction of any bridge across the Saint Lawrence river at or near the city of Ogdensburg, in the county of Saint Lawrence, New York, unless all such notes shall have theretofore been paid and cancelled either from the proceeds of bonds issued under the provisions of this title or from any other moneys which may be available for such purpose.

In case the authority shall issue its bonds under the provisions of this title, the amount required for making such payment shall be deemed to constitute the purchase price of the ferries.

§ 703-b. Tolls, rules and regulations. The authority shall have power to make rules and regulations for the preservation and use of the bridge and for the payment and collection of tolls, fees, fares and special charges. Until such time as the state of New York is fully reimbursed by the authority for the total amount of money advanced by the state to the authority, no rule, regulation, schedule or rate of tolls, fees, fares, special charges or rentals shall become effective or controlling unless approved by the director of the budget of the state of New York.

§ 704. Consent of state. 1. The state of New York hereby authorizes the commissioner of general services to consent, in his discretion, to the use and occupation by the authority of any unappropriated lands of the state of New York including the land under the waters of the Saint Lawrence river, necessary for the construction and operation of the bridge and approach roads herein authorized upon such terms and conditions as such commissioner may deem appropriate.

2. The state hereby further authorizes the commissioner of general services, with the consent of the commissioner of mental hygiene and approval of the director of the budget, to grant to the authority a portion of the lands of the Saint Lawrence state hospital located in the county of Saint Lawrence, upon such terms and conditions, including consideration, as such commissioner may determine. The portion of such lands of such hospital herein authorized to be granted shall be taken from the westerly end of the hospital property on the northerly side of Proctor avenue and to be bounded on the south by the northerly line of Proctor avenue, on the north and northwest by the high water line of the Saint Lawrence river, on the west by the westerly boundary line of said hospital property and on the east by a line running from the northerly line of Proctor avenue northerly to the high water line of the Saint Lawrence river so as to contain within said bounds approximately

seventy-five acres of land together with a triangular parcel of land between Proctor avenue and the northerly line of arterial route thirty-seven, bounded on the west by a westerly boundary line of said hospital grounds, on the south and east by the northerly boundary of arterial route thirty-seven, and on the north by the south side of Proctor avenue, excepting therefrom any and all lands taken and devoted to highway purposes of the state of New York. The department of transportation shall make an accurate survey of the parcels so to be granted and the grants to the authority may describe the land according to such surveys. The commissioner of general services in determining the amount of the consideration for such grants shall take into account the obsolescence of the improvements on the land conveyed, the cost to the authority, as estimated by the commissioner of transportation, of demolition of such facilities as are considered obsolete, and providing such improvement to the Saint Lawrence state hospital property as the commissioner of mental hygiene with the approval of the director of the budget, deems necessary in consequence of the grants herein authorized and such grants shall contain appropriate conditions to ensure the providing of such improvements by the authority at its cost and expense. Actual payment of the consideration for the grants, as determined by the commissioner of general services, shall not be required as a condition precedent to the grants, but the amount thereof shall be certified by the commissioner to the state comptroller and shall be deemed an advance to the authority by the state to be repaid in the same manner as provided in section seven hundred fifteen of this article for repayment of appropriations made by the state to the authority.

§ 705. Moneys of the authority. 1. All moneys received by the authority from the bridge and all other moneys received from any other source whatsoever pertaining to the operations of the authority shall be paid to the state comptroller as agent of the authority and deposited in a separate bank account or accounts to be known as the "Ogdensburg bridge fund. " The moneys in such fund shall be available subject to the approval of the director of the budget of the state of New York for payment of any and all costs and expenditures as may be necessary for the corporate purposes of the authority. The moneys of the Ogdensburg bridge fund when made available shall be paid from such fund on the audit and warrant of the comptroller on vouchers approved solely by the chairman of the authority or his properly designated officer.

2. All moneys in such fund in excess of the sum of two hundred and fifty thousand dollars shall on the first day of each month be paid by the authority to the state comptroller provided, however, that effective June thirty, nineteen hundred seventy-eight, the director of the budget and the authority shall establish within the provisions of a written agreement between the authority and the director providing for the repayment to the state by the authority of state advances the maximum amount of moneys which the authority may retain in the Ogdensburg bridge fund. The comptroller is hereby authorized to receive from the authority such amounts as shall be paid to the comptroller pursuant to the provisions of this section and to credit all such amounts to the capital construction fund. Upon certification by the state comptroller that all moneys due the state have been paid in full, the remaining balance of such fund shall be available to such authority and may be used by such authority for any corporate purpose. The accounts of the authority shall be subject to examination by the state comptroller. The state comptroller is hereby authorized and empowered to examine the accounts and books of the authority at such periods of time as he may deem necessary, including its receipts, disbursements, contracts, leases and any other matters relating to its financial standing.

3. Nothing in this section shall prevent the authority and the state from entering into an agreement for the establishment of a revolving fund to be used to pay part of or all of the authority's operating expenses. This revolving fund shall be initially funded with moneys advanced from the Ogdensburg bridge fund and shall be replenished from time to time from such funds upon the audit and warrant of the comptroller.

§ 706. Bonds of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code in such amount as may be necessary to pay the cost of the bridge and approach roads herein authorized and the cost of all land, property, rights, easements and franchises deemed necessary for the construction thereof, and to pay interest prior to and during construction and for one year after completion of construction, for reconstruction and upgrades to the bridge, the purchase price of the ferry or ferries authorized to be acquired, the repayment of any advances or appropriations made by the state of New York to the authority and such other expenses as may be deemed necessary or incident to the financing and to the construction of the bridge and approach roads, and to placing the same in operation, and infrastructure, upgrade and expansion at the Ogdensburg international airport.

2. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for the purpose of refunding bonds of the authority theretofore issued, but the aggregate principal amount of such refunding bonds shall not exceed the aggregate principal amount of the bonds to be refunded and the amount of the accrued interest and the premium required to be paid upon such bonds by reason of redemption before maturity.

3. The bonds shall be authorized by resolution of the board. The bonds shall be dated, shall bear interest at such rate or rates not exceeding six per centum per annum, shall mature at such time or times all as may be determined by the authority and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as

if he had remained in office until such delivery, and any bond may bear the facsimile signature of, or may be signed by, such person as at the actual time of the execution of such bond shall be duly authorized to sign such bond although at the date of such bond such person may not have been such officer. The bonds may be issued in coupon form or in registered form or both coupon form and registered form as the authority may determine, and provisions may be made by the authority for the registration of any coupon bond as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the exchange of either coupon bonds or registered bonds without coupons for an equal aggregate principal amount of other coupon bonds or registered bonds without coupons or both of any denomination or denominations. Notwithstanding any other provisions of this title or any recitals in the bonds issued under the provisions of this title, all such bonds shall be deemed to be negotiable instruments under the laws of the state of New York. The authority may sell such bonds at public or private sale, to the bidders who shall offer the lowest interest cost to the authority, at such a price, not less than ninety-five per centum of their value, that the interest cost to maturity for the money received for any issue of such bonds shall not exceed six per centum per annum. Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued by the authority under the provisions of this title without any other proceedings or the happenings of any other conditions or things than those proceedings, conditions or things which are specifically required by this title.

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

(a) pledging the tolls and revenues of the authority to secure the payment of the bonds;

(b) the rates of the tolls to be charged for use of the bridge, the amounts to be raised in each year by tolls, and the use and disposition of the tolls and other revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the rights of the authority to restrict and regulate the use of the bridge;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

(f) limitations on the issuance of additional bonds;

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

(h) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

5. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the bridge and the ferry or ferries, and the custody, safeguarding and application of all moneys, and may provide that the bridge and approach roads shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding any other provisions of this title, the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the bridge and the ferry or ferries to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repair of the bridge. If the bonds shall be secured by a trust indenture, the bondholders

shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess, in addition to other powers granted by such trust indenture, all of the powers which are conferred by section seven hundred seven of this title upon a trustee appointed by bondholders.

6. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

7. Neither the members of the authority nor any person executing any bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority shall have power out of any funds available therefor to purchase any of the outstanding bonds at a cost not exceeding the redemption price of the bonds purchased as fixed by the resolution of the authority which authorized their issuance. All bonds so purchased shall be cancelled.

9. No bonds shall be issued by the authority, except with the approval and consent of the comptroller of the state of New York, until and unless assurance, by appropriate legislation, agreements, or otherwise, shall have been obtained that Canada, the province of Ontario and the municipality or municipalities in which the Canadian terminal of the bridge is to be located will exempt the property and income of the authority from taxation so long as such bonds are outstanding.

§ 707. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any of the bonds after the same shall have become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding, by an instrument or instruments in writing filed in the office of the clerk of the county of Saint Lawrence and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of the bonds then outstanding shall, in his or its own name

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect tolls and revenues adequate to carry out any agreement as to, or pledge of, such tolls and revenues, and to require the authority to carry out any other agreements with the bondholders and to perform its duties under this title;

(b) bring suit upon the bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(e) declare all of the outstanding bonds due and payable, and if all defaults shall be made good to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Saint Lawrence.

4. Before declaring the principal of all bonds due and payable the trustee shall first give thirty days' notice in writing to the

authority.

5. Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver who may enter and take possession of the bridge and any approach roads and the ferry or ferries then under the jurisdiction of the authority or any part or parts thereof and operate and maintain the same and collect and receive all tolls and other revenues thereafter arising from the operation thereof in the same manner as the authority itself might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any tolls and other revenues derived from the operation of the bridge and the ferry or ferries.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

§ 708. State and county of Saint Lawrence not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the county of Saint Lawrence or of the state of New York, and neither such county nor the state shall be liable thereon, nor shall the bonds or other obligations of the authority be payable from any funds other than those of the authority.

§ 709. Bonds legal investments for public officers and certain others. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them.

§ 710. Exemption from taxation. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and it is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the properties acquired by it or under its jurisdiction or control or supervision or upon its activities or upon the income therefrom.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be free from taxation, except for transfer and estate taxes.

§ 711. Agreements of the state. 1. The state of New York does pledge to and agree with the holders of bonds issued pursuant to this title that the state will not limit or alter the rights hereby vested in the authority to construct, maintain, reconstruct and operate the bridge, to establish and collect charges and tolls and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The state of New York does covenant and agree with the holders of bonds issued pursuant to this title that, except for structures

constructed in connection with the development of the Saint Lawrence seaway or of hydro-electric power, no tunnel, bridge, parkway, causeway, road, highway or other connection for vehicular traffic except for ferry transportation which will be competitive with the bridge herein authorized will be constructed or maintained until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged; provided that a tunnel, bridge, parkway, causeway, road, highway or other connection for vehicular traffic shall be considered as competitive only if it shall form a connection for vehicular traffic between the state of New York and the province of Ontario, Canada, across the Saint Lawrence river within a distance of twenty-five miles from the bridge herein authorized.

§ 712. Rules and regulations relating to the bridge. The use of the bridge herein authorized shall be subject to the rules and regulations of the authority; provided, however, that the authority is not empowered to do anything which will impair the security of the bondholders or violate limitations contained in any agreement with bondholders.

§ 713. Acquisition and transfers of land. 1. Title to any lands, easements or rights in land which may be acquired for the authority with the proceeds of bonds issued pursuant to this title shall be vested in the authority.

2. Notwithstanding the provisions of any other law, the board of supervisors of any county, the town board of any town, the trustees of any village, or the common council of any city, without any election or meeting of the taxpayers or voters or other authorization, is hereby authorized to convey to the authority any land, easement or interest in land, including a public highway, which the authority may deem necessary.

3. The authority shall have the right to convey to any appropriate

governmental body of the state of New York any approach road in the state of New York, and to any appropriate governmental body of Canada any approach road in the province of Ontario, whenever such appropriate governmental body shall undertake to maintain the same as a public highway.

§ 714. Members and employees not to be interested in transactions. It shall be a misdemeanor, punishable by fine or imprisonment, for any members of the board or any clerk, employee, architect, surveyor, engineer or superintendent appointed by the authority to be in any way or manner interested, directly or indirectly, in furnishing materials, supplies or labor for the erection of a project or in any contract which such authority is empowered by this chapter to make.

§ 715. Repayment of state appropriations. All appropriations made heretofore or hereafter by the state to the authority shall be treated as advances by the state to the authority, and shall be repaid to it without interest out of the first proceeds of bonds issued by the authority for the construction of the bridge. The comptroller is hereby authorized to receive from the authority amounts advanced by the state to the authority and to deposit the same in the state treasury to the credit of the capital construction fund so that the state shall be reimbursed for the full amount of any and all such advances.

§ 716. Title not affected if in part unconstitutional. If any section, clause or provision of this title shall be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 717. Inconsistent provisions in other acts superseded. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

TITLE 9

RECONSTITUTION AND CONTINUATION OF OGDENSBURG BRIDGE AUTHORITY AS OGDENSBURG BRIDGE AND PORT AUTHORITY

§ 725. Ogdensburg bridge authority reconstituted and continued as Ogdensburg bridge and port authority. The Ogdensburg bridge authority, created pursuant to the provisions of title eight of article three of this chapter, is hereby reconstituted the Ogdensburg bridge and port authority and, as thus reconstituted is hereby continued with all the jurisdiction, functions, powers and duties possessed, exercised or performed by it pursuant to such title, together with such additional jurisdiction, functions, powers and duties as may be conferred or imposed by this title.

§ 726. Ogdensburg bridge and port authority. Notwithstanding any other provisions of this chapter, the members of the Ogdensburg bridge authority in office on the effective date of this title shall become and be the members of the board of and shall thereafter constitute, the

Ogdensburg bridge and port authority, and shall hold office for the balance of the terms for which they were severally appointed.

All of the provisions of title eight of article three of this chapter, respecting the qualifications, appointment, terms, officers, number of members and removal of members of the Ogdensburg bridge authority, including the filling of vacancies occurring for any reason, shall hereafter be applicable to the members of the Ogdensburg bridge and port authority, except that all members shall hereafter be appointed by and with the advice and consent of the senate.

§ 727. Ogdensburg port authority abolished; transfer of functions. Except as hereinafter provided, the Ogdensburg port authority, created pursuant to the provisions of title three of article six of this chapter, is hereby abolished, and all of the jurisdiction, functions, powers and duties possessed, exercised or performed by such authority, of whatsoever nature or kind, are hereby transferred and assigned to, and devolved upon, the Ogdensburg bridge and port authority.

§ 728. Transfer of records and property. Except as hereinafter provided, all the contracts, books, maps, plans, papers, records, moneys and property, of whatsoever nature or kind, owned or possessed or under the jurisdiction or control of the Ogdensburg port authority, and all debts or obligations thereof, are hereby transferred and assigned to, and devolved upon, the Ogdensburg bridge and port authority, and the same or evidences thereof shall be delivered to the secretary of such authority who is hereby authorized to take possession thereof.

§ 729. Continuity of authority; status of acts. For the purposes of succession, all of the functions, powers and duties of the Ogdensburg bridge authority, and of the Ogdensburg port authority, as prescribed and provided, respectively, by the provisions of title eight of article three, and title three of article six of this chapter, and hereby continued in, transferred and assigned to, and devolved upon, the

Ogdensburg bridge and port authority, shall be deemed to constitute a continuation of the same, and all the acts, orders, rules, regulations and determinations of either the Ogdensburg bridge authority or the Ogdensburg port authority shall have, and continue with, the same force and effect as though done or made by the Ogdensburg bridge and port authority.

§ 730. Unfinished business; pending actions and proceedings. Any business or matter heretofore undertaken or commenced by or before the Ogdensburg bridge authority or the Ogdensburg port authority, or any action or proceeding brought by or against either of such authorities pertaining to or connected with the jurisdiction, functions, powers and duties hereby continued in, transferred and assigned to, or devolved upon, the Ogdensburg bridge and port authority, may be conducted, completed, prosecuted and defended by and in the name of the Ogdensburg bridge and port authority. In all such actions and proceedings, the Ogdensburg bridge and port authority, upon application to the court, may be substituted as a party.

§ 731. Terms occurring in law, or in contracts or documents. Whenever the Ogdensburg bridge authority or the Ogdensburg port authority is referred to or designated in any law, or in any contract or document, such reference or designation shall be deemed to refer to and include the Ogdensburg bridge and port authority, to the extent that such law, contract or document pertains to matters which are within its jurisdiction by reason of the continuation, transfer, assignment and devolution of jurisdiction, functions, powers and duties made to it by this title.

§ 732. Existing rights and remedies. No existing right or remedy of any character shall be lost, or otherwise affected by reason of the enactment of this title.

§ 733. Funds of the authority. Notwithstanding the reconstitution and continuation of the Ogdensburg bridge authority and the abolition of the Ogdensburg port authority, effectuated by this title, or any other provision of this chapter, moneys constituting the fund or funds of either the Ogdensburg bridge authority or the Ogdensburg port authority may be merged for the payment of debts and obligations, but separate accounting records shall be maintained.

Notwithstanding any other provision of law, and except as hereinafter provided in section thirteen hundred eighty-seven of this chapter, all moneys hereafter received by the Ogdensburg bridge and port authority pursuant to the provisions of title eight of article three of this chapter, and all moneys hereafter received pursuant to the provisions of title three of article six of this chapter, may be merged for the payment of debts and obligations, but separate accounting records shall be maintained.

Notwithstanding the provisions of this section, titles eight and nine of article three and title three of article six or any other provisions of this chapter, any moneys in either the "Ogdensburg bridge fund" or the "Ogdensburg port fund" not necessary or required for cash expenditures, as may be determined and certified from time to time by the state director of the budget, shall, in amounts also to be determined and certified by him, be available for and may be loaned to or from either of the funds above mentioned. Amounts so loaned between such funds shall be repaid without interest into the fund from which each such loan was made.

§ 734. Application of consistent provisions. All of the provisions of title eight of article three and of title three of article six of this chapter, so far as the same are applicable and not inconsistent with this title, shall apply to the Ogdensburg bridge and port authority; provided, however, that the provisions of title eight of article three shall supersede the provisions of title three of article six, in the event that the same are inconsistent.

§ 735. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. An action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served within the time limit established by, and in compliance with all requirements of section fifty-e of the general municipal law.

3. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

ARTICLE 4

MARKET AUTHORITIES

TITLE 2

CENTRAL NEW YORK REGIONAL MARKET AUTHORITY

§ 825. Short title. This title may be cited as the "Central New York Regional Market Authority Act."

§ 826. Central New York Regional Market Authority. 1. There is hereby created and established a district to be known as the "central New York regional market district," hereinafter in this title referred to as "the district," which shall embrace all the territory included within the following named counties: Cayuga, Cortland, Madison, Oneida, Onondaga, Oswego, that territory in Wayne county lying east of the new pre-emption line. For the accomplishment of the purposes hereinafter indicated relative to that district there is hereby created and established a public benefit corporation, to be known as "Central New York Regional Market Authority," hereinafter in this title referred to as "the authority." Such authority shall have perpetual existence and the power to acquire by the exercise of the right of eminent domain or otherwise such real estate within the district and other property as may be necessary, to sue and be sued, to incur debts, liabilities and obligations, to issue bonds and other evidences of indebtedness, to have a seal, and to exercise all powers authorized by this title and reasonably necessary for accomplishing its purposes, subject to the provisions herein contained and the constitution and laws of the United States and of New York state. Such powers shall be exercised in the name of the "Central New York Regional Market Authority."

2. In fulfilling the authority's mission, the board shall work cooperatively and in consultation with the department of agriculture and markets to ensure the proper development of agriculture and regional market facilities, in the central New York regional market district. The board and the department of agriculture and markets, hereinafter in this title referred to as "the department," shall jointly develop a plan for the future development and viability of agriculture and regional market facilities in the district. Such plan shall include both short-term and long-term goals and objectives as well as actual and projected revenues and expenditures. Such plan shall annually allocate no less than seventy-five percent of the authority's available funds for the creation, development, and enhancement of agriculture and regional market facilities, in the district. For purposes of this subdivision, available funds shall mean the net amount available after contractually obligated expenditures are subtracted from, but not be limited to, cash, cash equivalents, certificates of deposit, and other receivables available. The board and department shall meet annually prior to the close of the authority's fiscal year to evaluate the effectiveness of the use of funds for that fiscal year, review the goals and objectives of the plan, and properly prepare for the allocation and use of such funds for the next fiscal year. The plan shall be updated annually to make appropriate modifications to such plan for the next fiscal year. Prior to any such funds being expended, both the board and the department must approve such plan, its goals and objectives as well as the projected revenues and proposed allocations.

3. The authority shall furnish an annual real estate report detailing all real estate holdings and detailed property information, including but not limited to the tenants, important lease terms, rents, durations

of leases, as well as copies of each lease. Notwithstanding any other provision of law to the contrary, the authority shall furnish all required reports, audits, and reviews, including the annual real estate report, to all parties enumerated in paragraph (a) of subdivision one of section twenty-eight hundred of this chapter, to the department of agriculture and markets, as well as publish such report on its website within ninety days after the end of its fiscal year.

§ 827. Board of directors. The board of directors of the authority, hereinafter in this title referred to as "the board," shall consist of seventeen voting members, as follows: The commissioner of agriculture and markets or the commissioner's representative. The board of supervisors of each of the counties in the district shall each name directors as follows: Onondaga, three; Oswego, two; Cayuga, two; Madison, two; Cortland, one; Oneida, one, and Wayne, one. Additionally, the following shall have appointments to the board: the county executive of Onondaga county, two; and the mayor of the city of Syracuse, two; One member from each of the above-named counties may be either a producer or non-producer of agricultural products; the other members named by the board of supervisors of the counties in the district entitled to additional directors shall be persons engaged in farming and deriving a greater part of their income therefrom, and all such appointments made after May first, nineteen hundred forty-four, shall be producers who actually sell all or part of their produce on the Central New York Regional Market.

Each member shall continue as a member during the pleasure of the body appointing such member, and upon a vacancy occurring by the filing with the secretary of the authority of a duly certified copy of the resolution signifying that an appointment has been terminated, or upon resignation of a member, or a vacancy occurring in any other manner, it shall be filled in a manner corresponding to the original appointment. Each member shall, before entering upon the duties of office, take the constitutional oath of office and file the same in the office of the secretary of state. One more than one half of the duly qualified members shall constitute a quorum for the transaction of business and shall be necessary to the validity of any resolution, order or, determination. Any member may be removed by the governor for inefficiency, neglect of duty or misconduct in office, after a hearing upon charges and an opportunity to be heard in person or by counsel upon not less than ten days' notice. The members shall not receive a salary or other compensation, but shall be paid actual expenses incurred in attending meetings of the board and in performing committee work assigned to them by the board. Expenses for travel shall not exceed the per mile rate allowed state employees for use of personal cars. Expenses of a special or extraordinary nature may be allowed by resolution of the board.

§ 828. Powers of the board. The board of directors may name a manager and such other officers and employees as may be needed, and fix their compensation; may determine the location, type, size, construction and equipment of requisite regional marketing facilities within the district; may prepare a plan for financing the acquisition, construction, equipment and operation of such facilities; and may exercise generally the powers of the authority to the end that there may be constructed, equipped and operated adequate regional marketing facilities within the district for the buying and selling of farm produce and any and all other businesses which reasonably tend to serve the public in connection with that business or make it more convenient, efficient, profitable or successful. In the exercise of those powers, either directly or through its officers and employees the board may do the following things, among others, and the following list of powers shall not be deemed complete or exclusive, or to deny the existence of other powers, whether similar or different, so long as they are reasonably necessary for accomplishing the purposes declared and indicated in this title.

(a) Make such investigations and hold such hearings and conferences as may be necessary to formulate, adopt and revise a financial, building and operation program for a regional market within the district.

(b) Acquire, lease, erect, construct, equip, maintain and operate market facilities within the district, and for such purposes to acquire real property within the district, by agreement or by condemnation, including options and leases thereon as well as all other forms of acquisition, and to improve and equip the same, and to mortgage, sell, rent, exchange or dispose of any property, real or personal, or interests therein or licenses affecting the same, as may seem advisable, including the leasing or sale of real property, heretofore acquired and now held and not required for market facilities, for agriculture business, commercial or industrial uses.

(c) Execute contracts, bonds, certificates of indebtedness and other obligations, and sell or dispose of the same in such amounts and at such rates of interest as may be advisable. This shall include the power to dispose of its bonds or other obligations to, and to borrow money from, the United States of America or any agency or instrumentality thereof, or any corporation owned or controlled by the United States of America or the state of New York.

(d) Employ such manager or managers, and such clerical, engineering, legal or other professional assistance, services and labor as may be deemed necessary for accomplishing the purposes of this title, fix their compensation, and at pleasure discharge any of them.

(e) Fix, impose and collect rentals and license fees relative to all business which may be done upon the market or in any way involving the use of its facilities; make rules and regulations which shall govern all such business and all persons and vehicles coming upon the market; provide and enforce penalties and liquidated damages relative to breaches of such rules and regulations and any contracts entered into.

§ 829. Bonds of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue negotiable bonds in conformity with applicable provisions of the uniform commercial code.

2. Such bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding six per centum per annum payable annually or semiannually, be in such denomination or denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or

without premium, as such resolution or resolutions may provide. Such bonds may be sold at public or private sale for such price or prices as the board shall determine, provided that the interest cost to maturity of the money received for any issue of such bonds shall not exceed six per centum per annum.

3. Such bonds may be issued for any corporate purpose of the authority.

4. Any resolution or resolutions authorizing any bonds may contain provisions which shall be a part of the contract with the holders of the bonds as to

(a) pledging all or any part of the gross or net revenues of the authority to secure the payment of the bonds;

(b) the rentals and license fees to be charged for use of the market facilities and the amounts to be raised in each year by rentals and license fees and the use and disposition of such rentals and other revenues;

(c) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) limitations on the right of the authority and its successors to restrict and regulate the use of the market facilities;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

(f) limitations on the issuance of other or additional bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must give consent thereto, and the manner in which such consent may be given.

5. Neither the members of the board nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and accrued interest. All bonds so purchased

shall be cancelled.

7. The authority shall have power, subject to the rights and with the consent of the holders of any outstanding bonds issued under the provisions of this title, to issue and sell or exchange its negotiable bonds to refund or to refinance all or any part of such outstanding bonds. All bonds issued by virtue of this section shall be authorized by resolution of the board and shall be issued upon such terms, not inconsistent with the provisions of this title, as the board may determine. Such bonds may be authorized in combination with and as part of an issue of bonds authorized to refund or to refinance and to be sold to provide funds for any purpose for which the authority is now authorized to issue bonds.

§ 830. Agreement of the state. The state of New York does pledge and agree with the holders of any bonds that are issued under this title that the state will not authorize the construction of any market facilities which will be competitive with any market facilities owned or operated by the authority or within a reasonable sphere of operation and extension of market facilities by the authority, nor will it limit or alter the rights hereby vested in the authority to establish and collect such rentals and license fees as may be necessary or convenient to produce sufficient revenues to meet the expense of maintenance and operation of the market facilities and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of bond holders, until the bonds, together with interest thereon, with interest on any unpaid instalments of interest, and all costs and expenses in connection with any actions or proceedings by or on behalf of the bond holders, are fully met and discharged.

§ 831. State and county not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state or of any county or counties included within the district, and the board shall have no power to make them payable out of any funds except those of the authority.

§ 832. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions may properly and legally invest funds in their control.

§ 833. Exemption from taxation. The real and personal property of the authority shall be exempt from all taxation, and so shall all of its activities and operations, except that the owners of its bonds and other obligations shall be subject to transfer and estate taxes.

§ 834. Covenants with authority. Any county, city, town or village within the territorial limits of the district may by ordinance or resolution of its governing body make covenants with the authority which shall enure to the benefit of the holders of any bonds issued under this title and which shall be a part of the contract with the holders in such bonds, as to

1. the authorizing of the construction of any market facilities which will be competitive with any market facilities owned or operated by the authority or within a reasonable sphere of operation and extension of market facilities by the authority;

2. discontinuing of market facilities then owned or operated by the county, city, town or village or department or agency thereof;

3. limitations on the licensing of private market facilities within the territorial limits of the county, city, town or village which may compete with the market facilities owned or operated by the authority or within a reasonable sphere of operation or extension by the authority.

§ 834-a. Policing. Any county, city, town or village within the territorial limits of the district may, by ordinance or resolution of its governing body, make covenants with the authority which shall provide for the policing of designated property of the authority by the police of such county, city, town or village with the same powers as such police have in such county, city, town or village.

§ 834-b. Powers of municipal corporations. Any county, city, town or village within the territorial limits of the district, by ordinance or resolution of its governing body, shall have the following powers hereinafter enumerated which shall not be deemed to have any effect upon, or to modify, any other powers of any such county, city, town or village, and which shall not be deemed to have any effect upon, or modify, any of the other provisions of this title. Each such ordinance or resolution shall constitute a covenant with the authority which shall enure to the benefit of the holders of any bonds issued under this title, and which shall be a part of the contract with the holders of such bonds. Such ordinance or resolution may:

1. Provide for the establishing, locating, constructing, equipping, maintaining and operating of market facilities by the authority in such county, city, town or village, and for such purposes, or any of them, such county, city, town or village may:

(a) Sell any of its property, real or personal, or any interests therein, or grant licenses affecting the same to the authority for a nominal consideration or otherwise and upon such other terms, covenants and conditions, if any, as may be agreed upon between the authority and such county, city, town or village.

(b) Lease any of its property, real or personal, or any interests therein to the authority for a nominal consideration or otherwise and upon such other terms, covenants and conditions, if any, as may be agreed upon between the authority and such county, city, town or village, for a period of not to exceed fifty years and an option to renew for a period of not to exceed fifty years as may be agreed upon between the authority and such county, city, town or village.

(c) Provide municipal services, facilities or utilities to the authority for the benefit of the market facilities owned or operated by the authority in such county, city, town or village.

2. For the purposes of protection of public health, the facilitation of inspection of fruits, vegetables, live poultry and poultry products, the enforcement of sanitary regulations and the general welfare of the community, prescribe in such county, city, town or village an area, including and adjoining the market facilities owned or operated by the authority, wherein the buying and the selling of fruits, vegetables, live poultry and poultry products at wholesale may be confined to the market facilities owned or operated by the authority within such area and the dealing in such commodities within such area outside the market facilities owned or operated by the authority may be otherwise regulated, restricted or controlled. Such area shall be of such size as the county, city, town or village shall determine to be necessary for the accomplishment of such purposes.

§ 835. Assistance by counties within district. To aid and assist in the acquisition, construction and equipment of requisite regional marketing facilities within the district, including the acquisition of a site or sites and the construction of a regional market and marketing facilities within the district, is hereby determined to be a county purpose for each of the counties included within the district and the board of supervisors of each of the counties constituting the "central New York regional market district" shall have the power and may from time to time in its discretion, appropriate or loan its money to or in the aid of the same for the general improvement of agricultural and home conditions, and may raise moneys for such purposes by a tax on real property in the county, and may take and receive in return for such sums so loaned, the bonds or other obligations, senior, junior or otherwise, of the authority as security therefor.

§ 836. Remedies of bond holders. 1. In the event that the authority shall default in the payment of the principal of or interest on any of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the clerk of the county of Onondaga and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bond holders for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of the bonds then outstanding shall, in his or its own name;

(a) by suit, action or special proceeding, enforce all rights of the bond holders, including the right to require the authority and the board to collect rentals, license fees, and other revenues adequate to carry out any agreement as to, or pledge of, such rentals and to require the authority and the board to carry out any other agreements with the bond holders and to perform its and their duties under this title;

(b) bring suit upon the bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bond holders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bond holders;

(e) declare all bonds due and payable and if any default shall be made good to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bond holders. The venue of any such suit, action or proceeding shall be laid in Onondaga county.

4. Before declaring the principal of all bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver who may enter and take possession of the properties of the authority then under the jurisdiction of the authority or any part or

parts thereof and operate and maintain the same and collect and receive all rentals, license fees and other revenues thereafter arising therefrom and exercise such other powers of the authority as the court may deem advisable in the same manner as the authority itself might do and shall deposit all such moneys in a separate account or accounts and apply the same in such manner as the court shall direct. In any suit, action, or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any rentals and other revenues derived from the marketing facilities.

6. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bond holders in the enforcement and protection of their rights.

§ 837. Members not to be interested in transactions. No member of the board shall be interested, directly or indirectly, in any transaction with the authority, except the leasing as a grower of a stall or stalls upon the market and such transactions as are ordinarily incidental thereto.

§ 838. Repayment of state appropriation. The moneys appropriated by chapter eight hundred forty-seven of the laws of nineteen hundred thirty-five and expended, shall be repaid by the authority into the state treasury, when the cost of acquisition, construction and improvement of such markets, market sites and market facilities shall have been fully paid and the debt or debts created by the authority for such purposes amortized.

§ 839. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 840. Inconsistent provisions in other acts superseded. In so far as the provisions of this title are inconsistent with the provisions of any other act, general, special or local, the provisions of this title shall be controlling.

§ 841. Actions against authority. 1. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority and the provisions of section fifty-e of the general municipal law shall apply.

2. An action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such action and of the time when and place where the damages were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed in the principal office of the authority within ninety days after such cause of action shall have accrued.

3. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 842. Moneys of the authority. The state comptroller or such comptroller's legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, reserve funds, investments and any other matters relating to its financial standing.

§ 843. Code of ethics. 1. As used in this section, the term "authority employee" shall mean any board member, member, officer or employee of the authority.

2. The authority shall make available their code of ethics on their website, which is applicable to all authority employees.

3. No authority employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of such employee's duties in the public interest.

4. (a) No authority employee shall accept other employment which will impair such employee's independence of judgment in the exercise of any official duties.

(b) No authority employee shall accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which such employee has gained by reason of official position or authority.

(c) No authority employee shall disclose confidential information acquired by the employee in the course of official duties nor use such information to further personal interests.

(d) No authority employee shall use or attempt to use an official position to secure unwarranted privileges or exemptions for such employee or others.

(e) No authority employee shall engage in any transaction as representative or agent of the authority with any business entity in which such employee has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of official duties.

(f) An authority employee shall not by conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy favor in the performance of official duties, or that such employee is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee shall abstain from making personal investments in enterprises which such employee has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between duty in the public interest and such employee's private interest.

(h) An authority employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that such employee is likely to be engaged in acts that are in violation of trust.

(i) No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member, where a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, authority or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

(j) If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, such authority employee shall file with the secretary of state a written statement that such authority employee has such a financial interest in such activity which statement shall be open to public inspection.

5. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

6. The provisions of section seventy-three of the public officers law shall be applicable to all board members and employees of the authority.

TITLE 4

GENESEE VALLEY REGIONAL MARKET AUTHORITY

§ 875. Short title. This title may be cited as the "Genesee Valley Regional Market Authority Act".

§ 876. Definitions. As used in this title, unless a different meaning clearly appears from the context:

1. The term "district" shall mean the Genesee Valley Regional Market District created by section eight hundred seventy-seven of this title.

2. The term "authority" shall mean the corporation created by section eight hundred seventy-eight of this title.

3. The term "board" shall mean the members of the authority.

4. The term "bonds" shall mean bonds issued by the authority pursuant to this title.

5. The term "municipality" shall mean a county, city, town or village.

6. The term "county" shall mean a county wholly or partly within the district.

7. The term "regional market facility" shall mean a place operated as a regional wholesale market primarily for perishable agricultural commodities, including the land, buildings, fixtures, equipment and other appurtenances necessary or incidental thereto, constituting a single integrated market for the district and which serves as the major source of supply of such commodities for a large consuming area.

8. The clause "all that territory in Wayne county lying west of the new pre-emption line" shall include the towns of Arcadia, Lyons, Macedon, Marion, Ontario, Palmyra, Sodus, Walworth and Williamson and the clause "that territory in Wayne county lying east of the new pre-emption line" shall include all the other towns in Wayne county.

§ 877. Genesee Valley Regional Market District. There is hereby created and established a district to be known as the "Genesee Valley Regional Market District", which shall embrace the area and territory bounded and described as follows: All the territory included within the following-named counties: Monroe, Ontario, Livingston, Orleans, Genesee, Wyoming, Steuben, Yates, and all that territory in Wayne county lying west of the new pre-emption line.

§ 878. Genesee Valley Regional Market Authority. 1. A board to be known as the "Genesee Valley Regional Market Authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation.

2. The board shall consist of fifteen members, as follows:

(a) The commissioner of agriculture and markets, or his representative designated in writing by him, shall be a member ex officio.

(b) The county legislative body of each county shall appoint the number of members as follows, who shall be residents of the county: Monroe county, three members; Livingston county, two members; Ontario county, two members; Wayne county, two members who shall be residents of that part of Wayne county lying west of the new pre-emption line; Genesee county, one member; Orleans county, one member; Steuben county, one member; Wyoming county, one member; and Yates county, one member.

3. One member of the board from each county may be either a producer or non-producer of agricultural products; other members from each county, if any, shall be persons engaged in farming and deriving a greater part of their income therefrom; provided, however, that all persons appointed as members of the board after May first, nineteen hundred sixty-one, shall be producers of agricultural products who actually sell all or part of their produce at regional market facilities maintained and operated by the Genesee Valley Regional Market Authority.

4. A member of the board shall continue in office during the pleasure of the body appointing him or her. Any vacancy which may occur by reason of the death, disqualification, resignation or removal of a member shall be filled by the body which appointed such member. Each member of the board shall, before entering upon the duties of office, take the constitutional oath of office and file the same in the office of the secretary of state. Any member may be removed by the governor for inefficiency, neglect of duty or misconduct in office, after a hearing upon charges and an opportunity to be heard in person or by counsel upon not less than ten days' notice. The members of the board shall not receive a salary or other compensation, but shall be paid actual expenses incurred in attending meetings of the board and executive committee and in performing committee work assigned to them by the board, and shall be reimbursed for travel expenses at the per mile rate allowed state employees for use of personal vehicles. The powers of the authority shall be vested in and exercised by the board and the

provisions of section forty-one of the general construction law shall apply; provided that the board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper.

5. At the first meeting of the board, the board shall choose from their number a chairman, vice-chairman, secretary, and treasurer who shall serve during the pleasure of the board. Before entering upon the duties of his office the treasurer shall execute to the authority and file with the secretary of the authority a bond in such sum and with such sureties as the board shall direct and approve. The board may at any time require the treasurer to file a new bond for such sum and with such sureties as the board shall approve. In the event the surety on any such bond is a surety company authorized to transact business in the state of New York the expense of procuring such surety, not exceeding one per centum per annum upon the sum for which the bond is given, shall be a charge against the authority.

6. In fulfilling the authority's mission, the board shall work cooperatively and in consultation with the department of agriculture and markets to assure the proper development of agriculture and regional market facilities, in the Genesee Valley Regional Market District. The board and the department of agriculture and markets shall jointly develop a plan for the future development and viability of agriculture and regional market facilities in the district. Such plan shall include both short term and long term goals and objectives as well as actual and projected revenues and expenditures. Such plan shall annually allocate no less than seventy-five percent of the authority's available funds for the creation, development, and enhancement of agriculture and regional market facilities, in the district. For purposes of this subdivision, available funds shall mean the net amount available after contractually obligated expenditures are subtracted from, but not be limited to, cash, cash equivalents, certificates of deposit, and other receivables available. The board and department shall meet annually prior to the close of the authority's fiscal year to evaluate the effectiveness of the use of funds for that fiscal year, review the goals and objectives of the plan, and properly prepare for the allocation and use of such

funds for the next fiscal year. The plan shall be updated annually to make appropriate modifications to such plan for the next fiscal year. Prior to any such funds being expended, both the board and the department must approve such plan, its goals and objectives as well as the projected revenues and proposed allocations.

The Genesee Valley Regional Market Authority shall furnish an annual real estate report detailing all real estate holdings and detailed property information, including but not limited to the tenants, important lease terms, rents, durations of leases, as well as copies of each lease. Notwithstanding any other provision of law to the contrary, the Genesee Valley Regional Market Authority shall furnish all required reports, audits, and reviews, including the annual real estate report, to all parties enumerated in paragraph (a) of subdivision one of section twenty-eight hundred of this chapter as well as to the department of agriculture and markets, within ninety days after the end of its fiscal year.

§ 879. Purposes and powers of the authority. The purposes of the authority shall be to assist in the establishment and development of agriculture and agriculturally related businesses in the district, and to acquire, construct, reconstruct, improve, equip, operate and maintain adequate regional market facilities within the district for the buying and selling of agricultural products and to conduct such other business activities as reasonably are incidental to and in furtherance of the convenient, efficient, profitable and successful operation of such regional market facilities. For the purposes of this title, "agriculturally related business" shall include, but not be limited to, agricultural economic development projects in the district for production, manufacturing, processing, warehousing, distribution, marketing, training, research and diagnostics related to sale of crops, livestock and livestock products as defined in section three hundred one of the agriculture and markets law. Project costs may include, but not be limited to, land, buildings, machinery, equipment, processed or partially processed agricultural commodities, root stock, livestock, other personal property, materials, working capital, or stock in trade required to establish such project. Not-for-profit corporations, agricultural cooperative corporations, public benefit corporations, municipalities and educational institutions serving the district shall be eligible to apply for support under this title. To enable the authority to carry out such purposes, the authority shall have power:

1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

3. To acquire, hold, lease, sell, convey and dispose of any property, real or personal, or interest therein, for its corporate purposes.

3-a. To lease real property heretofore acquired and now held by it and not required for regional market facilities for agricultural, business, commercial or industrial uses.

4. To condemn real property which shall be necessary for its corporate purposes, in the manner provided in the condemnation law.

5. To determine the location, type, size, construction and equipment of requisite regional market facilities within the district.

6. To prepare a plan for financing the acquisition, construction, equipment and operation of such facilities.

7. To make such investigations and hold hearings and conferences as may be necessary or convenient to formulate, adopt and revise programs and plans for financing, building, acquiring and operating such facilities.

8. To acquire, erect, construct, reconstruct, improve, equip, maintain and operate such buildings, structures and facilities as may be necessary or convenient.

9. To appoint officers, agents and employees and fix and determine their qualifications, duties and compensation, subject to the provisions

of the civil service law of the state of New York and such rules as the civil service commission of the county of Monroe may adopt and make applicable to public authorities.

10. To contract for expert and other professional services.

11. To make contracts and leases, and to execute all instruments necessary or convenient.

12. To fix and collect rentals, fees and other charges for the use of its property or facilities, subject to the provisions of section eight hundred eighty of this title.

13. To make by-laws for the organization, management and regulation of its affairs.

14. To borrow money and to issue negotiable bonds and notes and to provide for the rights of the holders thereof.

15. To do all things necessary or convenient to carry out the powers expressly given by this title.

§ 880. Moneys of the authority. 1. The treasurer of the authority shall demand, collect, receive and have the care and custody of moneys belonging to or due the authority from every source. Not later than the business day next following the day of their receipt the treasurer shall deposit in his name, as treasurer of the authority, all such moneys in such banks or trust companies as shall have been designated as depositaries of the moneys of the authority by resolution of the board. The deposit of such moneys in a bank or trust company so designated shall release the treasurer and his sureties from any liability for loss of such moneys by reason of the default or insolvency of any such depositary. The board may require any bank or trust company so designated in which such moneys are on deposit or are to be deposited to deliver to the board a surety bond payable to the authority, executed by a surety company authorized to transact business in this state and securing to the authority the payment of such deposits. In lieu of such a depositary bond, the board may require such bank or trust company to deposit with the board or its authorized agent obligations of the United States, of the state of New York, or of any municipality or school district of the state of New York as security for moneys of the authority deposited in such bank or trust company. All banks and trust companies are hereby authorized and empowered to secure deposits of moneys of the authority as hereinbefore provided in this subdivision. Moneys of the authority shall be disbursed only on the signature of the treasurer by checks payable to the person or persons entitled thereto. No money shall be paid out by the treasurer except upon order of the board or of such other person or persons as the board may authorize.

2. Notwithstanding the provisions of subdivision one of this section, the authority shall have power to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that any such contract may be inconsistent with the provisions of subdivision one of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are hereby authorized and empowered to give such security for such deposits.

3. The state comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, reserve funds, investments and any other matters relating to its financial standing.

§ 881. Bonds of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue negotiable bonds in conformity with applicable provisions of the uniform commercial code, for any corporate purpose of the authority. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Except as may be otherwise expressly provided by contract between the authority and the holders of its bonds, all bonds of the authority shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds the payment of which is secured by a pledge of particular moneys or revenues.

2. Such bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding four per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption prior to maturity, at par or a price not exceeding one hundred three per centum of the face value, as such resolution or resolutions may provide. All bonds shall be sold at public sale upon sealed bids, after public notice, to the bidder who shall offer the lowest interest cost to the authority to be determined by the board; provided that bonds may be sold at private sale, without notice, to the United States of America or to the state of New York or to any sinking fund or pension fund of the state of New York or any municipality thereof. The notice of sale shall be published at least once, not less than ten nor more than forty days before the date of sale, in a financial newspaper published and circulated in the city of New York and designated by the board. The notice shall call for the receipt of sealed bids and shall fix the date, time and place of sale. Bonds shall be sold for a price not less than ninety-eight per centum of the par value thereof, plus accrued interest, provided always that the interest cost to maturity of the money received for any issue of such bonds shall not exceed four per centum per annum.

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

(a) Pledging all or any part of the gross or net revenues of the authority to secure the payment of the bonds, subject to such agreements with bond holders as may then exist;

(b) The rentals, fees and other charges to be charged for the use of market facilities, and the amounts to be raised in each year thereby, and the use and disposition of revenues of the authority;

(c) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) Limitations on the right of the authority to restrict and regulate the use of market facilities;

(e) Limitations on the purpose to which the proceeds of the sale of any issue of bonds then or thereafter to be issued may be applied;

(f) Limitations on the issuance of additional bonds, including the terms upon which additional bonds may be issued and secured;

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must give consent thereto, and the manner in which such consent may be given; and

(h) Any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. Any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made. The revenues or other moneys so pledged and thereafter received by the authority shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability by reason of the issuance thereof, excepting solely for things willfully done or willfully omitted to be done with an intent to defraud.

6. The authority shall have power out of any funds available therefor to purchase any of its outstanding bonds at a price not more than the principal amount thereof and accrued interest. All bonds so purchased shall be cancelled.

§ 882. Notes of the authority. The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code whenever the board shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide moneys to pay preliminary costs of surveys, plans or other matters relating to any proposed market facility. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. Such notes may be renewed from time to time but such notes, including the renewals thereof, shall mature not later than three years from the date upon which such notes are issued. Such notes shall be issued in the same manner and subject to the same restrictions as to price and interest rate as bonds, except that the board may determine the manner in which such notes shall be sold. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

§ 883. Agreement of the state. The state of New York does hereby pledge to and agree with the holders of the bonds that the state will not authorize the construction or operation of any market facilities within the district by any public agency or public corporation, nor will it limit or alter the rights hereby vested in the authority to acquire, construct, reconstruct, improve, equip, operate and maintain market facilities, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds together with accrued interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

§ 884. State and counties not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state or of any county or counties, and the board shall have no power to make them payable out of any moneys except those of the authority.

§ 885. Bonds legal investments for public officers and fiduciaries. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business and all other persons whatsoever, except as otherwise provided in this section, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that notwithstanding the provisions of section twenty-one of the personal property law or of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds also are hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 886. Exemptions from taxation. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and it is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes upon any of the properties acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be free from taxation, except for transfer and estate taxes.

§ 887. Remedies of bondholders. 1. In the event that the authority shall default in the payment of the principal of or interest on any of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the clerk of the county of Monroe and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of the bonds then outstanding shall, in his or its own name:

(a) by suit, action or special proceeding, enforce all rights of the bondholders, including the right to require the authority and the board to collect rentals, and other charges adequate to carry out any agreement as to, or pledge of, such rentals, fees and other charges and to require the authority and the board to carry out any other agreements with the bondholders and to perform its duties under this title;

(b) bring suit upon the bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(e) declare all bonds due and payable and, if any default shall be made good, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceedings shall be laid in Monroe county.

4. Before declaring the principal of all bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver who may enter and take possession of the properties of the authority then under the jurisdiction of the authority or any part or parts thereof and operate and maintain the same and collect and receive all revenues thereafter arising therefrom and exercise such other powers of the authority as the court may deem advisable in the same manner as the authority itself might do and shall deposit all such moneys in a separate account or accounts and apply the same in such manner as the court shall direct. In any suit, action, or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the marketing facilities.

6. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

§ 888. Interest in claims and contracts prohibited. No member, officer, agent or employee of the authority shall be interested, directly or indirectly, in any claim against or contract with the authority except for lawful compensation and reimbursement for actual and necessary expenses incurred in the performance of official duties; provided that any such member, officer, agent or employee may, as a grower or dealer, lease from the authority a stall, store or other facility upon a market and may engage in such transactions with the authority as are reasonably and ordinarily incidental to such leasing.

§ 889. Actions against authority. 1. In any case founded upon a tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority and the provisions of section fifty-e of the general municipal law shall apply. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

2. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 890. Contracts. All contracts of the authority for the purchase of supplies, materials or equipment or for public work, which involve an expenditure of more than twenty-five hundred dollars, shall be let upon sealed bids, after public advertisement, to the lowest responsible bidder furnishing the security as required by the board.

§ 891. State's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than five years after the date of the bonds of such issue at one hundred and three per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption.

§ 892. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 893. Inconsistent provisions in other laws superseded. In so far as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

TITLE 5

LONG ISLAND MARKET AUTHORITY

§ 900. Short title. This title shall be known and may be cited as the "Long Island Market Authority Act".

§ 901. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section nine hundred two of this title.

2. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Civil service commission" means the civil service commission of the county of Suffolk.

4. "Comptroller" means the comptroller of the state.

5. "Construction" or "constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of the authority; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedure and other actions preliminary or incidental thereto and claims arising therefrom.

6. "Cost", as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real, personal and mixed, improved and unimproved, the cost of the demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of guarantee, bond insurance or other credit support devices and the cost of other expenses necessary or incidental to the construction of any such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special funds from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

7. "County" means the county of Suffolk, New York.

8. "County executive" means the county executive of the county.

9. "County legislature" means the county legislature of the county.

10. "Governing body" means the members of the authority constituting and acting as the governing body of the authority.

11. "Municipality" means any county, city, town, village, special or improvement district located or operating within or partly within the service area.

12. "Person" means any natural person, firm, partnership, limited liability company, association, joint venture or corporation, exclusive

of a public corporation as defined pursuant to article two-A of the general construction law.

13. "Project" means a regional wholesale market facility operated primarily for perishable agricultural commodities and commercial fishing products, including the lands, building, fixtures, equipment and other appurtenances necessary or incidental thereto, constituting an integrated market for the service area and which serves as a significant source of supply of such commodities to such area.

14. "Real property" means lands, structures, franchises, rights and interests in land, air space, waters, land underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

15. "Revenues" means all rates, fees, charges, payments and other income and receipts derived from the operation of the properties of the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sale or other disposition of assets, together with all federal, state or municipal aid, if any.

16. "Service area" means the area comprising the entirety of the county of Suffolk.

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

18. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

§ 902. Long Island market authority. 1. A public corporation to be known as the "Long Island market authority" is hereby created for public purposes and charged with the duties and shall have the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation.

2. The governing body of the authority shall consist of a total of seven members, to be appointed and serve as follows:

(a) The county executive, with the approval of the legislative body of the county, shall appoint seven members. Members appointed by the county executive shall be residents of the county. Any member shall forfeit his or her membership on the governing body upon such member's termination of residence in such area, which forfeiture shall create a vacancy. Three members appointed by the county executive shall be appointed for a term of office ending on December thirty-first of the third year following the year in which this title shall have become law. Two members appointed by the county executive shall be appointed for a term of office ending on December thirty-first of the second year following the year in which this title shall have become law. Two members appointed by the county executive shall be appointed for a term of office ending on December thirty-first of the first year following the year in which this title shall have become law. Subsequent appointments of members shall be made for a term of three years ending on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify.

(b) Four members of the board shall be persons engaged in farming, commercial fishing, the resale of farm produce or the resale of commercial fishing products and deriving a greater part of their income therefrom.

(c) Failure to appoint any member shall not invalidate the creation or establishment of the authority and shall result in the creation of a vacancy on the governing body of the authority which may be filled at any time by such party.

(d) Vacancies shall be filled in the same manner as provided for the original appointment. Vacancies, occurring otherwise than by expiration of term of office shall be filled by appointment for the unexpired terms.

(e) Members may be removed from office for inefficiency, neglect of duty or misconduct in office; provided, however, that such member shall be given a copy of the charges against him or her and an opportunity to be heard in person, or by counsel, in his or her defense upon not less than ten days notice.

3. The members of the authority shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title; provided, however, that no member shall be reimbursed for any expense exceeding one thousand dollars incurred with respect to any individual purpose unless the governing body at a meeting duly called and held when a quorum of four members are present shall have authorized the incurrence of such expense by such member. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of four members are present. No action shall be taken except pursuant to the favorable vote of at least four voting members. All votes must be made in person at a meeting and no vote may be made by proxy. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

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

5. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, or employee be deemed incompatible or in conflict with such office, membership or employment.

6. (a) The county executive shall file on or before December thirty-first of the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by such county executive setting forth: (1) the name of the authority; (2) the names of the members appointed by the county executive and their terms of office; and (3) the effective date of this title.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest jointly in the cities, towns and villages in the service area in such a manner as prescribed by law.

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

8. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

§ 903. General purpose and powers of authority. The purpose of the authority shall be to acquire, construct, reconstruct, improve, equip, operate and maintain adequate regional wholesale market facilities within the service area for the buying and selling of agricultural commodities and commercial fishing products and to conduct such other business activities as reasonably incidental thereto and in furtherance of the convenient, efficient, profitable and successful operation of such regional wholesale market facilities.

To enable the authority to carry out such purposes, the authority shall have power:

1. To sue and be sued;

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

3. To borrow money and issue bonds for any of its purposes or its projects, or to refund the same, and to provide for the rights of the holders thereof;

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

5. To acquire by purchase, grant, lease, gift, or otherwise and to hold and use property necessary, convenient or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine consistent with and subject to local zoning ordinances and laws;

6. To condemn real property within Suffolk county which shall be necessary for its corporate purposes, in the manner provided in the eminent domain procedure law, consistent with and subject to local zoning ordinances and laws, provided, further, that the approval of the

county executive must be granted before such power is exercised;

7. To acquire, construct, lease, expand, improve, maintain, equip, furnish, operate one or more projects consistent with and subject to the local zoning ordinances and laws, and, if necessary, to pay or finance the cost thereof;

8. To accept gifts, grants, loans or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state or any public corporation or any other source, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

9. To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the authority may deem desirable;

10. To designate the depositories of its money;

11. To establish its fiscal year;

12. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given to it in this title;

13. To appoint such officers, employees and agents as the authority may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

14. To use employees, agents, consultants and facilities of the county, paying the county its agreed proportion of the compensation or costs pursuant to an agreement with the county;

15. To make and adopt plans, surveys and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

16. Except as limited by state law or regulation, to fix and collect rates, rentals, fees and other charges for the services rendered by or for use of the facilities or in the exercise of the powers of the authority;

17. To enter upon such lands or premises as in the judgement of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

18. To insure or otherwise to provide for the insurance of the authority's property or operations;

19. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article; and

20. To do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 904. Projects of the authority. 1. The authority shall undertake projects as authorized in this section upon a finding by the governing body of the authority that such project:

(a) is consistent with a local or regional strategic plan for economic development;

(b) will create or retain permanent, full-time private sector jobs in the service area or will result in a significant increase in business activity in such area; and

(c) complements existing and planned private sector investment in the service area and in proximity to the proposed project site.

2. The authority is authorized to apply for and accept funds from local, regional and state economic development agencies and public authorities.

3. If, at the end of five years, starting from the date that this title becomes effective, no projects have been adopted by the authority as determined by a public vote on such project, and no bonds for any project have been sold, this authority shall cease to exist.

§ 905. Transfer of officers and employees; civil service. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of a municipality transferred to the authority shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law.

2. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 906. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other purpose under this title, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed ten million dollars ($10,000,000), excluding bonds, notes or other obligations issued to refund or repay bonds, notes, or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than ten million dollars ($10,000,000), only if the present value of the aggregate debt service of the refunding or repayment of bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes of this section, the present value of the aggregate debt service of the refunding or repayment of bonds, notes or other obligations and the aggregate debt service of the bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid shall be calculated by utilizing the effective interest rate of the refunding or repayment of bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment of bonds, notes or other obligations from payment of dates thereof to the date of issue of the refunding or repayment of bonds, notes or other obligations and to the price bid including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee or other subsidy with respect to any bonds.

2. The authority shall have the power from time to time to renew bonds or to issue renewal bonds for the purposes authorized under this title, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other purpose of the authority. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the governing body of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the service area of the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the governing body of the authority, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(d) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) In addition to the authority to sell notes at private sale contained in this section.

(f) No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(g) The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(h) The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

(i) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

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

(a) pledging all or part of the revenues, together with any other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof or other property;

(m) limitations on the amount of revenues and other monies to be expended or operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

6. In addition to the powers conferred under this section upon the authority to secure its bonds, the authority shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property

and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments within the powers granted to the authority by this title and to perform such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

9. Neither the members of the governing body of the authority nor the officers of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to

purchase bonds of the authority, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

§ 907. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

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

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

(a) by action or proceeding in accordance with the civil practice law

and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

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

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of any receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all monies and other property derived from such part or parts of the project and

proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 908. State and county not liable on authority bonds. 1. The state shall not be liable on the bonds or notes of the authority and such bonds or notes shall not be a debt of the state, and such bonds and notes shall contain on the face thereof a statement to such effect.

2. The county shall not be liable on the bonds or notes of the authority and such bonds or notes shall not be a debt of the county, and such bonds and notes shall contain on the face thereof a statement to such effect or a statement describing the county liability thereon, if any.

§ 909. Monies of the authority. All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the authority or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies if the authority and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, be invested in accordance with section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

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

§ 911. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of the title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public authority with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

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

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

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

4. The authority may pay, or may enter into agreements with the county of Suffolk or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to real property owned by the authority located within the county of Suffolk or such municipality.

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

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

3. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same performance shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be in the supreme court of the county of Suffolk.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interests on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the authority of whatever nature shall be brought in the county.

§ 914. Audit and annual reports. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The authority shall annually submit to the county legislature, county executive, governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county legislature and the county executive.

§ 915. Defense and indemnification. The authority shall not execute any of its powers, except as necessary to commence its corporate existence, until it has elected to make the provision of section eighteen of the public officers law applicable to its employees (as such term is defined in section eighteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the authority to extend the provisions of section eighteen of the public officers law upon any independent contractor.

§ 916. Contracts. All contracts for the construction, reconstruction, rehabilitation and improvement of projects authorized pursuant to this title shall be subject to article eight of the labor law and shall also be subject to the provisions of law applicable to county contracts, except as otherwise provided herein.

§ 917. Code of ethics. 1. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. No authority employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction

or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. (a) No authority employee shall accept other employment which will impair his or her independence of judgement in the exercise of his or her official duties.

(b) No authority employee shall accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority employee shall disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

(e) No authority employee shall engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority employee shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee shall abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor authority, a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, authority or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

(j) If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she shall file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

§ 918. Equal employment opportunity. The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 919. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

ARTICLE 5

PUBLIC UTILITY AUTHORITIES

* 2. Albany Light, Heat and Power Authority (§§ 1025-1044).
  * NB Terminated July 1, 1963
2-A. New York city municipal water finance authority (§§ 1045-a--1045-bb).
2-A*. New York City Water Board (§ 1046).
2-B. Buffalo municipal water finance authority (§§ 1048-a--1049).
3. Erie County Water Authority (§§ 1050-1073).
4. Suffolk County Water Authority (§§ 1074-1092).
5. Monroe County Water Authority (§§ 1093-1113).
5-A. South Nassaue Water Authority (§§ 1114-a--1114-s).
5-A*2. North Shore Water Authority (§§ 1114-a--1114-s).
6. Albany municipal water finance authority (§§ 1115--1115-bb).
6-A. Albany water board (§§ 1116-1118).
6-B. Clifton Park Water Authority (§§ 1120--1120-x).
6-C. Town of Wilton Water and Sewer Authority (§§ 1121-1146).
6-C*. Dutchess County Water and Wastewater Authority (§§ 1121-1144).
6-D. Alfred, Almond, Hornellsville Sewer Authority (§§ 1147--1147-z).
7. Onondaga County Water Authority (§§ 1150-1173).
7-A. Water Authority of Southeastern Nassau County (§§ 1174-a--1174-s).
8. Buffalo Sewer Authority (§§ 1175-1195).
8-A. New York State Local Water and Sewer Authority Act. (§§ 1196-a--1196-r).
8-B. Water Authority of Great Neck North. (§§ 1197-a--1197-t).
8-C. Water Authority of Western Nassau County (§§ 1198-a--1198-t).
8-D. Rensselaer County Water and Sewer Authority. (§§ 1199--1199-x).
8-E. Wayne county water and sewer authority (§§ 1199-aa--1199-xx).
8-E*. Orange county water authority (§§ 1199-aa*--1199-ww*).
8-F. Saratoga county water authority (§§ 1199-aaa--1199-xxx).
8-G. Cayuga county water and sewer authority

TITLE 1

POWER AUTHORITY OF THE STATE OF NEW YORK

§ 1000. Short title. This title may be cited as the "Power Authority Act."

§ 1001. Declaration of policy. Those parts of the Niagara and Saint Lawrence rivers within the boundaries of the state of New York are hereby declared to be natural resources of the state for the use and development of commerce and navigation in the interest of the people of this state and the United States. In order to provide for the most beneficial use of these natural resources, for the creation and development of hydroelectric power in the interest of the people of this state, and to preserve and enhance the scenic beauty of the Niagara Falls and river, such natural resources, including the beds and waters of the said rivers as instrumentalities of commerce and navigation, and the beds, waters, power and power sites in, upon or adjacent to or within the watersheds of the said rivers, owned or controlled by the people of the state, or which may hereafter be recovered by or come within their ownership, possession and control, shall always remain inalienable to, and ownership, possession and control thereof shall always be vested in, the people of the state.

It is further declared that the need for obtaining and maintaining a continuous and adequate supply of dependable electric power and energy is a matter of public concern to the people of the state; that the maximum capacity of the hydroelectric developments on the Niagara and Saint Lawrence rivers of the authority can be best utilized and additional public benefit derived therefrom by provision for supplemental base load nuclear generating facilities or facilities utilizing new energy technologies and that for the purposes (i) of so utilizing such capacity and of deriving such additional benefit, (ii) of providing additional low cost power and energy to attract and expand high load factor industry, (iii) of continuing an adequate supply of power and energy for the future needs of its municipal electric systems and rural electric cooperative customers, and (iv) of assisting in the development of additional dependable hydroelectric power from other waters of the state and in the development of advanced facilities having substantial prospects of reducing electricity production costs, the public interest requires that the authority participate in the generation of supplemental electric power and energy by energy storage, hydroelectric and nuclear means and new energy technologies to the extent authorized in this title.

It is further declared that there is a shortage of dependable power capacity in the southeastern part of the state and that the public interest requires that the authority assist in alleviating such shortage by providing such base load generating facilities as may be necessary or desirable to contribute to the maintenance of an adequate and dependable supply of electricity for the metropolitan transportation authority, its subsidiary corporations, the New York city transit authority, the port authority of New York and New Jersey, the city of New York, the state of New York, the United States, other public corporations and electric companies within the metropolitan area of the city of New York within the state of New York.

It is further declared (i) that there should be full cooperation among private and public entities including the authority, municipal corporations and rural electric cooperatives engaged in power generation, transmission and distribution and in associated developmental and service activities, (ii) that it is desirable that the authority and the utilities which with the authority constitute the New York power pool exchange comparable cost, performance and operating data with respect to generation by nuclear means particularly reflecting the effect of the authority's tax-free status, (iii) that it is desirable and reasonable that the authority sell power and energy from its projects other than the Niagara and Saint Lawrence hydroelectric projects, not needed for its high load factor industrial, municipal, rural electric cooperative and public transportation customers to other members of the New York power pool for resale without discrimination under their respective tariffs, (iv) that it is desirable that the authority give its fullest cooperation to the energy research and development authority in advancing and promoting the development and implementation of new energy technologies, and shall fulfill its responsibilities for the development and maintenance of increased base load for New York state to the greatest extent possible by utilizing new energy technologies made available by the energy research and development authority to the extent deemed advisable by the trustees and, (v) that upon certification by the public service commission of the commercial and economic feasibility of a new electrical energy generating technology the power authority shall, in a manner consistent with its powers and purposes, promptly plan and construct a facility to demonstrate such new technology; except, however, the authority may plan and construct such demonstration facility in the absence of such certification.

§ 1001-a. Emergency provisions for the metropolitan area of the city of New York. The legislature hereby finds and declares that extraordinary circumstances, including excessive costs, shortages of supply, and the inflated price of fuel threaten the capacity to provide utility service essential to the continued safety, health, prosperity and well-being of the people of the metropolitan area of the city of New York and, by reason of the interconnection and interdependence of electric facilities, the reliability of such service throughout the state and require emergency action by the state and its agencies. It is therefore declared that:

1. To preserve reliability of electric service in the metropolitan area of the city of New York and throughout the state and to assist in deterring further extraordinary increases in rates for electric service the authority should provide such supplemental electricity for such use in the metropolitan area of the city of New York as is consistent with continuing and maintaining the exemption of interest on authority bonds from the income tax imposed by the Internal Revenue Code of the United States and regulations and ruling thereunder.

2. It is essential that such electricity be provided at the earliest practicable time.

3. The authority should be authorized to acquire completed or partially completed generation, transmission and related facilities and fuel and fuel contracts.

4. Any cost savings realized in the production or delivery of electricity by reason of any such acquisition by the authority shall be passed on to consumers.

§ 1002. Power Authority of the State of New York. 1. For the purpose of effectuating the policy declared in section one thousand one of this chapter there is hereby created a corporate municipal instrumentality of the state to be known as "Power Authority of the State of New York", in this title referred to as "the authority", which shall be a body corporate and politic, a political subdivision of the state, exercising governmental and public powers, perpetual in duration, capable of suing and being sued, and having a seal, and which shall have the powers and duties hereinafter enumerated, together with such others as may hereafter be conferred upon it by law.

2. It shall report annually to the governor and the legislature upon its operations and transactions. Such annual report shall incorporate the requirements of section two thousand five hundred of this chapter, shall identify the authority by its statutory name, and include a letter of transmittal in the report to the governor and the legislature. The annual report shall also include, but not be limited to, the following: (a) the amount of power and energy produced by each project facility; (b) the amount of energy transferred between each project facility for use within the authority's system; (c) the amount of energy transferred between each project facility for sale outside the authority's system; (d) the kilowatt-hour sales by project facility and by customer including all intrastate sales to investor-owned electric corporations, municipal electric systems and rural electric cooperatives, and all sales on a temporary (i.e., eighteen months or less) basis; (e) the revenues and costs as allocated by the authority for each project facility; (f) the busbar price or prices for power and energy sold to each customer of the authority; (g) the accumulated provision for depreciation for each project facility; and (h) basic financial and operating information specifically detailed for the reporting year and including but not limited to income and expense statements, balance sheets, and changes in financial position, all in accordance with generally accepted accounting principles, debt structure and a summary of funds on a cash basis. The requirement to provide information pursuant to this subdivision is not intended to affect the authority's responsibilities or obligations under this title or under any rate covenant or any pledge of revenues outstanding as of the effective date of the chapter of the laws of nineteen hundred eighty-four which added this sentence to this subdivision.

§ 1003. Trustees. The authority shall consist of seven trustees, five of whom shall serve respectively for terms of one, two, three, four and five years, to be appointed by the governor, by and with the advice and consent of the senate. The sixth and seventh trustees shall be appointed by the governor, by and with the advice and consent of the senate, and shall serve initial terms of one and two years respectively. Each trustee shall hold office until a successor has been appointed and qualified. At the expiration of the term of each trustee and of each succeeding trustee the governor shall, by and with the advice and consent of the senate, appoint a successor, who shall hold office for a term of five years, or until a successor has been appointed and qualified. In the event of a vacancy occurring in the office of the trustee by death, resignation or otherwise, the governor shall, by and with the advice and consent of the senate, appoint a successor, who shall hold office for the unexpired term. Four trustees shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof.

The trustee chosen as chairman as provided in section one thousand four of this title, shall receive an annual salary which shall be set by the trustees of the authority, and which shall not exceed the salary prescribed for the positions listed in paragraph (f) of subdivision one of section one hundred sixty-nine of the executive law. Each other trustee shall not receive a salary or other compensation. Each trustee shall receive his or her reasonable expenses in the performance of his or her duties hereunder. The trustee chosen as chairman may elect to become a member of the New York state and local employees' retirement system on the basis of such compensation to which he or she shall be entitled as herein provided notwithstanding the provisions of any general, special or local law, municipal charter, or ordinance.

§ 1004. Officers and employees; expenses. The trustees shall choose from among their own number a chairman and vice-chairman. They shall select such officers and employees, including a chief executive officer whose appointment shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter, and such engineering, marketing and legal officers and employees, as they may require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee. They shall adopt by-laws and rules and regulations suitable to the purposes of this title. As long as and to the extent that the authority is dependent upon appropriations for the payment of its expenses, it shall incur no obligations for salary, office or other expenses prior to the making of appropriations adequate to meet the same.

§ 1005. Powers and duties of authority. Forthwith upon the appointment and organization of the trustees and subject to the conditions and limitations in this title contained, the authority, in cooperation with the proper Canadian authorities and those of the United States as hereinafter directed, shall proceed with the improvement and development of the Niagara river and the international rapids section of the Saint Lawrence river (which is defined as that part of the said river from Ogdensburg to the point where it leaves the territory of this state) for the aid and benefit of commerce and navigation and for the development of the hydroelectric power inherent therein in accordance with the provisions of this title.

The authority is authorized to procure through a competitive solicitation process power and energy from the competitive market and to construct, improve and/or rehabilitate throughout its area of service (a) such hydroelectric or energy storage projects, as it deems necessary or desirable to contribute to the adequacy, economy and reliability of the supply of electric power and energy or to conserve fuel and (b) such base-load nuclear generating facilities or other facilities utilizing new energy technologies as in its judgment are necessary (i) to supply sufficient supplemental energy to make possible optimum use of the generating capacity of the authority's Saint Lawrence and Niagara hydroelectric projects, (ii) to supply low cost power and energy to high load factor manufacturers which will build new facilities in the authority's area of service or expand existing facilities provided such power and energy is made available to them, and (iii) to supply the future needs of the authority's existing municipal electric and rural electric cooperative customers.

The authority is further authorized to construct and/or acquire and complete such base load generating, transmission and related facilities as it deems necessary or desirable to assist in maintaining an adequate and dependable supply of electricity by supplying power and energy for the metropolitan transportation authority, its subsidiary corporations, the New York city transit authority, the port authority of New York and New Jersey, the city of New York, the state of New York, the United States, other public corporations and electric corporations within the metropolitan area of the city of New York within the state of New York; provided, however, that (i) the acquisition of completed or partially completed facilities shall be after public hearing and shall be limited to facilities located in New York city or Westchester county and the energy and power generated by such facilities shall be used, to the extent feasible, for the benefit of electric consumers in that area, (ii) not more than one such generating facility shall be acquired in each of New York city and Westchester county, (iii) the price to be paid pursuant to any agreement entered into with respect to the purchase, appropriation or condemnation of any such completed or partially completed facility, as the case may be, shall be subject to the approval of the state comptroller and (iv) transmission facilities shall not be so acquired pursuant to this paragraph unless such acquisition is necessary to assure delivery of power and energy produced by any acquired generating facility. The authority is further authorized, to the extent it deems it necessary or desirable, to provide power and energy, as it may determine it to be available, for the use by the Niagara frontier transportation authority or its subsidiary corporation. The authority is authorized to make energy efficiency services, clean energy technologies and, in the event that supplies of power and energy are determined to be available from the competitive market for this purpose, power and energy, available to public and nonpublic elementary and secondary schools throughout the state.

A high load factor manufacturer is one which normally utilizes a minimum electric demand of five thousand kilowatts and which will normally utilize energy at the rate of approximately five hundred forty kilowatt hours per month for each kilowatt of demand and of which the cost of electricity normally represents at least seven and one-half percent of its total product value.

The authority shall publish notice of any proposed allocation of firm power and associated energy except such allocations as are subject to the provisions of section one thousand nine of this chapter, at least thirty days prior to the delivery of any energy pursuant thereto, which notice shall, in the case of industrial allocations, document actions by the authority pertaining thereto including solicitation for competing proposals. In addition, such notice shall be transmitted to the temporary president of the senate, the speaker of the assembly, and the respective fiscal committees of the legislature.

Notwithstanding any inconsistent provision of law, the authority is authorized to enter into contracts prior to July first, nineteen hundred eighty-five to allocate a total of not more than thirty-six megawatts of power and associated energy, available for allocation as a result of voluntary relinquishment by high load factor manufacturers, of such power and associated energy from base load nuclear generating facilities of the authority, to furnish electricity to no more than three customers which: (a) are located in the southeastern portion of the state; (b) will build new facilities and/or expand existing facilities; (c) will expand employment and investment in the state; and (d) will normally utilize a minimum peak electrical demand of one thousand kilowatts.

The authority is further authorized to construct such generating, transmission and related facilities within the service area of the Long Island power authority, as the authority, in consultation with and upon such terms and conditions as the Long Island power authority, deems necessary or desirable.

Periodically, but no less often than annually, the authority is authorized and directed to identify the net revenues produced by the sale of expansion power and further to identify an amount of the net revenues from the sale of expansion power which amount shall be used solely for industrial incentive awards. Notwithstanding other lawful purposes for which such revenues may be used, it shall be the preferred purpose of the authority to make available all such net revenues for industrial incentive awards. Provided, however, that industrial incentive awards shall be made only in conformance with an economic development plan covering all such net revenues which is submitted no less often than annually by the authority and approved pursuant to section one hundred eighty-eight of the commerce law. For purposes of this paragraph, the term net revenues shall mean any excess of revenues properly allocated to the sales of expansion power over costs and expenses properly allocated to such sales.

Notwithstanding any inconsistent provision of this title, the authority shall make available all economic development power for allocation to or for businesses whose allocation of such power is recommended by the New York state economic development power allocation board pursuant to section one hundred eighty-seven of the commerce law. If the authority declines to make power available to or for a business whose allocation has been so recommended, the authority shall decline within the period specified by the board in its recommendation and shall issue in writing a statement of reasons for such denial.

a. Economic development power shall mean any power generated at the Fitzpatrick nuclear project that is voluntarily relinquished by businesses.

b. The authority shall report quarterly to the New York state economic development power allocation board on the anticipated availability of economic development power for the subsequent twelve-month period.

c. When the authority determines that economic development power is available, the authority shall notify the New York state economic development power allocation board.

d. The authority shall provide for the sale of power from the Fitzpatrick nuclear project to its industrial, business, and economic development power customers at a uniform non-discriminatory rate.

The authority is further authorized, as deemed feasible and advisable by the trustees, to acquire, maintain, manage, operate, improve and reconstruct as a project or projects of the authority one or both of the steam generation facilities owned by the state known as the Sheridan avenue steam generating plant on Sheridan avenue in the city of Albany and used to supply steam to state facilities, together with any properties, buildings and equipment at the sites thereof or ancillary thereto, for the generation and sale of thermal energy and the cogeneration and sale of electricity for use by facilities of the state within the county of Albany. All the authority's costs, including its acquisition, capital, operating and maintenance costs, shall be recovered fully from the customers receiving service from such project or projects. Thermal energy and electricity not required by the state may be sold by the authority to others. The authority is not authorized to use refuse or refuse-derived fuel in operating the project or projects. Any agreement for such acquisition shall insure that the authority is not liable or otherwise responsible for circumstances arising from the prior operation of such facilities. The acquisition and purchase of such land, buildings and equipment by the authority, and any actions taken to effect such acquisition and purchase, are hereby exempt from the provisions of article eight of the environmental conservation law. The application of such exemption shall be strictly limited to the acquisition and purchase of such land, buildings and equipment by the authority and such agreements with the state. Nothing herein shall exempt the authority from otherwise applicable laws respecting the expansion, conversion, operation and maintenance of such land, buildings and equipment.

The authority is authorized and directed:

1. To cooperate with the appropriate agencies and officials of the United States government to the end that any hydroelectric project on the Niagara or Saint Lawrence rivers undertaken under this title shall be consistent with and in aid of any plans of the United States for the improvement of commerce and navigation along such rivers and shall be so planned and constructed as to be adaptable to the plans of the United States therefor, so that the necessary channels, locks, canals, and

other navigational facilities may be constructed and installed by the United States, in, through, and as part of such project.

2. To negotiate with the appropriate Canadian authorities and agencies respecting the improvement and development of the Niagara river, and international rapids section of the Saint Lawrence river for the aid and benefit of commerce and navigation and the development of hydro-electric power therefrom, and to plan and agree with them upon cooperative action to that end including any shifting of international boundary lines between Canada and the United States and upon the use, control and disposition of the facilties to be created and the hydro-electric power to be developed by any project constructed in such rivers. Such negotiations and agreements shall be conducted and concluded with due regard to the position of the United States in respect to international agreements, and any such agreements as may be reached with Canadian authorities or agencies may be submitted by the authority to congress for its approval, if it be advised that such approval is necessary or desirable.

3. To apply to the appropriate agencies and officials of the United States government and/or of Canada or its provinces, including the federal power commission, the atomic energy commission, and the international joint commission, for such licenses, permits or approval of its plans or projects as it may deem necessary or advisable, and in its discretion, and upon such terms and conditions as it may deem appropriate, to accept such licenses, permits or approvals as may be tendered to it by such agencies or officials and such federal or other public or governmental assistance as is now or may hereafter become available to it; and to enter into contracts with such agencies or officials or utility companies relating to the construction or operation of any project authorized by this title. Neither the authority nor any trustee, officer or agent thereof shall have any power to waive or surrender for any purpose whatsoever any right of the state of New York, whether sovereign or proprietary in character, in and to the Niagara and Saint Lawrence rivers, their waters, power, channels, beds, or uses, or the right of the state to assert such rights at any future time; provided, however, that nothing herein contained shall be construed as

limiting the power of the authority to accept licenses issued by the federal power commission pursuant to the provisions of the federal power act, as amended, or by the atomic energy commission pursuant to the provisions of the atomic energy act of 1954, as amended, and the terms and conditions therein imposed pursuant to law. If for any reason the authority shall fail to secure any such license, permit or approval as it may deem necessary or advisable, or shall decide not to make application therefor, it is authorized to institute suit, or to apply to congress for legislation, or take such other action in the premises as it may deem necessary or advisable, in the furtherance of the project and for the protection of its rights and those of the state.

4. To study the desirability and means of attracting industry to the state of New York.

5. To develop, maintain, manage and operate those parts of the Niagara and Saint Lawrence hydroelectric projects owned or controlled by it in such manner as to give effect to the policy hereby declared (and all plans and acts, and all contracts for the use, sale, transmission and distribution of the power generated by such projects, shall be made in the light of, consistent with and subject to this policy), namely, that such projects shall be in all respects for the aid, improvement, and benefit of commerce and navigation in, through, along and past the Niagara river, the Saint Lawrence river and the international rapids section thereof, and that in the development of hydro-electric power therefrom such projects shall be considered primarily as for the benefit of the people of the state as a whole. In furtherance of this policy and to secure a wider distribution of such power and use of the greatest value to the general public of the state, the authority shall in addition to other methods which it may find advantageous make provision so that municipalities and other political sub-divisions of the state now or hereafter authorized by law to engage in the distribution of electric power may secure a reasonable share of the power generated by such projects, and shall sell the same or cause the same to be sold to such municipalities and political subdivisions at prices representing cost of generation, plus capital and operating charges, plus a fair cost of transmission, all as determined by the trustees, and subject to

conditions which shall assure the resale of such power at the lowest possible price, provided, however, that in disposing of hydro-electric power pursuant to and in furtherance of the aforementioned policy and purposes, appropriate provision may also be made to allocate a reasonable share of project power to agencies created or designated by other states and authorized to resell the power to users under the same terms and conditions as power is disposed of in New York state. To that end, the authority may provide in any contract or contracts which it may make for the sale, transmission and distribution of the power that the purchaser, transmitter or distributor shall construct, maintain and operate, on such terms as the authority may deem proper, such connecting lines as may be necessary for transmission of the power from main transmission lines to such municipalities or political subdivisions.

Contracts for the sale, transmission and distribution of power generated by such projects shall provide for the effectuation of the foregoing policy and shall provide:

a. Payment of all operating and maintenance expenses of the project.

b. Interest on and amortization and reserve charges sufficient within fifty years of the date of issuance to retire the bonds of the power authority issued for the project.

c. Continuous control and operation of the project by the authority.

d. The effectuation of the policy declared in this sub-paragraph.

e. Full and complete disclosure to the authority of all factors of cost in the transmission and distribution of power, so that rates to consumers may be fixed initially in the contract and may be adjusted from time to time on the basis of true cost data, provided that in fixing such cost of transmission and distribution no account shall be given to any franchise value, going value or good-will based upon the existence of the contract and the availability of the power for sale by the transmitting or distributing company or any company associated therewith.

f. Periodic revisions of the service and rates to consumers on the basis of accurate cost data obtained by such accounting methods and systems as shall be approved by the trustees and in furtherance and effectuation of the policy declared in this sub-paragraph.

g. That the rates, services and practices of the purchasing, transmitting and/or distributing public agencies or companies in respect to the power generated by such projects shall be governed by the provisions and principles established in the contract, and not by regulations of the public service commission or by general principles of public service law regulating rates, services and practices and that in the event any such public agencies or companies which purchase power from the authority shall sell any such power for resale, such sale for resale shall be made at rates no higher than those at which the power was purchased from the authority.

h. The rate structures agreed upon in such contract may provide different rates for different localities, classes of consumers, and amounts of current consumed, and for changes in the rates resulting from variation in operating costs and fixed charges.

i. For the cancellation and termination of any such contract upon violation of the terms thereof by the purchasing, transmitting or distributing public agency or company, or any subsidiary or associate thereof.

j. For such security for performance as the authority may deem practicable and advisable, including provisions assuring the continuance of service by the purchasing, transmitting and/or distributing public agencies or companies and/or the use of their facilities for such service and/or the continuance of an outlet and adequate market for the power generated by such projects.

k. Such other terms not inconsistent with the provisions and policy of this title as the authority may deem advisable.

6. To develop, maintain, manage and operate its projects other than the Niagara and Saint Lawrence hydroelectric projects so as (i) to provide an adequate supply of energy for optimum utilization of its hydroelectric projects, (ii) to attract and expand high load factor industry, (iii) to provide for the additional needs of its municipal electric and rural electric cooperative customers, (iv) to provide a supply of power and energy for use in the recharge New York power program as recharge New York market power, and (v) to assist in maintaining an adequate, dependable electric power supply for the state.

Contracts for the sale, transmission and distribution of power and energy generated by such projects shall provide for the effectuation of the policy set forth in this title relating to such projects and shall provide:

a. Payment of all operating and maintenance expenses of the projects.

b. Interest on and amortization and reserve charges sufficient within fifty years of the date of issuance to retire the bonds of the authority issued for the projects.

c. For the cancellation and termination of any such contract upon violation of the terms thereof by the purchasing, transmitting or distributing public agency or company, or any subsidiary thereof.

d. That the rates, services and practices of the purchasing, transmitting and/or distributing public agencies and rural electric cooperatives in respect to the power and energy from such projects shall be governed by the provisions and principles established in the contract, and not by regulations of the public service commission or by general principles of public service law regulating rates, services and practices and that in the event any such public agencies or cooperatives which purchase power from the authority shall sell any such power for resale, such sale for resale shall be made at rates no higher than those at which the power was purchased from the authority.

e. In the case of a contract with an electric corporation entered into on or after May first, nineteen hundred seventy-four (i) for assurances by the electric corporation of prompt and timely payment of all bills rendered by the authority and that failure to make such prompt and timely payment shall be grounds for immediate termination of the contract, and (ii) that in the event the contract is so terminated, the electric company will wheel to such purchasers as the authority may direct the power and energy that would have been sold to the electric company had the contract not been terminated.

f. Such other terms not inconsistent with the provisions and policy of this title as the authority may deem advisable.

7. To proceed with the physical construction or completion of any project authorized by this title, including the erection of the necessary dams, power houses and other facilities, instrumentalities and things necessary or convenient to that end, and including also the erection of such transmission lines as may be necessary to conduct electricity to users located at or near the site; and including also the acquisition, by contract only with the owners thereof, of transmission lines or the use of such transmission lines, available or which may be made available, to conduct electricity to such point or points at which the electricity is sold by the authority to any person, corporation or association, public or private, engaged in the business of distribution and sale of electricity to ultimate consumers or if the authority is unable to so acquire by contract the ownership or use of such transmission lines, including also the erection by the authority of transmission lines necessary for such purposes; and thereafter to maintain and operate the project in accordance with the provisions and policy of this title. The authority is specifically authorized to undertake the construction of any project in one or more steps as it may find economically desirable or advantageous, and as it may agree with the appropriate Canadian and/or United States authorities. Whenever in this title reference is made to "project", it shall be understood to refer to such part of any project authorized by this title as may from time to time be in existence or immediately projected.

8. To cooperate with and, when the trustees deem it feasible and

advisable, to enter into contractual arrangements with utility companies;

a. With respect to construction and operation of pumped storage facilities by the authority and supply of all or part of the necessary pumping energy by the utilities and their purchase of all or part of the output.

b. With respect to construction, completion, acquisition, ownership and/or operation of baseload generating facilities, fuel, docks, sidings, loading or unloading equipment, storage facilities and other subsidiary facilities and disposition of the output of such generating facilities.

c. With respect to construction, acquisition, ownership, operation and/or use of transmission facilities.

9. To cooperate with and, when the trustees deem it feasible and advisable, to enter into contractual arrangements with municipal corporations with respect to construction, improvement, rehabilitation, ownership and/or operation of hydroelectric generating facilities and subsidiary facilities and disposition of the output of such generating facilities.

9-a. As deemed feasible and advisable by the trustees, to design, finance, develop, construct, install, lease, operate and maintain electric vehicle charging stations throughout the state for use by the public. Such electric vehicle charging stations shall include at least one space that is large enough to accommodate wheelchair accessible electric vehicles, including but not limited to, vans and minivans. The authority shall annually post on their website a report on those activities undertaken pursuant to this subdivision, including but not limited to: the total number of electric vehicle charging stations in operation pursuant to such authorization, the locations of such charging stations, and the total costs to the authority associated with such activities.

10. To cooperate with and, when the trustees deem it feasible and advisable, to enter into contractual arrangements with New York state energy research and development authority in connection with the planning, siting, development, construction, operation and maintenance of generating facilities of the authority utilizing new energy technologies to the extent such action is consistent with the purposes and powers granted by law to New York state energy research and development authority.

10-a. a. To cooperate with and, when the trustees deem it feasible and advisable, enter into contracts with an owner or operator of a "class A" multiple dwelling, as defined in subdivision eight of section four of the multiple dwelling law, to administer and finance programs for the development, design, installation and provision of financial assistance with respect to the replacement of refrigerators with more energy efficient refrigerators; provided that no costs associated with such financial assistance shall be charged to the authority's customers. Financial assistance shall be repaid to the authority, over a period not to exceed ten years, based on projected savings in energy costs and related costs which accrue to the owner as a result of installing such measures and consistent with paragraph b of this subdivision.

b. If the owner of such multiple dwelling is a customer of the authority or of an electric corporation, as defined in subdivision thirteen of section two of the public service law, and if the refrigerator is provided by the owner, and if charges for electricity are included within the rent that the tenant pays to occupy such dwelling, the owner of such dwelling shall repay the authority for such financial assistance based on projected savings in energy costs that are estimated to accrue to the owner as a result of such replacement. As a condition of participating in the program established by this subdivision, such owner shall agree to be precluded from charging any additional fee or collecting any rent increase to such tenant as a result of such replacement.

11. To exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this title; and as

incidental thereto to own, lease, build, operate, maintain and dispose of real and personal property of every kind and character, to acquire real property and any or every interest therein for its lawful purposes by purchase, or by condemnation as hereinafter provided, to borrow money and secure the same by bonds or liens upon revenue from any property or contracts held or to be held by it, to sell water or electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of this title, provided that the authority shall have no power at any time to pledge the credit of the state nor shall any of its obligations or securities be deemed to be obligations of the state nor shall the authority have the power to lease or sell any dam, or power house at the site.

12. Notwithstanding any limitations hereinbefore expressed, the authority is authorized and directed forthwith or from time to time as it shall deem advisable and within the limitations of the appropriations made available for it to initiate and prosecute all inquiries, investigations, surveys and studies which it may deem necessary or desirable as preliminary to the effectuation of the other powers and duties conferred upon it by this title.

13. Notwithstanding any other provision of law to the contrary but subject to the terms and conditions of federal energy regulatory commission licenses, to allocate or reallocate directly or by sale for resale, two hundred fifty megawatts of firm Niagara project hydroelectric power as "expansion power" and four hundred forty-five megawatts of firm Niagara project hydroelectric power as "replacement power" to businesses within the state located within thirty miles of the Niagara project, and four hundred ninety megawatts of firm and interruptible power from the Saint Lawrence-FDR project as "preservation power" sold to businesses located within the counties of Jefferson, Saint Lawrence and Franklin, provided that the amount of expansion power allocated to businesses in Chautauqua county on January first, nineteen hundred eighty-seven shall continue to be allocated in such county and, provided further that up to seventy megawatts of replacement power, up to thirty-eight and six-tenths megawatts of preservation power from the Saint Lawrence-FDR project which is relinquished or withdrawn after the

effective date of chapter three hundred thirteen of the laws of two thousand five which amended this subdivision and, for the period ending on December thirty-first, two thousand six, up to twenty megawatts of other power from the Saint Lawrence-FDR project which is unallocated as of the effective date of chapter three hundred thirteen of the laws of two thousand five which amended this subdivision, shall be allocated by the authority together with such other funds of the authority as the trustees deem feasible and advisable for energy cost savings benefits pursuant to the twelfth undesignated paragraph of this section. Provided, however, that the amount of replacement, preservation power, or the additional twenty megawatts of Saint Lawrence-FDR power for the period ending December thirty-first, two thousand six made available for such purpose, used for energy cost savings benefits that are relinquished by or withdrawn from a recipient thereof shall be offered by the authority proportionately for a period of six months for reallocation to applicants who qualify respectively for replacement or preservation power allocations as provided in this subdivision. If such power is not allocated within such period it shall be allocated for the purpose of energy cost savings benefits pursuant to subdivision (h) of section one hundred eighty-three of the economic development law. The authority shall negotiate contracts on reasonable terms and conditions to renew or extend every permanent contract allocation of expansion power in effect on the effective date of this subdivision and, to the extent consistent with such contracts, the authority shall negotiate contracts on reasonable terms and conditions to extend or renew all other allocations or allotments of such power in effect on such date. The authority shall negotiate contracts on reasonable terms and conditions to renew or extend for a period of at least five years every permanent contract allocation of replacement power in effect on the effective date of chapter three hundred thirteen of the laws of two thousand five which added this sentence and that would expire by its terms on or before the end of the initial federal energy regulatory commission license for the Niagara project; provided that, in negotiating the terms and conditions of such contracts, the authority may consider a business' compliance with all current contractual obligations, including employment and power usage commitments. Contracts entered into pursuant to this subdivision shall contain reasonable provisions providing for the partial or complete withdrawal of the power in the event the recipient fails to maintain mutually agreed levels of employment, investment, and power utilization. Expansion or replacement power relinquished by businesses or withdrawn by the authority shall be allocated directly or by sale for resale by the authority to businesses within the state located within thirty miles of the Niagara project provided, that the amount of power allocated to businesses in Chautauqua county on January first, nineteen hundred eighty-seven shall be allocated in such county. Preservation power that is relinquished by businesses or withdrawn by the authority shall be allocated directly or by sale for resale by the authority within the counties of Jefferson, Saint Lawrence and Franklin. Allocations made pursuant to this paragraph shall be made in accordance with criteria established by the trustees. Such criteria shall address the expansion of industry and employment pursuant to paragraph (a) of this subdivision and the revitalization of existing industry pursuant to paragraph (b) of this subdivision.

(a) Criteria for eligibility for expansion, replacement and preservation power. Each application for an allocation for expansion, replacement or preservation power shall be evaluated by the trustees under criteria which shall include but need not be limited to:

(1) the number of jobs created as a result of a power allocation;

(2) the business' long term commitment to the region as evidenced by the current and/or planned capital investment in business' facilities in the region;

(3) the ratio of the number of jobs to be created to the amount of power requested;

(4) the types of jobs created, as measured by wage and benefit levels, security and stability of employment;

(5) the amount of capital investment, including the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed;

(6) the extent to which a power allocation will affect the overall productivity or competitiveness of the business and its existing employment;

(7) the extent to which an allocation of power may result in a competitive disadvantage for other business in the state;

(8) the growth potential of the business facility and the contribution

of economic strength to the area in which the business facility is or would be located;

(9) the extent of the business' willingness to make jobs available to persons defined as eligible for services under the federal job training partnership act of nineteen hundred eighty-two and the extent of the business' willingness to satisfy affirmative action goals;

(10) the extent to which an allocation of power is consistent with state, regional and local economic development strategies and priorities and supported by local units of government in the area in which the business is located; and

(11) the impact of the allocation on the operation of any other facilities of the business, on other businesses within the region, and upon other electric ratepayers.

(b) Revitalization. In addition to the criteria provided in paragraph (a) of this subdivision the trustees shall establish special criteria for the evaluation of applications for power allocated for the revitalization of industry. Such criteria shall include, but need not be limited to:

(1) that the business is likely to close, partially close or relocate resulting in the loss of a substantial number of jobs;

(2) that the business is an important employer in the community and efforts to revitalize the business are in long-term interests of both employers and the community;

(3) that a reasonable prospect exists that the proposed allocation of power will enable the business to remain competitive and become profitable and preserve jobs for a substantial period of time;

(4) that the applicant demonstrates cooperation with the local electricity distributor and other available sources of assistance to reduce energy costs to the maximum extent practicable, through conservation and load management; and

(5) that the allocation will not unduly affect the cost of electric service to customers of the local electricity distributor.

13-a. Recharge New York power program. (a) Notwithstanding any other provision of law to the contrary, but subject to the terms and conditions of federal energy regulatory commission licenses, to allocate, reallocate or extend, directly or by sale for resale, up to nine hundred ten megawatts of recharge New York power to eligible applicants located within the state of New York upon the recommendation of the New York state economic development power allocation board pursuant to section one hundred eighty-eight-a of the economic development law.

(b) Recharge New York power shall mean and consist of equal amounts of (1) four hundred fifty-five megawatts of firm hydroelectric power from the Niagara and Saint Lawrence hydroelectric projects to be withdrawn, as of the earliest date such power may be withdrawn consistent with contractual requirements, from utility corporations that, prior to the effective date of this subdivision, purchased such power for the benefit of their domestic and rural consumers ("recharge New York hydropower"), and (2) power procured by the authority through market sources, a competitive procurement process, or authority sources (other than the Niagara and Saint Lawrence projects) (collectively or individually, "recharge New York market power"); provided, however, that if such recharge New York market power comes from authority sources, the use of that power shall not reduce the availability of, or cause an increase in the price of, power provided by the authority for any other program authorized in this article or pursuant to any other statute.

(c) Notwithstanding section one thousand nine of this title or any other provision of law to the contrary, the authority is authorized, beginning July first, two thousand twelve, to make available, contract with and sell to such eligible applicants as are recommended by the economic development power allocation board up to nine hundred ten megawatts of recharge New York power for recharge New York power allocations. A recharge New York power allocation shall consist of equal parts of recharge New York hydropower and recharge New York market power as such terms are defined in paragraph (b) of this subdivision; provided, however, that prior to entering into a contract with an eligible applicant for the sale of recharge New York power, and prior to the provision of electric service relating to the recharge New York power allocation, the authority shall offer each eligible applicant the option to decline to purchase the recharge New York market power component of such allocation. If an eligible applicant declines to purchase such market power from the authority, the authority shall have no responsibility for supplying such market power to the eligible applicant.

13-b. Agricultural consumer electricity cost discount. (1) Notwithstanding any provision of this title or article six of the economic development law to the contrary, the authority is authorized, beginning in two thousand twenty-four, as deemed feasible and advisable by the trustees, to use revenues from the sale of hydroelectric power, and such other funds of the authority as deemed feasible and advisable by the trustees, to fund monthly payments to be made for the benefit of agricultural producers who receive electric service at the residential rate who enjoyed the benefits of authority hydroelectric power withdrawn pursuant to subdivision thirteen-a of this section, and who were previously eligible to receive benefits under the agricultural consumer electricity cost discount created by section four of part CC of chapter sixty of the laws of two thousand eleven, for the purpose of mitigating price impacts associated with the reallocation of such power in the manner described in this subdivision. Such monthly payments shall commence September first, two thousand twenty-four. The total annual amount of monthly payments shall not exceed five million dollars.

(2) The authority shall work cooperatively with the department of public service to evaluate the agricultural consumer electricity cost discount, which shall include an assessment of the benefits to recipients compared to the benefits the recipients received from the authority's hydroelectric power, withdrawn pursuant to subdivision thirteen-a of this section, during the twelve month period ending December thirty-first, two thousand ten, and compared to other agricultural consumers that did not choose to receive the discount.

(b) Energy efficiency program. (1) Beginning with the withdrawal of such hydroelectric power, the authority or the New York state energy research and development authority, shall conduct an energy efficiency program for five years to provide energy efficiency improvements for the purpose of reducing energy consumption for domestic and rural consumers. Such energy efficiency program may be undertaken in cooperation with other energy efficiency programs offered by utility corporations, state agencies and authorities including but not limited to the New York state energy research and development authority; provided however that energy savings attributable to such other energy efficiency programs shall not be included in determining the amount of energy saved pursuant to the program established by this paragraph;

(2) The authority or the New York state energy research and development authority shall annually post on their website a report evaluating the energy efficiency program, including but not limited to, the number of domestic and rural consumers who opted to participate in the program and, if practicable, the estimated savings the domestic and rural consumers received by participating in the energy efficiency program.

14. To provide to the governor, to the speaker of the assembly, and to the temporary president of the senate, on or before April first of each year, an economic development report including projections for the next succeeding twelve months of the amount of economic development power which will be or is expected to be available with a listing of the current recipients of that power, and data on the number and types of jobs resulting from allocation of economic development power. Such report shall also include the amount of revenues collected and used in the previous calendar year pursuant to the eighth unnumbered paragraph of this section.

15. To provide low cost electricity, as well as energy efficiency and conservation services and facilities using conventional or new energy technologies, to the following military establishments within the state: Fort Drum, Fort Hamilton, United States Academy at West Point, Watervliet Arsenal, Niagara Falls Air Reserve Base, Air Force Research Laboratory at Rome, Defense Finance Accounting Services at the former Rome Air Force Base, North East Air Defense Sector, Stewart Air National Guard Base, Hancock Field Air National Guard Base, Stratton Air National Guard Base and Air National Guard Base at Francis S. Gabreski Airport. Services provided pursuant to this section shall be provided only to support United States Department of Defense activities as they are conducted at such facilities. The authority may enter into contracts with the United States, its agencies and instrumentalities, and other public and private entities to effectuate the foregoing.

16. To complete a biennial energy plan in accordance with the

provisions of article six of the energy law. In addition to any requirements of article six of the energy law, the authority shall provide copies of its biennial energy plan to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the assembly committee on energy and the chair of the senate committee on energy and telecommunications. Further, the authority shall cooperate and participate in the state energy planning procedures as enumerated in article six of the energy law.

17. (a) As deemed feasible and advisable by the trustees, to finance and design, develop, construct, implement, provide and administer energy-related projects, programs and services for any public entity, any independent not-for-profit institution of higher education within the state, and any recipient of the economic development power, expansion power, replacement power, preservation power, high load factor power, municipal distribution agency power, power for jobs, and recharge New York power programs administered by the authority. In establishing and providing high performance and sustainable building programs and services authorized by this subdivision, the authority is authorized to consult standards, guidelines, rating systems, and/or criteria established or adopted by other organizations, including but not limited to the United States green building council under its leadership in energy and environmental design (LEED) programs, the green building initiative's green globes rating system, and the American National Standards Institute. The source of any financing and/or loans provided by the authority for the purposes of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(b) For the purposes of this subdivision, the following words and terms shall have the following meanings unless the context indicates another meaning or intent:

(1) "Agency" means any agency, department, or office of the state of New York.

(2) "Energy-related projects, programs and services" means energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and

services, and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.

(3) "Energy services contract" or "contract" means a contract pursuant to which the authority provides energy-related projects, programs and services.

(4) "High performance and sustainable building programs and services" means programs and services related to the renovation and retrofitting of buildings through the incorporation of standards, guidelines, rating systems, and/or criteria relating to design and building techniques established by the authority pursuant to this section, which are addressed to such issues as energy efficiency, energy conservation, the use of renewable energy, the reduction of air and other pollution, and the conservation of materials and resources such as water.

(5) "Public entity" means an agency, public authority, public benefit corporation, public corporation, municipal corporation, school district, board of cooperative educational services, public university, fire district, district corporation, or special improvement district governed by a separate board of commissioners.

(6) "Public authority" means a public authority formed by or under the laws of the state of New York to the extent its facilities are located within the state, and the port authority of New York and New Jersey to the extent that its facilities are located within the state.

(7) "Public benefit corporation" means a public benefit corporation as defined in subdivision four of section sixty-six of the general construction law.

(8) "Public university" means the city university of New York including any senior college or community college as defined in section sixty-two hundred two of the education law, and the state university of New York including four-year colleges established pursuant to section sixty-three hundred seven of the education law and community colleges as defined in section sixty-three hundred one of the education law.

(c) Any public entity is authorized to enter into an energy services contract with the authority for energy-related projects, programs and services that are authorized by this subdivision, provided that (i) the authority issues and advertises written requests for proposals from third party providers of goods and services in accordance with the authority's procurement policies, procedures and/or guidelines, and (ii) the authority shall not contract with a third party provider of goods and services if such person is listed on a debarment list maintained and published in accordance with New York law, as being ineligible to submit a bid on or be awarded any public contract or subcontract with the state, any municipal corporation or public body.

(d)(i) Notwithstanding any other provision of law to the contrary, any energy services contract entered into by the authority with any public entity: (1) may have a term of up to thirty-five years duration, provided, however, that the duration of any such contract shall not exceed the reasonably expected useful life of any facilities or equipment constructed, installed or operated as part of such energy-related projects, programs and services subject to such contract; and (2) shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract." A school district or board of cooperative educational services may only enter into an energy services contract with the authority for such maximum term as is prescribed in the regulations promulgated by the commissioner of education or the useful life of the facilities or equipment being constructed, installed or operated, whichever is less.

(ii) Notwithstanding any other provision of law to the contrary, in order to provide an interest in real or other property necessary for the construction of facilities or the operation of equipment provided for in an energy services contract, a public entity may enter into a lease or other agreement with the authority concerning real or other property to which it holds title or which is under its administrative jurisdiction, as is necessary for such construction or operation, for the same length of time as the term of the energy services contract and on such terms and conditions as may be agreeable to the parties thereto and are not otherwise inconsistent with law, and notwithstanding that such real or other property may remain useful to such entity for the purpose for which such real or other property was originally acquired or devoted or for which such real or other property is being used.

(e) Nothing contained in this subdivision is intended to limit, impair or affect the authority's legal authority to provide energy efficiency and energy services programs that existed as of the effective date of this subdivision.

(f) The authority shall complete and submit a report, on or before January thirty-first, two thousand twelve, on those activities undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the assembly energy committee and the chair of the senate energy committee.

18. For the purpose of furnishing the state with systematic information regarding the status and the activities of the authority, the authority shall submit to the governor, the temporary president of the senate, speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, within ninety days after the end of its fiscal year, a complete and detailed annual report on each economic development power program it administers. Such annual report shall include, but not be limited to, the following information:

a. the number of recipients of economic power program benefits, the economic region in which each recipient is located, the type and amount of assistance provided, megawatts of power awarded, length of current contract, current contract compliance status, last audit, number of jobs retained and/or added in the fiscal year, approximate energy efficiency savings and amount of power reallocated from previous years due to forfeited benefits; and

b. cost to the authority to provide economic development power programs during the previous fiscal year.

19. To cooperate with the western New York power proceeds allocation board and provide the board with such information and assistance as the

board reasonably requests, including reasonable staff services, accounting, clerical and secretarial assistance, office space, and equipment reasonably requested by the western New York power proceeds allocation board to fulfill its duties.

20. To establish an account to be known as the western New York economic development fund, which shall consist of "net earnings" as defined in article six-a of the economic development law, deposited in such amounts as determined to be feasible and advisable by the trustees. Such earnings shall be deposited no less frequently than quarterly. The first deposit into the fund shall be made ninety days after the effective date of this subdivision, and shall include all such net earnings accrued since the effective date of chapter four hundred thirty-six of the laws of two thousand ten. At least fifteen percent of such funds shall be dedicated towards eligible projects which are energy-related projects, programs and services as such term is defined in subparagraph two of paragraph (b) of subdivision seventeen of this section. In addition to funding eligible projects, as defined in article six-a of the economic development law, the authority may use western New York economic development fund monies to cover reasonable costs and expenses of the authority related to the management and administration of the western New York power proceeds allocation program created by article six-a of the economic development law.

21. The authority may, in its discretion, consult with the western New York power proceeds allocation board in the application process relating to the allocation of expansion power and replacement power.

22. The authority shall establish processes for application review and allocation of fund benefits provided for in article six-a of the economic development law.

23. The authority shall include in the annual report prepared pursuant to subdivision eighteen of this section, an accounting for the subject year that provides (a) the amount of expansion power and replacement power sold into the wholesale market by the authority, and (b) the net earnings, as such term is defined in section one hundred eighty-nine-a

of the economic development law, paid into the western New York economic development fund.

24. (a) For purposes of this subdivision, the terms "authority-TMED contract", "eligible project", "net earnings", "northern New York power proceeds allocation board" and "St. Lawrence county economic development power" shall have the meanings ascribed to such terms in article seven-A of the economic development law.

(b) The authority shall be authorized to cooperate with the northern New York power proceeds allocation board, and provide such board with such information and assistance, including reasonable staff services, accounting, clerical and secretarial assistance, office space, and equipment, as the board reasonably requests in order to fulfill its duties under article seven-A of the economic development law.

(c) The authority shall establish an account to be known as the northern New York economic development fund, which shall consist solely of net earnings. The authority, as determined to be feasible and advisable by the trustees, shall deposit net earnings into the fund no less than quarterly, provided, however, that the amount of St. Lawrence county economic development power that may be used by the authority to generate net earnings shall not exceed the lesser of twenty megawatts or the amount of St. Lawrence county economic development power that has not been allocated by the authority under the authority-TMED contract for sub-allocations, and provided further that beginning five years from the effective date of this subdivision, the amount of St. Lawrence county economic development power that may be used by the authority to generate net earnings shall not exceed the lesser of ten megawatts or the amount of St. Lawrence county economic development power that has not been allocated by the authority under the authority-TMED contract for sub-allocations. At least fifteen percent of net earnings paid into the fund shall be dedicated to eligible projects which are energy-related projects, programs and services as such term is defined in subparagraph two of paragraph (b) of subdivision seventeen of this section. In addition to funding eligible projects, the authority may use northern New York economic development fund monies to cover reasonable costs and expenses of the authority related to the management and administration of the northern New York power proceeds allocation program created by article seven-A of the economic development law.

(d) The authority is hereby authorized to establish processes for application review and allocation of fund benefits, and to promulgate such rules and regulations as it deems necessary to fulfill the purposes of this subdivision and the duties assigned to it under article seven-A of the economic development law.

(e) The authority shall include in the annual report prepared pursuant to subdivision eighteen of this section, an accounting for the subject year that provides the amount of St. Lawrence county economic development power sold into the wholesale market by the authority, and the net earnings paid into the northern New York economic development fund.

25. Notwithstanding any other provision of law, to accept gifts, grants, loans, or contributions of funds or property in any form from the federal government or any agency or instrumentally thereof or from the state or any other source (collectively, "resources"), and enter into contracts or other transactions regarding such resources, and to use such resources for any of its corporate purposes.

26. (a) As deemed feasible and advisable by the trustees, to plan, finance, construct, acquire, operate, improve and maintain, either alone or jointly with one or more other entities, transmission facilities for the purpose of transmitting power and energy generated by renewable wind energy generation projects that are located in state territorial waters, and/or in waters under the jurisdiction or regulation of the United States, which supplies electric power and energy to the state of New York that the authority deems necessary and desirable in order to: (i) provide, support and maintain an adequate and reliable supply of electric power and energy in the state of New York, and/or (ii) assist the state in meeting state energy-related goals and standards.

(b) The source of any financing and/or loans provided by the authority for any of the actions authorized in paragraph (a) of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(c) The authority shall complete and submit a report, on or before

January thirty-first, two thousand twenty, and annually thereafter, on those activities undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the assembly energy committee, and the chair of the senate energy and telecommunications committee. Such report shall be posted on the authority's website and accessible for public review.

* 27. (a) Notwithstanding any other provision of this title, as deemed feasible and advisable by the trustees, the authority is authorized to undertake the following actions when it deems it necessary or desirable to address the energy-related needs of any (i) authority customer, (ii) public entity, or (iii) CCA community:

(1) (A) supply power and energy procured from competitive market sources to any (i) authority customer, (ii) public entity, or (iii) CCA community through the supply of such products through an energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program, provided, however, that the authority shall not supply at any point more than a total of four hundred megawatts of power and energy to authority customers and public entities pursuant to the authority of this clause;

(B) supply renewable power, energy, or related credits or attributes procured through a competitive process, from competitive market sources, or through negotiation when a competitive procurement is not reasonably feasible and such products can be procured on reasonably competitive terms to (i) any authority customer, (ii) any public entity, or (iii) any CCA community through the supply of such products through an energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program; and

(b) Nothing in this subdivision authorizes the authority to act as an energy supply company or administrator for CCA programs.

(c) Power and energy sold pursuant to the authority provided in paragraph (a) of this subdivision shall only be sold for use at facilities located in the state.

(d) Any public entity is hereby authorized to contract with the authority for the purchase of power, energy, or related credits or attributes which the authority is authorized to supply under paragraph (a) of this subdivision.

(e) The source of any financing and/or loans provided by the authority for any of the actions authorized in paragraph (a) of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(f) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty, and annually thereafter on those actions undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly ways and means committee, the chair of the senate finance committee, the chair of the assembly energy committee and the chair of the senate energy and telecommunications committee. Such report, at a minimum, shall include: (i) an accounting of the total amount of power, energy, and related credits and attributes procured from competitive market sources and supplied to authority customers, public entities, and CCA communities; (ii) an accounting of the total amount of renewable power, energy, and related credits and attributes procured through negotiation and supplied to authority customers, public entities, and CCA communities; (iii) a description of all renewable energy generating projects financed by the authority, including the aggregate amount of financing; (iv) an accounting of all power, energy, and related credits and attributes purchased by the authority from such projects; and (v) an identification of all public entities, authority customers, and CCA communities to which the authority supplied, allocated or sold any power, energy or related credits or attributes.

(g) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(i) "Authority customer" means an entity located in the state to which the authority sells or is under contract to sell power or energy under the authority in this title or any other law.

(ii) "CCA community" means one or more municipal corporations located within the state that have provided for the purchase of power, energy,

or related credits or other attributes under a CCA program.
(iii) "CCA program" means a community choice aggregation program approved by the public service commission.
(iv) "Public entity" has the meaning ascribed to that term by subparagraph five of paragraph (b) of subdivision seventeen of this section.
(v) "Renewable energy resources" means solar power, wind power, hydroelectric, and any other generation resource authorized by any renewable energy standard adopted by the state for the purpose of implementing any state clean energy standard.
(vi) "Renewable energy generating project" means a project that generates power and energy by means of renewable energy resources, or that stores and supplies power and energy generated by means of renewable energy resources, and includes the construction, installation and/or operation of ancillary facilities or equipment done in connection with any such renewable energy generating projects, provided, however, that such term shall not include the authority's Saint Lawrence hydroelectric project or Niagara hydroelectric project.
(vii) "State" means the state of New York.
* NB Repealed June 30, 2033

27-a. (a) The authority is authorized and directed, to:
(i) plan, design, develop, finance, construct, own, operate, maintain and improve, either alone, or jointly with other entities through the use of public-private agreements established in paragraph (f) of this subdivision, renewable energy generating projects in the state, including its territorial waters, and/or on property or in waters under the jurisdiction or regulatory authority of the United States, or any component thereof, to: support the state's renewable energy goals established pursuant to the climate leadership and community protection act; provide or maintain an adequate and reliable supply of electric power and energy in the state, including but not limited to, high need areas and communities served by small natural gas power plants as defined in this section; and support the renewable energy access and community help program established pursuant to subdivision twenty-seven-b of this section; subject to the strategic plan developed and updated pursuant to paragraph (e) of this subdivision approved by

the trustees of the authority, provided that the authority, or a wholly owned subsidiary thereof, shall at all times maintain majority ownership of any such project, and provided further that the authority, any subsidiary thereof, or any other entity participating in a public-private agreement established in paragraph (f) of this subdivision, shall only design, develop, finance, construct, own, operate, maintain and improve projects pursuant to this subdivision that have been identified in the strategic plan or its updates as provided in subparagraph (v) of paragraph (e) of this subdivision; and

(ii) notwithstanding any conflicting provision of title five-A of article nine of this chapter, acquire from willing sellers, lease, or dispose of property interests related to the development or disposition of renewable energy generating projects authorized by this paragraph through a competitive selection process or by negotiation, provided that the authority and any subsidiary thereof shall receive not less than fair market value, supported by an appraisal prepared by an independent appraiser, for the disposal of any interest in any renewable energy generating project.

(b) The authority, its subsidiaries or any entity participating in a public-private agreement established in paragraph (f) of this subdivision or acting on behalf of the authority, when developing renewable energy generating projects authorized in this subdivision, or subdivision twenty-seven-b of this section, shall: (i) not develop, except when necessary for generator lead lines and other equipment needed for interconnection of projects to the electric system, on property that consists of land used in agricultural production, taking into consideration whether the land is within an agricultural district or contains mineral soil groups 1-4, as defined by the department of agriculture and markets, unless a renewable energy generation project is in furtherance of an agrivoltaics project; (ii) minimize harm to wildlife, ecosystems, public health and public safety; and (iii) not build on lands located upon any Native American territory or reservation located wholly or partly within the state, except through voluntary sale or other agreement for such use with the consent of the relevant nation and any required consent of the federal government.

(c) Renewable energy generating projects developed by the authority, or a wholly owned subsidiary, pursuant to this subdivision or subdivision twenty-seven-b of this section that meet eligibility criteria under state programs administered by the public service commission and the New York state energy research and development authority shall be eligible to receive renewable energy certificates in accordance with such programs consistent with laws and regulations.

* (d) No later than one hundred eighty days after the effective date of this subdivision, and annually thereafter, the authority shall confer with the New York state energy research and development authority, the department of public service, climate and resiliency experts, labor organizations, and environmental justice and community organizations concerning the state's progress on meeting the renewable energy goals established by the climate leadership and community protection act. When exercising the authority provided for in paragraph (a) of this subdivision, the information developed through such conferral shall be used to identify projects to help ensure that the state meets its goals under the climate leadership and community protection act. Any conferral provided for in this paragraph shall include consideration of the timing of projects in the interconnection queue of the federally designated electric bulk system operator for New York state, taking into account both capacity factors or planned projects and the interconnection queue's historical completion rate. A report on the information developed through such conferral shall be published and made accessible on the website of the authority.

* NB Effective until December 31, 2040

* (d) No later than one hundred eighty days after the effective date of this subdivision, and annually thereafter, the authority shall confer with the New York state energy research and development authority, the office of renewable energy siting, the department of public service, climate and resiliency experts, labor organizations, and environmental justice and community organizations concerning the state's progress on meeting the renewable energy goals established by the climate leadership and community protection act. When exercising the authority provided for in paragraph (a) of this subdivision, the information developed through such conferral shall be used to identify projects to help ensure that the state meets its goals under the climate leadership and community protection act. Any conferral provided for in this paragraph shall include consideration of the timing of projects in the interconnection

queue of the federally designated electric bulk system operator for New York state, taking into account both capacity factors or planned projects and the interconnection queue's historical completion rate. A report on the information developed through such conferral shall be published and made accessible on the website of the authority.

* NB Effective December 31, 2040

(e) * (i) Beginning in two thousand twenty-five, and biennially thereafter until two thousand thirty-three, the authority, in consultation with the New York state energy research and development authority, the department of public service, and the federally designated electric bulk system operator for New York state, shall develop and publish biennially a renewable energy generation strategic plan ("strategic plan") that identifies the renewable energy generating priorities based on the provisions of paragraph (a) of this subdivision for the two-year period covered by the plan as further provided for in this paragraph.

* NB Effective until December 31, 2040

* (i) Beginning in two thousand twenty-five, and biennially thereafter until two thousand thirty-three, the authority, in consultation with the New York state energy research and development authority, the office of renewable energy siting, the department of public service, and the federally designated electric bulk system operator for New York state, shall develop and publish biennially a renewable energy generation strategic plan ("strategic plan") that identifies the renewable energy generating priorities based on the provisions of paragraph (a) of this subdivision for the two-year period covered by the plan as further provided for in this paragraph.

* NB Effective December 31, 2040

(ii) In developing, and updating, the strategic plan, the authority shall consider:

(A) information developed pursuant to paragraph (d) of this subdivision;

(B) high need areas where transmission and distribution upgrades will be necessary to interconnect new renewable energy generation projects;

(C) the feasibility of projects, based on costs, potential benefits, and other relevant considerations;

(D) the fiscal condition of the authority and the impacts of potential renewable energy generating projects on the authority and its subsidiaries;

(E) ways to minimize any negative tax revenue impacts on municipalities that host renewable energy generating projects, including but not limited to, PILOT and/or community benefit agreements;

(F) the timing, characteristics and size of the renewable energy generating projects in the interconnection queue of the federally designated electric bulk system operator for New York state;

(G) in consultation with the federally designated electric bulk system operator for New York state, the power, energy and ancillary services provided by planned renewable energy generating projects, taking into account the historical completion rate of similar projects; and

(H) opportunities to work in partnership with private sector renewable energy developers to accelerate activity, catalyze greater scale, and spur additional market participation.

(iii) The strategic plan shall address the purposes stated in paragraph (a) of this subdivision, and prioritize projects that:

(A) actively benefit disadvantaged communities;

(B) serve publicly-owned facilities; and

(C) support the renewable energy access and community help program established pursuant to subdivision twenty-seven-b of this section.

(iv) The strategic plan shall assess and identify at a minimum:

(A) renewable energy generating high need and priority areas;

(B) priority locations for the development of renewable energy generating projects;

(C) the types and capacity of renewable energy resources to be utilized;

(D) the estimated cost of renewable energy generating projects to the extent known;

(E) a description of any delays or anticipated delays associated with completion of the renewable energy generating projects;

(F) which of the intended purposes in paragraph (a) of this subdivision each renewable energy generating project is intended to support;

(G) any prioritization given to the order of development of renewable energy generating projects;

(H) the benefits associated with the renewable energy generating projects, including any benefits to disadvantaged communities;

(I) any benefits to rate payers;

(J) the state's progress towards achieving the renewable energy goals of the climate leadership and community protection act; and

(K) any other information the authority determines to be appropriate.

(v) The plan shall include a list of proposed renewable energy generating projects. Such list shall include projects that are planned to be commenced prior to the next update or version of the plan, and at the authority's discretion need not include any projects in the planning stage. Each proposed project listed shall include, without limitation:

(A) location of the project, to the extent that property associated with such location has been secured for the proposed project;

(B) the type, or types, of renewable energy resources utilized;

(C) the potential generating capacity of each project;

(D) the estimated project cost;

(E) the timeline for completion; and

(F) the entity undertaking the proposed project and any public partnership agreements the authority or its subsidiaries enter into for such project.

(vi) In developing the strategic plan, the authority shall consult with stakeholders including, without limitation, climate and resiliency experts, labor organizations, environmental justice communities, disadvantaged community members, residential and small business ratepayer advocates, and community organizations. The authority shall also seek, where possible, community input through the regional clean energy hubs program administered by the energy research and development authority.

(vii) The authority shall post a draft of the strategic plan on its website for public comment for a period of at least sixty days, and shall hold at least three public hearings on the draft strategic plan in regionally diverse parts of the state. Consideration should be given to the availability of public transit when selecting locations for in-person hearings.

(viii) The authority shall after considering the stakeholder input publish the first final strategic plan on its website no later than January thirty-first, two thousand twenty-five.

(ix) The authority, until two thousand thirty-five, shall update each biennial strategic plan annually, after a public comment period of at least thirty days and at least one public hearing. Such updated strategic plan shall include a review of the implementation of the projects previously included in the strategic plan with necessary updates, including status in the interconnection queue. The authority may update the plan more often than annually provided that it follows the public comment and public hearing process for updated plans prescribed by this paragraph.

(x) The strategic plan and any update thereof shall not be deemed final until it is approved by the authority's trustees.

(xi) During at least three board of trustees' meetings per year, there shall be a public report delivered and published on the development and implementation of the authority's renewable energy generation strategic plan. A statement explaining that there is no update shall be acceptable.

(xii) The authority shall maintain a public dashboard on their website demonstrating their progress in implementing the authority's renewable energy generation strategic plan.

(f) The authority shall have the right to exercise and perform all or part of its powers and functions pursuant to this subdivision or subdivision twenty-seven-b of this section, through one or more wholly owned subsidiaries. The authority may form such subsidiary by acquiring the voting shares thereof or by resolution of the board directing any of its trustees, officers or employees to organize a subsidiary pursuant to the business corporation law, or the not-for-profit corporation law, or as otherwise authorized by law. Such resolution shall prescribe the purpose for which such subsidiary is to be formed, which shall not be inconsistent with the provisions of this subdivision. Each such subsidiary pursuant to this subdivision shall be subject to any provision of this chapter pertaining to subsidiaries of public authorities, except that subdivision three of section twenty-eight hundred twenty-seven-a of this chapter shall not apply to any subsidiary organized pursuant to this section. The authority may transfer to any such subsidiary any moneys, property (real, personal or mixed) or facilities in order to carry out the purposes of this subdivision. Each such subsidiary shall have all the privileges, immunities, tax exemptions and other exemptions of the authority to the extent the same are not inconsistent with the statute or statutes pursuant to which such subsidiary was incorporated; provided, however, that in any event any such subsidiary shall be entitled to exemptions from the public service law and any regulation by, or the jurisdiction of, the public service commission, except as otherwise provided in this subdivision or subdivision twenty-seven-b of this section. In exercising the authority provided for in paragraph (a) of this subdivision, the authority or any subsidiary thereof, may enter into public-private partnership agreements, to the extent the authority determines that such collaborations are in the best interest of the state, and necessary to mitigate financial risks to the authority to manageable levels as determined by the trustees. Nothing in this subdivision shall be construed as authorizing any private entity that enters into a public-private partnership or a similar agreement, or any contract authorized herein, with the authority or a subsidiary thereof, to receive, exercise or claim entitlement to any of the privileges, immunities, tax exemptions or other exemptions of the authority or any subsidiary thereof.

(g) The source of any financing and/or loans for any of the actions authorized in this subdivision may include: (i) the proceeds of notes issued pursuant to section one thousand nine-a of this title; (ii) the proceeds of bonds issued pursuant to section one thousand ten of this title; (iii) other funds made available by the authority for such purposes; or (iv) any other funds made available to the authority from non-authority sources including but not limited to state or federal monies.

(h) For any renewable energy generating project authorized by this subdivision, identified in the strategic plan and developed after its effective date, the authority is authorized, pursuant to law and regulation, to:

(i) sell renewable energy credits or attributes to, the New York state energy research and development authority, including for the purpose of supporting the greenhouse gas emission reduction goals in the climate leadership and community protection act;

(ii) sell renewable power and energy and ancillary services to, or into, markets operated by the federally designated electric bulk system operator for New York state;

(iii) sell renewable power and energy and renewable energy credits or attributes to: (A) any load serving entity in the state, including the Long Island power authority (directly, or through its service provider, as appropriate), including but not limited to the purpose of providing bill credits to low-income or moderate-income end-use electricity consumers in disadvantaged communities for renewable energy produced by renewable energy systems as provided for in subdivision twenty-seven-b of this section;

(B) manufacturers of green hydrogen produced through electrolysis or other zero-emission technology to displace fossil fuel use in the state for use at facilities located in the state;

(C) any public entity or authority customer;

(D) community distributed generation providers, energy aggregators and similar entities for the benefit of subscribers to community distributed generation projects in the state, including low-income or moderate-income end-use electricity consumers located in disadvantaged communities; and

(E) any CCA community.

(i) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(i) "Authority customer" means an entity located in the state to which the authority sells or is under contract to sell power or energy under the authority in this title or any other law.

(ii) "CCA community" means one or more municipal corporations located within the state that have provided for the purchase of power, energy, or renewable energy credits or other attributes under a CCA program.

(iii) "CCA program" means a community choice aggregation program approved by the public service commission.

(iv) "Disadvantaged communities" has the meaning ascribed to that term by subdivision five of section 75-0101 of the environmental conservation law.

(v) "Public entity" has the same meaning as in subparagraph five of paragraph (b) of subdivision seventeen of this section.

(vi) "Renewable energy generating project" or "project" means:

(A) facilities that generate power and energy by means of a renewable energy system;

(B) facilities that store and discharge power and energy; and

(C) facilities, including generator lead lines, for interconnection of renewable energy generating projects to delivery points within the state of New York.

(vii) "Renewable energy system" has the same meaning as section sixty-six-p of the public service law.

(j) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty-five, and annually thereafter, to the governor, the speaker of the assembly, and the temporary president of the senate, and shall post such report on the authority's website such that the report is accessible for public review. Such report shall include, but not be limited to:

(i) a description of the renewable energy projects the authority has planned, designed, developed, financed, or constructed and that it owns, operates, maintains or improves, alone or jointly with other entities, under the authority of this subdivision;

(ii) a description of the acquisition, lease or other disposition of interests in renewable energy generating projects by the authority under this subdivision;

(iii) a listing of all renewable power, energy, ancillary services and related credits and attributes sold or purchased by the authority from such projects;

(iv) a listing of the entities to which the authority has supplied, allocated or sold any renewable power, energy, ancillary services or related credits or attributes from such projects;

(v) a listing and description of all subsidiaries that the authority formed, public-private partnerships the authority has joined, and the subsidiaries and public-private partnerships from and to which the authority acquired or transferred any interests;

(vi) the total amount of revenues generated from the sale of renewable energy products from such projects; and

(vii) an explanation of how each renewable energy generation project supports the purposes listed in paragraph (a) of this subdivision.

(k) All renewable energy generating projects subject to this subdivision and subdivision twenty-seven-b of this section shall be deemed public work and subject to and performed in accordance with articles eight and nine of the labor law. Each contract for such renewable energy generating project shall contain a provision that such projects may only be undertaken pursuant to a project labor agreement. For purposes of this subdivision and subdivision twenty-seven-b of this section, "project labor agreement" shall mean a pre-hire collective bargaining agreement between the authority, or a third party on behalf of the authority, and a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on a public work project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work. All contractors and subcontractors associated with this work shall be required to utilize apprenticeship agreements as defined by article twenty-three of the labor law.

(l) The authority shall include requirements in any procurement or development of a renewable energy generating project, as defined in this subdivision, that the components and parts shall be produced or made in whole or substantial part in the United States, its territories or possessions. The authority's president and chief executive officer, or his or her designee may waive the procurement and development requirements set forth in this paragraph if such official determines that: the requirements would not be in the public interest; the requirements would result in unreasonable costs; obtaining such infrastructure components and parts in the United States would increase the cost of a renewable energy generating project by an unreasonable amount; or such components or parts cannot be produced, made, or assembled in the United States in sufficient and reasonably available quantities or of satisfactory quality. Such determination must be made on an annual basis no later than December thirty-first, after providing notice and an opportunity for public comment, and such determination shall be made publicly available, in writing, on the authority's website with a detailed explanation of the findings leading to such determination. If the authority's president and chief executive officer, or his or her designee, has issued determinations for three consecutive years finding that no such waiver is warranted pursuant to this paragraph, then the authority shall no longer be required to provide the annual determination required by this paragraph.

(m) (i) Nothing in this subdivision or subdivision twenty-seven-b of this section shall alter the rights or benefits, and privileges, including, but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership, of any current employees of the authority.

(ii) Nothing in this article shall result in: (A) the discharge, displacement, or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits; (B) the impairment of existing collective bargaining agreements; (C) the transfer of existing duties and functions; or (D) the transfer of future duties and functions, of any currently employed worker of the state or any agency, public authority or the state university of New York.

(n) The authority shall enter into a memorandum of understanding for the operation and maintenance of a renewable energy generating project developed pursuant to this subdivision or subdivision twenty-seven of this section with a bona fide labor organization of jurisdiction that is actively engaged in representing transitioning employees from non-renewable generation facilities. Such memorandum shall be entered into prior to the completion date of a renewable energy generating project and shall be an ongoing material condition of authorization to operate and maintain a renewable energy generating project developed pursuant to this subdivision or subdivision twenty-seven-b of this section. The memorandum shall only apply to the employees necessary for the maintenance and operation of such renewable energy generating projects. Such memorandum shall contain but not be limited to safety and training standards, disaster response measures, guaranteed hours, staffing levels, pay rate protection, and retraining programs. The employees eligible for these positions shall first be selected from a pool of transitioning workers who have lost their employment or will be losing their employment in the non-renewable energy generation sector. Such list of potential employees will be provided by affected labor organizations and provided to the department of labor. The department of labor shall update and provide such list to the authority ninety days prior to purchase, acquisition, and/or construction of any project under this subdivision or subdivision twenty-seven-b of this section.

(o) For the purposes of article fifteen-A of the executive law, any person entering into a contract for a project authorized pursuant to this section shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article.

* (p) Nothing in this subdivision or subdivision twenty-seven-b of this section, shall be construed as exempting the authority, its subsidiaries, or any renewable energy generating projects undertaken pursuant to this section from the requirements of article VIII of the public service law respecting any renewable energy system developed by the authority or an authority subsidiary after the effective date of this subdivision that meets the definition of "major renewable energy facility" as defined in article VIII of the public service law, as it relates to host community benefits, and section 11-0535-c of the environmental conservation law as it relates to an endangered and threatened species mitigation bank fund.

* NB Effective until December 31, 2040

* (p) Nothing in this subdivision or subdivision twenty-seven-b of this section, shall be construed as exempting the authority, its subsidiaries, or any renewable energy generating projects undertaken pursuant to this section from the requirements of section ninety-four-c of the executive law respecting any renewable energy system developed by the authority or an authority subsidiary after the effective date of this subdivision that meets the definition of "major renewable energy facility" as defined in section ninety-four-c of the executive law and section eight of part JJJ of chapter fifty-eight of the laws of two thousand twenty, as it relates to host community benefits, and section 11-0535-c of the environmental conservation law as it relates to an endangered and threatened species mitigation bank fund.

* NB Effective December 31, 2040

(q) All renewable energy generating projects the authority plans to undertake pursuant to the authority and directive of paragraph (a) of this subdivision, and identified in the strategic plan, shall be subject to review and approval of the authority's board of trustees.

27-b. (a) Definitions. For purposes of this subdivision, the following terms shall have the following meanings:

(i) "bill credit" means a monthly monetary credit which is funded by the authority, as further determined by the public service commission and appears on the utility bill of a low-income or moderate-income end-use electricity consumer located in a disadvantaged community, for renewable energy produced by renewable energy systems developed, constructed, owned, or contracted for by the power authority of the state of New York and injected into a distribution or transmission facility at one or more points in New York state, together with any enhanced incentive payments for a community distributed generation project serving a disadvantaged community provided for in paragraph (b) of subdivision seven of section sixty-six-p of the public service law, together with any other funding made available by the authority for such purposes;

(ii) "disadvantaged community" means a community defined as a disadvantaged community in accordance with article seventy-five of the environmental conservation law;

(iii) "jurisdictional load serving entity" has the same meaning as defined in paragraph (a) of subdivision one of section sixty-six-p of the public service law;

(iv) "low-income or moderate-income end-use consumer" shall mean end-use customers of electric corporations and combination gas and electric corporations regulated by the public service commission whose income is found to be below the state median income based on household size;

(v) "renewable energy" means electrical energy produced by a renewable energy system;

(vi) "renewable energy systems" has the same meaning as defined in paragraph (b) of subdivision one of section sixty-six-p of the public service law; and

(vii) "qualified energy storage system" has the same meaning as defined in subdivision one of section seventy-four of the public service law.

(b) The authority is authorized and directed, as deemed feasible and advisable by its trustees, to establish a program, as soon as practicable, to be known as the "renewable energy access and community help program" or "REACH", that will enable low-income or moderate-income end-use electricity consumers in disadvantaged communities, including such end-use electricity customers who reside in buildings that have on-site net-metered generation or who participate in a community choice aggregation or community distributed generation project, unless they opt out of REACH, to receive bill credits generated by the production of renewable energy by a renewable energy system planned, designed, developed, financed, constructed, owned, operated, maintained or improved, or contracted for by the authority as a renewable energy generating project pursuant to subdivision twenty-seven-a of this section. Such bill credits shall be in addition to any other renewable energy program or any other program or benefit that end-use electricity consumers in disadvantaged communities receive. For purposes of this subdivision, a renewable energy system developed, constructed, owned, or contracted for by the authority shall be: (i) sized up to and including five megawatts alternating current and interconnected to the distribution system or transmission system in the service territory of the electric utility that serves the end-use electricity consumers that receive bill credits; or (ii) sized above five megawatts alternating current and interconnected to the distribution or transmission system at one or more points anywhere within the state.

(c) For purposes of implementing REACH, the authority is authorized and directed, as deemed feasible and advisable by the trustees, to:

(i) pursuant to the authority provided in paragraph (a) of subdivision twenty-seven-a of this section, develop, construct, own, and/or operate renewable energy generating projects;

(ii) contract for the development, construction and/or operation of renewable energy systems;

(iii) sell, purchase, and otherwise contract regarding renewable energy, renewable energy credits or attributes and other energy products and services generated by renewable energy generating projects; and

(iv) enter into contracts for purposes of implementing REACH, including but not limited to agreements with developers, owners and operators of renewable energy systems, and agreements with jurisdictional load serving entities and the Long Island power authority, or its service provider, to provide for bill credits to end-use electricity consumers in disadvantaged communities for renewable energy produced by renewable energy systems, upon terms and conditions approved by the public service commission pursuant to subdivisions seven and eight of section sixty-six-p of the public service law.

(d) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty-five, and annually thereafter, to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, and the minority leader of the senate which shall be posted on the authority's website, and shall include, but not be limited to:

(i) contracts entered into by the authority for the development, construction and/or operation of renewable energy systems that are intended in whole or in part to support REACH, and the planned location of such projects;

(ii) renewable energy systems that are being planned and developed or that have been developed by or for the authority that are intended in whole or in part to support REACH, and the location of such projects;

(iii) an estimate of the aggregate amount of bill credits provided to end-use electricity consumers in disadvantaged communities under REACH;

(iv) an estimate of: (A) the total amount of revenues generated from the sale of renewable capacity, energy, renewable credits or attributes, and related ancillary services that are used to fund bill credits; and (B) any other authority funds, as determined to be feasible and advisable by the trustees, the authority has contributed for the purpose of funding bill credits under REACH;

(v) the amount of energy produced by each facility; and

(vi) the kilowatt-hour sales by project.

(e) The authority may request from any department, division, office, commission or other agency of the state or any state public authority, and the same are authorized to provide, such assistance, services and data as may be required by the authority in carrying out the purposes of this subdivision.

(f) Within one year of the effective date of this subdivision, the authority shall issue a report to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, and the minority leader of the senate that addresses the feasibility and advisability of implementing a program similar to REACH for the purpose of providing bill credits to low-income or moderate-income end-use electricity consumers located in disadvantaged communities in the service territories of municipal distribution utilities and rural electric cooperatives located in New York state. The authority may confer with any municipal distribution utility or its representatives, and any rural electric cooperative or its representatives, and may request from any municipal distribution utility, rural electric cooperative, department, division, office, commission or other agency of the state or state public authority, and the same are authorized to provide, such assistance, services and data as may be required by the authority to complete the report.

(g) Nothing in this subdivision shall be construed as authorizing any private entity that enters into a public-private partnership or a similar agreement, or any contract authorized herein, with the authority or an authority subsidiary, to receive, exercise or claim entitlement to any of the privileges, immunities, tax exemptions or other exemptions of the authority or any authority subsidiary.

27-c. (a) Within two years of the effective date of this subdivision, the authority shall publish a plan providing for the proposed phase out, by December thirty-first, two thousand thirty, of the production of electric energy from its small natural gas power plants. The plan shall include a proposed strategy to replace, where appropriate, the small natural gas power plants with renewable energy systems, as defined in section sixty-six-p of the public service law, including renewable energy generating projects authorized pursuant to subdivision twenty-seven-a of this section provided such projects shall be included in the strategic plan established pursuant to subdivision twenty-seven-a of this section. By December thirty-first, two thousand thirty, the authority shall cease production of electricity at each of its small natural gas power plants should the authority determine that such plant or plants, or the electricity production therefrom are not needed for any of the following purposes: (i) emergency power service; or (ii) electric system reliability, including but not limited to, operating facilities to maintain power system requirements for facility thermal limits, voltage limits, frequency limits, fault current duty limits, or dynamic stability limits, in accordance with the system reliability standards of the North American electric reliability corporation, criteria of the northeast power coordinating council, rules of the New York state reliability council, and as applicable, reliability rules of the utility in whose service territory a small natural gas power plant is located. Notwithstanding any other provision of this paragraph, the authority may continue to produce electric energy at any of the small natural gas power plants if existing or proposed replacement generation resources would result in more than a de minimis net increase of emissions of carbon dioxide or criteria air pollutants within a disadvantaged community as defined in subdivision five of section 75-0101 of the environmental conservation law. The authority shall file deactivation notices with the federally designated electric bulk system operator for the state of New York for the purpose of ceasing electricity production from the small natural gas power plants in a timeframe sufficient to facilitate the cessation of electricity production pursuant to this paragraph.

(b) In determining whether to cease electricity production from any small natural gas power plant, the authority is authorized to confer with the federally designated electric bulk system operator for the state, the New York state energy research and development authority, the department of public service, and the distribution utility in whose service territory such small natural gas power plant operates, in addition to such other stakeholders as the authority determines to be appropriate. Determinations shall be on a plant by plant basis, be updated no less than every two years, and be made publicly available along with the supporting documentation on which the determination was based. In making such determinations, the authority shall provide an opportunity for public comment of not less than sixty days prior to the public hearing and shall hold at least one public hearing in the affected community.

(c) Nothing in this subdivision is intended to, nor shall be construed to, prohibit the authority in its discretion from using, or permitting the use of, including through lease, sale, or other arrangement, any small natural gas power plant or its site or associated infrastructure in whole or in part for electric system purposes that does not involve the combustion of fossil fuels, including, but not limited to providing system voltage support, energy storage, interconnection of existing or new renewable generation, or the use of the generator step up transformers and substations for transmission or distribution purposes provided that such use, lease, sale, or other arrangement shall comply with existing law.

(d) For purposes of this subdivision, the term "small natural gas power plant" or "plant" means each of the seven electric generating power plants owned and operated by the authority located at six sites in Bronx, Brooklyn, Queens and Staten Island and one site in Brentwood, Suffolk county, which each use one or more simple cycle combustion turbine units, totaling eleven units, fueled by natural gas and which typically operate during periods of peak electric system demand.

27-d. Beginning in state fiscal year two thousand twenty-four--two thousand twenty-five, the authority is authorized, as deemed feasible and advisable by the trustees, to make available an amount up to twenty-five million dollars annually to the department of labor to fund programs established or implemented by or within the department of labor, including but not limited to the office of just transition and programs for workforce training and retraining, to prepare workers for employment for work in the renewable energy field.

28. The authority may establish a subsidiary corporation for the purpose of forming a pure captive insurance company as provided in section seven thousand two of the insurance law. The members of such subsidiary corporation of the authority shall be the same persons holding the offices of members of the authority. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

29. (a) Notwithstanding any other provision of law, the authority is authorized, as deemed feasible and advisable by the trustees, to enter into lease agreements with other state instrumentalities and municipal entities for the use of excess capacity in the authority's fiber optic communications infrastructure to provide affordable, high-speed broadband in unserved and underserved communities in the state.

(b) Any excess fiber optic communication infrastructure leased out by the authority to a state instrumentality or municipal entity pursuant to paragraph (a) of this subdivision shall be at a rate that is no greater than necessary to cover the cost of maintenance of such fiber optic communications infrastructure, provided that this paragraph shall not limit the authority from recovering other costs it incurs to make such excess capacity available in unserved and underserved communities in the state.

(c) Lease agreements authorized pursuant to paragraph (a) of this subdivision shall allow for further sublease agreements between state instrumentalities and municipal entities and internet service providers for the use of such fiber optic communications infrastructure for the purpose of providing affordable, high-speed broadband in unserved and underserved communities in the state.

(d) Lease agreements authorized pursuant to paragraph (a) of this subdivision, and sublease agreements authorized pursuant to paragraph (c) of this subdivision, shall be subject to review and comment by the division of broadband access within the empire state development corporation in consultation with the public service commission.

(e) Nothing in this subdivision is intended to limit, impair, or affect the legal authority of the authority that existed as of the effective date of this subdivision.

30. To establish decarbonization action plans for state-owned facilities as provided for in section ninety of the public buildings law, and to consult, cooperate, and coordinate with any state entity, as required or authorized in article four-D of the public buildings law.

The authority is authorized to allocate up to seventy megawatts of unallocated power from the Niagara project sold prior to the effective date of this paragraph as replacement power, up to thirty-eight and six-tenths megawatts of preservation power from the Saint Lawrence-FDR project which is relinquished or withdrawn after the effective date of this paragraph, and for the period ending on December thirty-first, two thousand six, up to an additional twenty megawatts of power from the Saint Lawrence-FDR project which is unallocated as of the effective date of this paragraph, for sale into the wholesale market, the net earnings from which and such other funds of the authority as deemed feasible and advisable by the trustees, shall be used for energy cost savings benefits. Such energy cost savings benefits shall be made upon recommendation of the economic development power allocation board, pursuant to subdivision (h) of section one hundred eighty-three of the economic development law. For purposes of this paragraph, the term net earnings shall mean any excess of revenues earned from the sale of such power allocated to the wholesale market from the Niagara and Saint Lawrence-FDR projects over the revenues that would have been received had such firm power been allocated and sold on a firm basis by the authority prior to the effective date of this paragraph.

The governor shall establish a temporary commission on the future of New York state power programs for economic development as soon as practicable but no later than May first, two thousand six. On or before December first, two thousand six, the commission shall make recommendations to the governor and the legislature on whether to continue, modify, expand or replace the state's economic development power programs, including but not limited to the power for jobs program and the energy cost savings benefit program, and shall recommend legislative language necessary to implement its recommendations. The commission shall consist of eleven members, comprised of five members appointed by the governor, one of whom he or she shall designate as chairperson, two members by the speaker of the assembly, two members by the temporary president of the senate, one member by the minority leader of the assembly and one member by the minority leader of the senate.

§ 1005-a. Actions or contracts involving certain nuclear power plants. Whenever the authority undertakes or executes any action or contract involving the closure, maintenance, decommissioning or conversion of any nuclear power plant constructed by a utility corporation which has not entered commercial operation, the authority shall, in order to ensure that neither the authority nor its customers shall bear any of the costs associated therewith, provide for the full recovery from such corporation, its successors or assigns of:

(a) all direct and indirect costs and expenses incurred by the authority in connection with such actions or contracts;

(b) all direct and indirect costs incurred by the authority in connection with damages to third parties resulting from any actions of the authority in connection with such actions or contracts; provided, however, that the authority shall not be indemnified against damages for gross negligence or willful misconduct; and

(c) all damages incurred by the authority in connection with such actions or contracts other than damages resulting from its gross negligence or willful misconduct.

In no event shall the authority recover any costs or damages related to such actions or contracts from any of its customers other than such corporation its successors or assigns.

§ 1005-b. New York state canal corporation. 1. The public benefit corporation known as the "New York state canal corporation" (hereinafter referred to as the "canal corporation") created as a subsidiary corporation of the New York state thruway authority pursuant to chapter seven hundred sixty-six of the laws of nineteen hundred ninety-two is hereby continued and reconstituted as a subsidiary corporation of the authority and shall have only the power to operate, maintain, construct, reconstruct, improve, develop, finance, and promote all of the canals, canal lands, feeder canals, reservoirs, canal terminals, canal terminal lands and other property under the jurisdiction of the canal corporation pursuant to article one-A of the canal law (hereinafter referred to as the "canal system"). Reference in any provision of law, general, special or local, or in any rule, regulation or public document to the canal corporation or the canal corporation as a subsidiary of the New York state thruway authority shall be deemed to be and construed as a reference to the canal corporation continued by this section.

2. The management and administration of the canal corporation shall be an additional corporate purpose of the authority. To the extent that the trustees deem it feasible and advisable, the authority may transfer to the canal corporation any moneys, real, personal, or mixed property or any personnel in order to carry out the purposes of this section, provided that nothing in this section shall be deemed to require the authority to apply any moneys, revenues or property or to take any action in a manner that would be inconsistent with the provisions of any bond or note resolution or any other contract with the holders of the authority's bonds, notes or other obligations.

3. The canal corporation and any of its property, functions, and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions, and activities. The canal corporation shall be subject to the restrictions and limitations to which the authority may be subject. The canal corporation may delegate to one or more of its members, or its officers, agents and employees, such duties and powers as it may deem proper.

4. Exclusive jurisdiction is conferred upon the court of claims to hear and determine the claims of any person against the canal corporation (a) for its tortious acts and those of its agents, and (b) for breach of a contract, relating to construction, reconstruction, improvement, maintenance or operation, in the same manner and to the extent provided by and subject to the provisions of the court of claims act with respect to claims against the state, and to make awards and render judgments therefor. All awards and judgments arising from such claims shall be paid out of moneys of the canal corporation.

5. The members of the canal corporation shall be the same persons holding the offices of trustees of the authority.

6. No officer or member of the canal corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of his or her duties, by reason of his or her serving as a member, director, or trustee of the canal corporation.

7. The employees of the canal corporation shall not be deemed to be employees of the authority by reason of their employment by the canal corporation. All officers and employees of the canal corporation shall be subject to the provisions of the civil service law which shall apply to the canal corporation and such corporation shall be subject to the jurisdiction of the New York state department of civil service and the New York state civil service commission. The canal corporation shall participate in the New York state and local employees' retirement system. Nothing contained in a chapter of the laws of two thousand

sixteen that added this section shall be construed to affect the rights and privileges of the canal corporation or any of its employees under any provisions of the civil service law or any existing or expired collective bargaining agreement in effect as of the effective date of transfer of the canal corporation from the thruway authority to the authority. Any such employee who at the time of such transfer shall have been in a negotiating unit represented by an employee organization which was certified or recognized pursuant to article fourteen of the civil service law shall continue to be represented by said employee organization. There shall be no reduction of staff, loss of position, including partial displacement, such as reduction in the hours of non-overtime, wages, or employment benefits as a result of the transfer of the canal corporation from the thruway authority to the authority for twenty-four months following such transfer.

8. The fiscal year of the canal corporation shall be the same as the fiscal year for the authority.

9. The canal corporation shall have the power to:

(a) operate, maintain, construct, reconstruct, improve, develop, finance, and promote the canal system;

(b) sue and be sued;

(c) have a seal and alter the same at pleasure;

(d) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;

(e) appoint officers and employees and fix their compensation;

(f) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

(g) acquire, hold, and dispose of real or personal property for its corporate purposes;

(h) engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

(i) procure insurance against any loss in connection with its activities, properties, and other assets, in such amount and from such insurers as it deems desirable;

(j) invest any funds of the canal corporation, or any other monies under its custody and control not required for immediate use or disbursement, at the discretion of the canal corporation, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in any other obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight-a of the state finance law;

(k) exercise those powers and duties of the authority delegated to it by the authority;

(l) prepare and submit a capital program plan pursuant to section ten of the canal law;

(m) approve and implement the New York state canal recreationway plan submitted pursuant to section one hundred thirty-eight-c of the canal law. The canal corporation's review and approval of the canal recreationway plan shall be based upon its consideration of a generic environmental impact statement prepared by the canal corporation in accordance with article eight of the environmental conservation law and the regulations thereunder. Prior to the implementation of any substantial improvement by the canal corporation on canal lands, canal terminals, or canal terminal lands, or the lease of canal lands, canal terminals, or canal terminal lands for substantial commercial improvement, the canal corporation, in addition to any review taken pursuant to section 14.09 of the parks, recreation and historic preservation law, shall conduct a reconnaissance level survey within three thousand feet of such lands to be improved of the type, location, and significance of historic buildings, sites, and districts listed on, or which may be eligible, for the state or national registers of historic places. The findings of such survey shall be used to identify significant historical resources and to determine whether the proposed improvements are compatible with such historic buildings, sites, and districts;

(n) enter on any lands, waters, or premises for the purpose of making borings, soundings, and surveys;

(o) accept any gifts or any grant of funds or property from the federal government or from the state or any other federal or state public body or political subdivision or any other person and to comply with the terms and conditions thereof; and

(p) waive any fee for a work permit which it has the power to issue if in its discretion the project which is subject to a work permit would add value to canal lands without any cost to the canal corporation, the authority, or the state.

10. (a) The canal corporation shall review the budget request submitted by the canal recreationway commission pursuant to section one hundred thirty-eight-b of the canal law.

(b) The canal corporation, on or before the fifteenth day of September of each year, shall submit to the director of the budget a request for the expenditure of funds available from the New York state canal system development fund pursuant to section ninety-two-u of the state finance law or available from any other non-federal sources appropriated from the state treasury.

(c) In the event that the request submitted by the canal corporation to the director of the budget differs from the request submitted by the commission to the canal corporation, then the request submitted by the canal corporation to the director of the budget shall specify the differences and shall set forth the reasons for such differences.

11. The canal corporation shall not have the power to issue bonds, notes, or other evidences of indebtedness; provided that notwithstanding the foregoing, the canal corporation may agree to repay amounts advanced to the canal corporation by the authority and to evidence such agreement by delivery of a promissory note or notes to the authority.

12. The canal corporation may do any and all things necessary or convenient to carry out and exercise the powers given and granted by this section.

13. The authority and all other state officers, departments, boards, divisions, commissions, public authorities, and public benefit corporations may render such services to the canal corporation within their respective functions as may be requested by the canal corporation.

14. Whenever any state political subdivision, municipality,

commission, agency, officer, department, board, division, or person is authorized and empowered for any of the purposes of this title to cooperate and enter into agreements with the authority, such state political subdivision, municipality, commission, agency, officer, department, board, division, or person shall have the same authorization and power for any such purposes to cooperate and enter into agreements with the canal corporation.

§ 1005-c. Additional powers of the authority to finance certain projects in connection with the New York state canal system. 1. (a) The authority is hereby authorized, as an additional corporate purpose thereof, to issue its bonds, notes and other evidences of indebtedness in conformity with applicable provisions of the uniform commercial code for purposes of financing the construction, reconstruction, development and improvement of the New York state canal system.

(b) The authority shall issue any such bonds, notes, or evidences of indebtedness pursuant to paragraph (a) of this subdivision on a basis subordinate in lien and priority of payment to the authority's senior lien indebtedness as the authority shall provide by resolution.

2. All of the provisions of this title relating to bonds, notes and other evidence of indebtedness, which are not inconsistent with this section, shall apply to obligations authorized by this section, including but not limited to the power to issue renewal notes or refunding bonds thereof.

3. Subject to agreements with noteholders or bondholders, the authority shall have the authority to fix and collect such fees, rentals and charges for the use of the canal system or any part thereof necessary or convenient, with an adequate margin of safety, to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders of its notes or bonds, and to establish the rights and privileges granted upon payment thereof; provided, however, that tolls may only be imposed for the passage through locks and lift bridges by vessels which are propelled in whole or in part by mechanical power.

§ 1005-d. Sharing employees, services and resources; indemnity and defense. 1. For the purposes of this section, the following words and terms shall have the following meanings unless the context indicates another meaning or intent:

(a) "Department" means the department of transportation.

2. A shared services agreement may be executed between the department and the authority, canal corporation, or both of them, only for an emergency situation or extreme weather conditions, to share employees, services or resources as deemed appropriate including, but not limited to, for the performance of work and activities by the department on the facilities and property under the jurisdiction of the authority or canal corporation, and for the performance of work and activities by the authority or canal corporation on the facilities and property under the jurisdiction of the department. Such agreement or any project undertaken pursuant to such an agreement shall not be deemed to impair the rights of bondholders and may provide for, but not be limited to, the management, supervision and direction of such employees' performance of such services. Such agreement shall provide that the term shall not be longer than ten days. All shared employees shall remain employees of their respective employers and all applicable collectively bargained agreements shall remain in effect for the entire length of the shared services agreement. Further, such shared services agreement shall not amend, repeal or replace the terms of any agreement that is collectively negotiated between an employer and an employee organization, including an agreement or interest arbitration award made pursuant to article fourteen of the civil service law.

3. The authority shall defend any unit, entity, officer or employee of the department, using the forces of the department of law pursuant to subdivision eleven of this section in any action, proceeding, claim, demand or the prosecution of any appeal arising from or occasioned by the acts or omissions to act in the performance of the functions of the authority or canal corporation pursuant to a shared services agreement.

4. Defense pursuant to subdivision three of this section shall be conditioned upon the full cooperation of the department.

5. The authority shall indemnify and hold harmless any unit, entity, officer or employee of the department in the amount of any judgment obtained against the department or in the amount of any settlement the department enters into with the consent of the authority for any and all claims, damages or liabilities arising from or occasioned by the acts or omissions to act of the authority or canal corporation pursuant to a shared services agreement; provided, however, that the act or omission from which such judgment or settlement arose occurred while the authority or canal corporation was acting within the scope of its functions pursuant to a shared services agreement. No such settlement of any such action, proceeding, claim or demand shall be made without the approval of the authority's board of trustees or its designee.

6. Any claim or proceeding commenced against any unit, entity, officer or employee of the authority or canal corporation that arises pursuant to any shared services agreement shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the authority or canal corporation, or to impair, alter, limit, modify, abrogate or restrict any right to defense and indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

7. (a) The state shall defend any unit, entity, officer or employee of the authority and canal corporation using the forces of the department of law in any action, proceeding, claim, demand or the prosecution of any appeal arising from or occasioned by the acts or omissions to act in the performance of the functions of the department pursuant to a shared services agreement.

(b) Defense pursuant to paragraph (a) of this subdivision shall be conditioned upon the full cooperation of the authority and canal corporation.

(c) The state shall indemnify and hold harmless any unit, entity, officer or employee of the authority or canal corporation in the amount of any judgment obtained against the authority or canal corporation in the amount of any settlement the authority or canal corporation enters into with the consent of the state for any and all claims, damages or liabilities arising from or occasioned by the acts or omissions to act on behalf of the department pursuant to a shared services agreement, provided, however, that the act or omission from which such judgment or settlement arose occurred while the department was acting within the scope of its functions pursuant to a shared services agreement. Any such settlement shall be executed pursuant to section twenty-a of the court of claims act.

(d) Any claim or proceeding commenced against any unit, entity, officer or employee of the department pursuant to any shared services agreement shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the department, or to impair, alter, limit, modify, abrogate or restrict any right to defense and indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

(e) Any payment made pursuant to this subdivision or any monies paid for a claim against or settlement with the department, authority or canal corporation pursuant to this subdivision and pursuant to a shared services agreement shall be paid from appropriations for payment by the state pursuant to the court of claims act.

8. This section shall not in any way affect the obligation of any claimant to give notice to the state, authority, or canal corporation under section ten and section eleven of the court of claims act or any other provision of law provided, however, that notice served upon the state, authority, or canal corporation who is a party to the shared services agreement shall be valid notice on all parties to the agreement, when such claim arises out of such shared services agreement. The state, authority and canal corporation shall notify each other when they receive a notice of claim, notice of intention to make a claim or a claim arising out of such agreement.

9. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any insurance agreement.

10. Notwithstanding any other provision of law, when employed pursuant to a shared services agreement, employees of the authority, canal corporation and department shall be deemed employees of all such entities and the state for purposes of the workers' compensation law.

11. At the request of the authority or canal corporation, services and assistance and legal services for the authority or canal corporation shall be performed by forces or officers of the department and the department of law respectively, and all other state officers, departments, boards, divisions and commissions shall render services within their respective functions.

12. The authority shall prepare and submit to the governor, the temporary president of the senate, the speaker of the assembly, the attorney general, and the comptroller on or before the first day of February of each year, a report detailing each specific instance of resource sharing between the department, the authority, and the canal corporation undertaken pursuant to this section during the preceding calendar year.

§ 1006. Power to compel attendance of witnesses. For the purpose of exercising its powers and performing its duties hereunder and of securing such information as it may deem necessary hereunder, the authority shall have the power to compel the attendance of witnesses and the production of documents. The power hereby conferred upon the authority may be exercised by any one or more of the trustees if he or they are authorized so to act on behalf of the authority by resolution or by law. A subpoena issued under this section shall be regulated by the civil practice law and rules.

§ 1007. Acquisition of property. If, for any of the purposes hereunder, including temporary construction purposes and the making of additions or improvements, the authority shall find it necessary or convenient for it to acquire any real property as herein defined, whether for immediate or future use, then the authority may find and determine that such property is required for a public use, and upon such due determination, such property shall be and shall be deemed to be required for such public use until otherwise determined by the authority and with the exceptions hereinafter specifically noted such determination of fact shall not be affected by the fact that such property has theretofore been taken for, or is then devoted to, a public use; but the public use in the hands or under the control of the authority shall be deemed superior to the public use in the hands of any other person, association or corporation. If the authority is unable to agree for the acquirement of any such property, or if the owner thereof shall be incapable of disposing of the same, or if, after diligent search and inquiry, the name and residence of any such owner cannot be ascertained, or if any such property has been acquired or attempted to be acquired and title or other rights therein have been found to be invalid or defective, the authority may acquire such property by condemnation under and pursuant to the provisions of this title.

1. When any real property within this state is sought to be acquired by condemnation, the authority shall cause a survey and map to be made thereof, and shall cause such survey and map to be filed in its office. There shall be annexed to such survey and map a certificate executed by the chief engineer of the authority, or by such other officer or employee as may be designated by the trustees, stating that the property or interest therein described in such survey and map are necessary for its purposes.

2. Upon filing such survey and map the authority shall petition a special term of the supreme court held in the judicial district in which the property is located, or the county court of any county where such property is located, for the condemnation of such property or interest therein, as have not been otherwise acquired. Such petition shall be generally in the form prescribed by section four of the condemnation law, so far as consistent herewith. Such petition, together with a

notice of pendency of the proceeding, shall be filed in the office of the county clerk of such county and shall be indexed and recorded as provided by law. A copy of such petition together with a notice of the presentation thereof to such special term of the supreme court or to the county court shall be served upon the owners as provided in sections five and six of the condemnation law. The authority may cause a duplicate original affidavit of the service thereof to be recorded in the books used for recording deeds in the office of the county clerk of the county wherein the property described in such notice is situated, and the recording of such affidavit shall be prima facie evidence of due service thereof.

3. At any time after the recording of the petition and notice as above provided the authority may enter upon and use and occupy all the parcels of real estate described in the proceedings for the condemnation thereof, provided that it shall first deposit with the court a sum equal to the assessed valuation of such real property, or in the event that the assessed valuation thereof cannot readily be ascertained, such sum as in its judgment shall be sufficient as compensation for the real property acquired. The sum so deposited shall be applied as provided in section twenty-four of the condemnation law. Upon the recording of the petition and notice and the making of the deposit, the owner or person in possession of such real property shall deliver possession thereof to the authority upon demand, and in case possession is not delivered when demanded, or demand is not convenient because of absence of the owner or inability to locate or determine the owner, the authority may apply to the court without notice for an order requiring the sheriff to put it into possession of such real property. Such an order must be executed as if it were an execution for the delivery of the possession of the property.

4. The proceedings thereafter shall be in the manner prescribed by the condemnation law so far as consistent herewith.

5. The commissioners appointed to ascertain and determine the compensation which ought justly to be made to the owners of property or interests therein appraised by them as provided in section thirteen of

the condemnation law shall make their report of the value thereof to the supreme court within one hundred days from the date of their qualification.

6. The persons or corporations whose property shall have been taken by condemnation and who shall have agreed upon the compensation to be paid therefor in settlement of the proceeding, or to whom an award of compensation shall have been made by the court, shall be entitled to payment of the agreed or awarded compensation within three calendar months after the date of the agreement upon the amount of the compensation or of the entry of the order confirming the report of the commissioners of appraisal, together with interest upon the amount of such compensation from the time of the entry and appropriation thereof by the authority, to the date of payment of such compensation; but such interest shall cease upon the service by the authority, upon the person or corporation entitled thereto, of a fifteen days' notice that the authority is ready and willing to pay the amount of such compensation upon the presentation of proper proofs and vouchers. Such notice shall be served personally or by registered mail and publication thereof at least once a week for three successive weeks in a daily newspaper, having a general circulation in the county where such property or any part thereof is located.

7. The authority may, at its option, acquire such real property within the state of New York, under the general condemnation law or, in the event it is a licensee of the federal power commission it may acquire such real property as is necessary for its purposes through the exercise of the right of eminent domain as provided in section twenty-one of the federal power act, as amended.

8. The authority and its duly authorized agents and employees may enter upon any real property for the purpose of making the surveys or maps mentioned in this section, or for such other surveys or examinations of real property as may be necessary or convenient for the purposes of this title.

9. The term "real property" as used in this title is defined to

include lands, structures, franchises and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within the said term, and includes also any and all interests in such property less than full title, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages for such real estate.

10. The authority may determine what real property is reasonably necessary for the construction or operation of any project authorized by this title including transmission facilities. If funds are made available by the authority to the state for payment of the cost and expense of the acquisition thereof, the commissioner of transportation, when requested by the authority, shall acquire such real property in the name of the state by appropriation and, where necessary, remove the owner or occupant thereof and obtain possession, according to the procedure provided by section thirty of the highway law, insofar as the same may be applicable. The authority shall have the right to possess and use for its corporate purposes, so long as its corporate existence shall continue, all such real property and rights in real property so acquired.

Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by the commissioner with the approval of the authority, or by the court of claims as provided in said section thirty. When a claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before said court. All awards and judgements arising from such claims shall be paid out of moneys of the authority.

The authority may determine whether any property appropriated pursuant to this section, while under its jurisdiction, should be sold or exchanged in whole or in part, on terms beneficial to the state and the authority, and in all cases where such a determination is made, the authority may sell or exchange such property. Where the authority finds it practicable and reasonable, the former owner, from whom the property was appropriated, his heirs, successors in interest and assigns, shall be given the first opportunity to purchase such property at its fair market value. In order to carry any such sale or exchange into effect the authority is hereby authorized to execute and deliver in the name of the people of the state a quit claim of such property. Money proceeds of any such sale shall be retained by the authority. Title to property received upon such exchange shall be acquired in the name of the state, and the authority shall have the same rights of occupation and use thereof and shall be vested with the same rights with respect thereto as is provided in this section and in section one thousand eight as to property of the state. Where property appropriated pursuant to this section is required by the Saint Lawrence Seaway Development Corporation, created pursuant to public law three hundred fifty-eight of the 83rd Congress, or any successor corporation, the authority may convey such property to such corporation, and, if the license issued to the authority by the federal power commission shall so require, such conveyance may be made without consideration.

The attorney general is hereby authorized and empowered to certify to such Saint Lawrence Seaway Development Corporation, the right, title or interest vested in the name of the people of the state of New York in and to property appropriated pursuant to this section and proposed to be conveyed to such Saint Lawrence Seaway Development Corporation as hereinbefore provided.

§ 1008. Consent of state. The state of New York hereby consents to the occupation and use by the authority of any and all property of the state of whatever kind or character on the Niagara river or within the international rapids section of the Saint Lawrence river, and hereby vests the authority with and delegates to it the right to exercise any and every right and power of the state in connection therewith, whether proprietary or sovereign in character, which the state itself might exercise, provided that such consent and delegation of power shall not permit the impairment or limit or prevent the future improvement of the navigability of the Niagara river or the international rapids section of the Saint Lawrence river, consistent with the maintenance of such projects, but on the contrary the projects shall be such as will improve and benefit commerce and navigation therein and provided further that the authority shall have no power to limit, waive or surrender any right or interest of the state of New York in such rivers or the use thereof.

§ 1009. Contracts negotiated by authority. Contracts negotiated by the authority as provided in sub-paragraph five or six of section one thousand five of this title shall be entered into and executed as follows:

1. After agreement upon the terms of any such contracts shall have been reached by the authority and its co-party or co-parties, the authority shall promptly transmit a copy of such proposed contract to the governor, the speaker of the assembly, the minority leader of the assembly, the chairman of the assembly committee on ways and means, the temporary president of the senate and the minority leader of the senate and the chairman of the senate finance committee and shall hold a public hearing or hearings upon the terms thereof. At least thirty days' notice of such hearing shall be given by publication once in each week during such period in each of six newspapers within the state to be selected by the authority. Copies of proposed contracts shall be available for public inspection during such period of thirty days at the office or offices of the authority and at such other places throughout the state as it may designate.

2. Following such public hearing, the authority shall reconsider the terms of the proposed contract or contracts and shall negotiate such changes and modifications in the contract or contracts as it then deems necessary or advisable.

3. When such contract or contracts are finally agreed upon in terms satisfactory to the authority and its co-party or co-parties, and which the authority believes to be in the public interest, the authority shall

thereupon report the proposed contract or contracts, together with its recommendations and the record of the public hearings thereon, to the speaker of the assembly, the chairman of the assembly committee on ways and means, the temporary president of the senate, the chairman of the senate finance committee and the governor. The governor shall, within sixty days thereafter, indicate his approval or disapproval thereof and give his reasons therefor.

4. If the governor shall approve such contract, then the same shall be executed by the chairman and secretary of the authority and it shall thereupon come into full force and effect and be binding upon the authority and all other parties thereto in accordance with its terms.

§ 1009-a. Notes of the authority. The authority shall have the power and is hereby authorized from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code for any corporate purpose and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All notes shall be general obligations of the authority payable out of any of its moneys or revenues, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

§ 1010. Bonds of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for the purpose of financing any project authorized by this title, including the acquisition of any real or personal property or facilities deemed necessary by the authority.

2. In anticipation of the sale of such bonds the authority may issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original notes. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. Such notes shall not be issued in an amount in excess of the amount of bonds which the authority is authorized to issue, less the amount of any bonds or other notes theretofore issued and outstanding. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

3. Except as may be otherwise expressly provided by the authority, the bonds and notes of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular moneys or revenues.

4. The authority shall have power from time to time, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinbefore described. Refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold with the proceeds applied to the purchase or payment of the bonds to be refunded.

5. The bonds may be issued payable in annual installments or may be issued as term bonds or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the

trustees of the authority and shall bear such date or dates, mature at such time or times, not exceeding fifty years from their respective dates, bear interest at such rate or rates, payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. In the event that term bonds are issued, the resolution authorizing the same may make such provisions for the establishment and management of adequate sinking funds for the payment thereof, as the authority may deem necessary. The bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definite bonds, the authority may issue interim receipts which shall be exchanged for such bonds.

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

(a) pledging all or any part of the revenues of the project or any revenue producing contract or contracts made by the authority with any individual, partnership, corporation or association to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of any project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

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

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

7. Notwithstanding any other provisions of this title, any such resolution or resolutions shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that any contracts entered into by the authority for the sale, transmission or distribution of power shall contain rates, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on any obligations issued pursuant to such resolution as the same severally become due and payable, and to maintain any reserves required by the terms of such resolution or resolutions.

8. It is the intention hereof that any pledge of revenues or other moneys or of a revenue producing contract or contracts made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys or proceeds of any contract or contracts so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

9. Neither the members of the authority nor any person executing the

bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

10. The authority shall have power out of any funds available therefor to purchase bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

11. Any bonds or notes issued by the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds and notes shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries except when any such individual fiduciary shall be acting in such capacity with one or more corporate co-fiduciaries. The bonds and notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1010-a. Deposit and investment of moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the comptroller as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on check of the comptroller on requisition of the chairman of the authority or of such other person as the authority may authorize to make such requisition. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

Notwithstanding the provisions of this section, the authority shall have power, subject to the approval of the comptroller, to contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds, and to carry out any such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

Moneys of the authority not required for immediate use may, in the discretion of the authority, be invested by the comptroller in obligations of the United States government or of the state of New York.

Subject to agreements with noteholders and bondholders and the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1011. Agreement of the state. 1. The state of New York does hereby pledge to and agree with the holders of any obligations issued under this title, and with those parties who may enter into contracts with the authority pursuant to the provisions in sub-paragraph five or six of section one thousand five above, that the state will not limit or alter the rights hereby vested in the authority until such obligations together with the interest thereon are fully met and discharged and/or such contracts are fully performed on the part of the authority, provided that nothing herein contained shall preclude such limitation or alteration if and when adequate provision shall be made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority. The authority as agent for the state is authorized to include this pledge and undertaking for the state in such obligations or contracts.

2. Nothing in this title shall be construed as diminishing or enlarging any valid existing rights under any license heretofore issued pursuant to the provisions of the federal power act.

§ 1012. Exemption from taxation. It is hereby found and declared that the projects authorized by this title are for the aid and improvement of commerce and navigation and that such aid and improvement of commerce and navigation and the development, sale and distribution of power is primarily for the benefit of the people of the state of New York, for the improvement of their health and welfare and material prosperity, and is a public purpose, and the authority shall be regarded as performing a governmental function in undertaking such projects and in carrying out the provisions of this title, and shall be required to pay no taxes or assessments upon any of the property acquired by it for such projects or upon its activities in the operation and maintenance thereof, provided that nothing herein shall prevent the authority from entering into agreements to make payments in lieu of taxes with respect to property acquired for any project where such payments are based solely on the value of real property without regard to any improvement thereof by the authority and where no bonds to pay any costs of such project were issued prior to January first, nineteen hundred seventy-two.

The securities and other obligations issued by the authority, their transfer and the income therefrom shall, at all times, be free from taxation within this state. It is furthermore declared that the object and purpose of this title is that such projects shall be in all respects self-supporting.

§ 1012-a. Emergency contributions to county of Niagara and city of Niagara Falls. 1. On June seventh, nineteen hundred fifty-six a collapse of the rock wall of the Niagara river resulted in the substantial destruction of a hydro-electric power generating plant which annually produced more than three billion kilowatt hours of low-cost electric energy, most of which was used by industrial plants employing great numbers of workers in the city of Niagara Falls and vicinity. These industries would be forced to curtail their operations drastically or abandon them and thousands of jobs would be lost if the industries were not able to obtain necessary power at high cost on a temporary basis from the hydro-electric power commission of Ontario. This commission is using not only Ontario's share of the water of the Niagara river under the treaty signed on February twenty-seventh, nineteen hundred fifty, between the United States and Canada, but also a large part of New York's share of such water. To provide for the retention and expansion of existing industry and the attraction of new industry vital to the economy of the area and to the defense of the United States, it is essential that power authority of the state of New York complete a power project to utilize all of the waters of the Niagara available in the United States. The destruction caused by the rock slide resulted in reducing to the extent of some ten million dollars the total valuation of real property subject to taxation in the city of Niagara Falls. This will result in a temporary tax loss to the county of Niagara and the city of Niagara Falls of approximately seven hundred thousand dollars per year with resulting hardship to taxpayers. An increase in the tax base sufficient to offset such loss cannot be brought about until industrial activities in the area are expanded and increased through the availability of low-cost power from such new New York hydro-electric power project. An emergency justifying financial relief to the county of Niagara and city of Niagara Falls exists and will continue until such a project is completed. It is recognized that public authorities constitute valuable governmental entities in the state, performing important functions on a businesslike basis through the use of private funds borrowed from prudent investors without state or municipal credit, and that the integrity and independence of these authorities must be maintained and their present exemption from taxation protected.

2. Power authority of the state of New York is hereby authorized to include in financing the cost of its Niagara river project a total sum of (1) three million dollars in addition to that otherwise required and to contribute such additional total sum as emergency relief to the county of Niagara and city of Niagara Falls on the basis of decreasing annual allotments over a five-year construction and expansion period; such annual allotments shall be allocated for school and other purposes in the same proportion as other moneys collected as real property taxes in such city; and (2) the power authority of the state of New York is hereby authorized to expend the sum of one and one-half million dollars for local improvements in the city of Niagara Falls incidental to or reasonably related to the Niagara power project of the authority.

§ 1013. Repayment of state appropriations. All appropriations made by the state to the authority shall be treated as advances by the state to the authority, and shall be repaid to it without interest either out of the proceeds of securities, or other obligations issued by the authority for the construction of any project pursuant to the provisions of this title, or by the delivery of non-interest bearing obligations of the authority to the state for all or any part of such advances, or out of excess revenues from such project subject however to any pledges of such revenues made pursuant to any resolution or resolutions of the authority authorizing the issuance of obligations of the authority issued prior to nineteen hundred and sixty.

*** § 1014. Public service law not applicable to authority; inconsistent provisions in other acts superseded.** The rates, services and practices relating to the generation, transmission, distribution and sale by the authority, of power to be generated from the projects authorized by this title shall not be subject to the provisions of the public service law nor to regulation by, nor the jurisdiction of the department of public service. Except to the extent article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, article VIII of the public service law applies to the siting and operation of a major electric generation facility or a major electric transmission facility as defined therein, and article ten of the public service law applies to the siting of a major electric generating facility as defined therein, and except to the extent section eighteen-a of the public service law provides for assessment of the authority for certain costs relating thereto, the provisions of the public service law and of the environmental conservation law and every other law relating to the department of public service or the public service commission or to the environmental conservation department or to the functions, powers or duties assigned to the division of water power and control by chapter six hundred nineteen of the laws of nineteen hundred twenty-six, shall so far as is necessary to make this title effective in accordance with its terms and purposes be deemed to be superseded, and wherever any provision of law shall be found in conflict with the provisions of this title or inconsistent with the purposes thereof, it shall be deemed to be superseded, modified or repealed as the case may require.

* NB Effective until December 31, 2040

* § 1014. Public service law not applicable to authority; inconsistent provisions in other acts superseded. The rates, services and practices relating to the generation, transmission, distribution and sale by the authority, of power to be generated from the projects authorized by this title shall not be subject to the provisions of the public service law nor to regulation by, nor the jurisdiction of the department of public service. Except to the extent article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, and article ten of the public service law applies to the siting of a major electric generating facility as defined therein, and except to the extent section eighteen-a of the public service law provides for assessment of the authority for certain costs relating thereto, the provisions of the public service law and of the environmental conservation law and every other law relating to the department of public service or the public service commission or to the

environmental conservation department or to the functions, powers or duties assigned to the division of water power and control by chapter six hundred nineteen of the laws of nineteen hundred twenty-six, shall so far as is necessary to make this title effective in accordance with its terms and purposes be deemed to be superseded, and wherever any provision of law shall be found in conflict with the provisions of this title or inconsistent with the purposes thereof, it shall be deemed to be superseded, modified or repealed as the case may require.

* NB Effective December 31, 2040

§ 1015. Title not affected if in part unconstitutional or ineffective. If any term or provision of this title shall be declared unconstitutional or ineffective in whole or in part by a court of competent jurisdiction, then to the extent that it is not unconstitutional or ineffective such term or provision shall be enforced and effectuated, nor shall such determination be deemed to invalidate the remaining terms or provisions hereof.

§ 1017. Actions against authority. 1. In any action founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee, agent or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

2. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* TITLE 1-A

LONG ISLAND POWER AUTHORITY

* NB There are 2 A5 T1-A's

*** § 1020. Short title.** This title shall be known and may be cited as the "Long Island power authority act".
* NB There are 2 § 1020's

*** § 1020-a. Declaration of legislative findings and declarations.** The legislature hereby finds and declares that:

Constantly escalating and excessive costs of electricity in the counties of Suffolk and Nassau and that portion of the county of Queens served by the Long Island lighting company (hereinafter referred to as the "service area") pose a serious threat to the economic well-being, health and safety of the residents of and the commerce and industry in the service area.

There is a lack of confidence that the needs of the residents and of commerce and industry in the service area for electricity can be supplied in a reliable, efficient and economic manner by the Long Island lighting company (hereinafter referred to as "LILCO").

Such excessive costs and lack of confidence have deterred commerce and industry from locating in the service area and have caused existing commerce and industry to consider seriously moving out of the service area.

The decisions by LILCO to commence construction of the Shoreham nuclear power plant and thereafter to continue such construction were imprudent.

The investment of LILCO in the Shoreham nuclear power plant has created significant rate increases, straining the economic capabilities of ratepayers in the service area, and likely will require further substantial rate increases if such plant is placed in service.

It is uncertain whether the Shoreham nuclear plant ever will go into commercial service, or if it does whether its reliability, cost of construction, operation and maintenance will be such as to provide sufficient, reliable and economic electric service to ratepayers in the service area. The very substantial financial strain of the investment in the Shoreham nuclear plant has required LILCO to suspend dividends on its common and preferred stock, severely threatening the continued economic viability of LILCO.

For all the above reasons, a situation threatening the economy, health and safety exists in the service area.

Dealing with such a situation in an effective manner, assuring the provision of an adequate supply of electricity in a reliable, efficient and economic manner, and retaining existing commerce and industry in and attracting new commerce and industry to the service area, in which a substantial portion of the state's population resides and which encompasses a substantial portion of the state's commerce and industry, are hereby expressly determined to be matters of state concern within the meaning of paragraph three of subdivision (a) of section three of article nine of the state constitution.

Such matters of state concern best can be dealt with by replacing such investor owned utility with a publicly owned power authority. Such an authority can best accomplish the purposes and objectives of this title by implementing, if it then appears appropriate, the results of negotiations between the state and LILCO. In such circumstances, such an authority will provide safe and adequate service at rates which will be lower than the rates which would otherwise result and will facilitate the shifting of investment into more beneficial energy demand/energy supply management alternatives, realizing savings for the ratepayers and taxpayers in the service area and otherwise restoring the confidence and protecting the interests of ratepayers and the economy in the service area. Moreover, in such circumstances the replacement of such investor owned utilities by such an authority will result in an improved system and reduction of future costs and a safer, more efficient, reliable and economical supply of electric energy. The legislature further finds that such an authority shall utilize to the fullest extent practicable, all economical means of conservation, and technologies that rely on renewable energy resources, cogeneration and improvements in energy efficiency which will benefit the interests of the ratepayers of the service area.

* NB There are 2 § 1020-a's

*** § 1020-b. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Acquire" means, with respect to any right, title or interest in or to any property, the act of taking by the exercise of the power of eminent domain, or acquisition by purchase or otherwise.

2. "Act" means the Long Island power authority act, being title one-A of article five of the public authorities law, as added by this title.

3. "Authority" means the Long Island power authority created by section one thousand twenty-c of this title.

4. "Board" means the board of trustees of the authority.

5. "Bonds" or "notes" mean the bonds, notes or other obligations issued by the authority pursuant to this title.

6. "Fair market value" means the value of property, real, personal or mixed, which would be obtained in an arm's length transaction between an informed and willing buyer under no compulsion to buy, and an informed and willing seller under no compulsion to sell.

7. "Federal government" means the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

8. "Final determination" or "finally determined" means a judicial decision (i) by the highest court of competent jurisdiction, or (ii) by a court of competent jurisdiction from which no appeal has been taken and the time within which to appeal has expired.

9. "Governing body" means, with respect to any municipality, the body having charge of the fiscal affairs of such municipality.

10. "LILCO" means the Long Island lighting company, its subsidiaries and their successors and assigns, other than the authority.

11. "Municipality" means any city, town, village, county, municipal corporation, district corporation, district or other political subdivision of the state.

12. "OCLD" means the original cost of assets, less depreciation.

12-a. "Project" means an action undertaken by the authority that:

(i) Causes the authority to issue bonds, notes or other obligations, or shares in any subsidiary corporation, or

(ii) Significantly modifies the use of an asset valued at more than one million dollars owned by the authority or involves the sale, lease or other disposition of such an asset, or

(iii) Commits the authority to a contract or agreement with a total consideration of greater than one million dollars and does not involve the day to day operations of the authority.

13. "Prudent utility practices" at a particular time means any of the practices, methods, and acts, which, in the exercise of reasonable judgment in light of the facts (including but not limited to the practices, methods and acts engaged in or approved by a significant portion of the gas or the electrical utility industry, as the case may be, prior thereto) known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent utility practice is not intended to be limited to the optimum practice, method or act, to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts. In evaluating whether any matter conforms to prudent utility practice, the parties shall take into account the fact that the authority is a corporate municipality of the state with the statutory duties and responsibilities thereof.

14. "Real property" means lands, structures, franchises and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within such term, and includes also any and all interests in such property less than full title, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages for such real estate.

15. "RCNLD" means the reproduction cost of new assets, less

depreciation.

16. "Security" means any note, stock (whether common or preferred), bond, debenture, evidence of indebtedness, transferable share, voting-trust certificate or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

17. "Service area" means the counties of Suffolk and Nassau and that portion of the county of Queens constituting LILCO's franchise area as of the effective date of this title.

18. "Shoreham plant" means the nuclear powered facility designed to generate electric power owned by LILCO and located in Shoreham, New York.

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

20. "State agency" means any board, authority, agency, department, commission, public corporation, body politic or instrumentality of the state.

21. "Trustees" means the trustees of the authority appointed or elected, as the case may be, pursuant to section one thousand twenty-d of this title.

22. "Valuation date" means (i) the effective date of this title, (ii) the date of the taking of the stock or assets pursuant to this title or (iii) such earlier or later date or, in the case of equity or debt securities, such period of trading days in the primary established market in which such securities are traded, as may be determined to be necessary to exclude from the determination of the market value thereof any enhancement or depreciation in value arising from the announcement, expectation or accomplishment of the taking by the exercise of the power of eminent domain or otherwise, or speculative market activity intended to cause or having the effect of causing an increase or decrease in such

market value.

23. "Service provider" means the entity under contract with the authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract.

24. "Operations services agreement" means an agreement and any amendments thereto between the Long Island lighting company dba LIPA or the authority and the service provider to provide management and operation services associated with the authority's electric transmission and distribution system.

* NB There are 2 § 1020-b's

*** § 1020-c. Long Island power authority; creation.** 1. For the purpose of effectuating the policy declared in section one thousand twenty-a of this title, there is hereby created a corporate municipal instrumentality of the state to be known as the "Long Island power authority", which shall be a body corporate and politic and a political subdivision of the state, exercising essential governmental and public powers.

2. The area of operations of the authority shall be the service area.

3. The authority is not created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the authority shall inure to the benefit of or be distributable to its trustees or officers or any other private persons, except as herein provided for actual services rendered.

* NB There are 2 § 1020-c's

*** § 1020-d. Board of trustees.** 1. Starting on January first, two thousand fourteen, the board of the authority shall be constituted and consist of nine trustees all of whom shall be residents of the service area, five of whom shall be appointed by the governor, one of whom the governor shall designate as chair, and serve at his or her pleasure, two of whom shall be appointed by the temporary president of the senate, and two of whom shall be appointed by the speaker of the assembly. One of the governor's appointees shall serve an initial term of two years; one of the governor's appointees shall serve an initial term of three years; and three of the governor's appointees shall serve an initial term of four years. One of the appointees of the temporary president of the senate and one of the appointees of the speaker of the assembly shall serve initial terms of two years; and one appointee of the temporary president of the senate and one appointee of the speaker of the assembly shall serve initial terms of three years. Thereafter, all terms shall be for a period of four years. In the event of a vacancy occurring in the office of trustee by death, resignation or otherwise, the respective appointing officer shall appoint a successor who shall hold office for the unexpired portion of the term.

2. No trustee shall receive a salary, but each shall be entitled to reimbursement for reasonable expenses in the performance of duties assigned hereunder.

3. Notwithstanding the provisions of any other law, no trustee, officer or employee of the state, any state agency or municipality appointed a trustee shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of a trusteeship on the authority, his or her service thereon or his or her employment therewith.

4. All trustees appointed under this section shall have relevant utility, corporate board or financial experience.

* NB There are 2 § 1020-d's

*** § 1020-e. Officers and employees; expenses.** The board, or the chairman pursuant to authority duly delegated to him, from time to time shall hire, without regard to any personnel or civil service law, rule or regulation of the state and in accordance with guidelines adopted by the authority such employees and consultants, including without limitation those in the areas of engineering, marketing, finance, appraisal, accounting and law, as it may require for the performance of its duties and shall prescribe the duties and compensation of each officer and employee, provided, however, that if any such employees are hired as a consequence of an acquisition of all the stock or assets of LILCO, they shall be hired subject and be entitled to all applicable provisions of (i) any existing contract or contracts with labor unions and (ii) all existing pension or other retirement plans. Notwithstanding the provisions of any general, special or local law, the board may determine that, if any pension or retirement plan becomes inapplicable or is terminated, all or such class or classes of employees of the authority as the board may determine may elect to become members of the New York state employees' retirement system on the basis of compensation payable to them by the authority.

* NB There are 2 § 1020-e's

*** § 1020-f. General powers of the authority.** Except as otherwise limited by this title, the authority shall have all of the powers necessary or convenient to carry out the purposes and provisions of this title, including without limiting the generality of the foregoing, the power:

(a) To sue and be sued in all courts and to participate in actions and proceedings, whether judicial, administrative, arbitrative or otherwise;

(b) To have a corporate seal, and to alter such seal at pleasure, and to use it by causing it or a facsimile to be affixed or impressed or reproduced in any other manner;

(c) To appoint officers, agents and employees, without regard to any personnel or civil service law, rule or regulation of the state and in accordance with guidelines adopted by the authority, prescribe their duties and qualifications and fix and pay their compensation. By January first, two thousand fourteen, the authority, through its governance committee, shall amend such guidelines to require that staffing at the authority is kept at levels only necessary to ensure that the authority is able to meet obligations with respect to its bonds and notes and all applicable statutes and contracts, and oversee the activities of the service provider;

(d) To purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property whether tangible or intangible, or any interest therein, within the state;

(e) To acquire real or personal property, whether tangible or intangible, including without limitation property rights, interests in property, franchises, obligations, contracts, and debt and equity securities, by the exercise of the power of eminent domain; provided, however, that any real property acquired by the exercise of the power of eminent domain must be located within the service area;

(f) To sell, convey, lease, exchange, transfer, abandon or otherwise dispose of, or mortgage, pledge or create a security interest in, all or any of its assets, properties or any interest therein, wherever situated;

(g) To purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge or grant a security interest in, use and otherwise deal in and with, bonds and other obligations, shares or other securities (or interests therein) issued by others, whether engaged in a similar or different business or activity;

(h) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this title, including contracts with any person, firm, corporation, municipality, state agency or other entity in accordance with the provisions of section one hundred three of the general municipal law, and all state agencies and all municipalities are hereby authorized to enter into and do all things necessary to perform any such agreement, contract or other instrument with the authority;

(i) To borrow money at such rate or rates of interest as the authority may determine, issue its notes, bonds or other obligations to evidence such indebtedness, and secure any of its obligations by mortgage or pledge of all or any of its property or any interest therein, wherever situated;

(j) To arrange for guarantees of its bonds, notes or other obligations by the federal government or by any private insurer or otherwise, and to pay any premiums therefor;

(k) To issue such bonds or notes or other obligations whether or not the income therefrom is exempt from federal income taxation;

(l) To purchase bonds, notes or other obligations of the authority at such price or prices as the authority may determine;

(m) To lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(n) To procure insurance against any loss in connection with its properties or operations in such amount or amounts and from such insurers, including the federal government, as it may deem necessary or desirable, and to pay any premiums therefor;

(o) To create or acquire one or more wholly owned subsidiaries in accordance with section one thousand twenty-i of this title to carry out all or any part of the purposes of this title;

(p) To negotiate and enter into agreements with trustees or receivers appointed by United States bankruptcy courts or federal district courts or in other proceedings involving adjustment of debts and authorize legal counsel for the authority to appear in any such proceedings;

(q) To file a petition under chapter nine of title eleven of the United States bankruptcy code or take other similar action for the adjustment of its debts;

(r) To enter into agreements to purchase power from the power authority of the state of New York, the state, any state agency, any municipality, any private entity, or any other available source at such price or prices as may be negotiated; provided, however, that the authority shall not have the power to enter into any agreement or any negotiation for the purchase of power from the dominion of Canada, or any political subdivision, public authority or private corporation therein; but may enter into an agreement with the power authority of the state of New York for the purchase of such power;

(s) To enter into management agreements for the operation of all or any of the property or facilities owned by the authority;

(t) To transfer any asset of the authority to one or more (i) private utility or (ii) municipal gas or electric agency established pursuant to article fourteen-A of the general municipal law, for such consideration and upon such terms as the authority may determine to be in the best interest of the gas and electric ratepayers in the service area;

(u) Rate plans. Subject to subdivision six of section one thousand twenty-k of this title to fix rates and charges for the furnishing or rendition of gas or electric power or of any related service at the lowest level consistent with sound fiscal and operating practices of the authority and which provide for safe and adequate service. In implementing this power:

1. The authority and the service provider shall, on or before February first, two thousand fifteen, submit for review to the department of public service a three-year rate proposal for rates and charges to take effect on or after January first, two thousand sixteen.

2. The authority and the service provider shall thereafter submit for review to the department of public service any rate proposal that would increase the rates and charges and thus increase the aggregate revenues of the authority by more than two and one-half percent to be measured on an annual basis; provided, however, that the authority may place such rates and charges into effect on an interim basis, subject to prospective rate adjustment; provided, further, that a final rate plan issued by the authority that would not so increase such rates and charges shall not be subject to the requirements of paragraph four of this subdivision and shall be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The authority and/or the service provider may otherwise submit for review to such department any rate proposal irrespective of its effect on revenues.

2-a. The authority and the service provider shall not submit any rate proposal that shall assess any fee, penalty or other charge of any kind for the voluntary termination of electric service to any residential customer for the purpose of utilizing alternative sources of electric generation in excess of that charged to customers who terminate their electric service for any other reason.

3. The authority shall not fix any final rates and charges proposed that would not be subject to review by the department of public service pursuant to paragraphs one and two of this subdivision until after

holding public hearings thereon upon reasonable public notice, with at least one such hearing to be held each in the county of Suffolk and the county of Nassau.

4. Any recommendations associated with a rate proposal submitted pursuant to paragraphs one and two of this subdivision shall be provided by the department of public service to the board of the authority immediately upon their finalization by the department. Unless the board of the authority makes a preliminary determination in its discretion that any particular recommendation is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligations, or the provision of safe and adequate service, the board shall implement such recommendations as part of its final rate plan and such final determination shall be deemed to satisfy the requirements of this subdivision and be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The board shall make any such preliminary determination of inconsistency within thirty days of receipt of such recommendations, with notice and the basis of such determination being provided to the department of public service, and contemporaneously posted on the websites of the authority and its service provider. The board shall thereafter, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing, the department of public service shall present the basis for its recommendations, the board shall present the basis for its determination of inconsistency and the service provider may present its position. The authority and the service provider may, during the time period before such public hearing reach agreement with the department on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementation with respect to any such recommendations. The authority's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

(v) To enter upon any lands and within any building whenever in its judgment it may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this title;

(w) To enter into agreements to pay annual sums in lieu of taxes to any municipality with respect to any real property which is owned by the authority and is located in such municipality;

(x) To maintain an office or offices at such place or places in the state as it may determine;

(y) To make any inquiry, investigation, survey or study which the authority may deem necessary to enable it effectively to carry out the provisions of this title and, for that purpose, to take and hear proofs and testimony, and with the prior vote of a majority of the board which majority vote shall include the vote of the chairman to compel the attendance of witnesses and to require the production of records, books, papers, accounts and other documents, including public records, and to make copies thereof or extracts therefrom; and

(z) To adopt, revise, amend and repeal rules and regulations with respect to its operations, properties and facilities as may be necessary or convenient to carry out the purposes of this title, subject to the provisions of the state administrative procedure act.

(aa) Notwithstanding any other provision of law to the contrary the authority shall not undertake any project without the approval of the public authorities control board created pursuant to article one-A of this chapter. Each application to the public authorities control board shall contain a project description and an explanation of why the project meets the standards for project approval set forth in this subdivision. The public authorities control board shall only approve a project proposed by the authority upon its determination that:

1. the project is financially feasible as the standard is defined in article one-A of this chapter;

2. the project does not materially adversely affect overall real property taxes in the service area;

3. the project is anticipated to result generally in lower utility rates in the service area; and

4. the project will not materially adversely affect overall real

property taxes or utility rates in other areas of the state of New York.

(bb) Comprehensive and regular management and operations audits. 1. The authority and the service provider shall cooperate in the undertaking and completion of a regular and comprehensive management and operations audit conducted pursuant to the requirements of this subdivision and paragraph (d) of subdivision three of section three-b of the public service law. Such audit shall review and evaluate the overall operations and management of the authority and service provider, including such operations and management in the context of the authority's duty to set rates at the lowest level consistent with standards and procedures provided in subdivision (u) of this section, and include, but not be limited to: (i) the service provider's construction and capital program planning in relation to the needs of customers for reliable service; (ii) the overall efficiency of the authority's and service provider's operations; (iii) the manner in which the authority is meeting its debt service obligations; (iv) the authority's Fuel and Purchased Power Cost Adjustment clause and recovery of costs associated with such clause; (v) the authority's and service provider's annual budgeting procedures and process; (vi) the application, if any, of the performance metrics designated in the operations services agreement and the accuracy of the data relied upon with respect to such application; and (vii) the authority's compliance with debt covenants.

2. The department of public service shall notify the authority that said department is in the process of initiating a comprehensive management and operations audit as described in paragraph one of this subdivision in a manner that ensures the timeliness of such audit, and in accordance with the following timeframe: the first comprehensive management and operations audit shall be initiated as of the effective date of chapter eight of the laws of two thousand twelve and undertaken in a manner and to an extent that is practicable in the context of the authority's transition to a new management service structure; the second comprehensive management and operations audit shall be initiated no later than December fifteenth, two thousand sixteen; and all additional comprehensive management and operations audits shall be initiated at least once every five years thereafter. Within a reasonable time after

such notification to the authority, said department or the independent auditor retained by the authority to undertake such audit shall hold public statement hearings, with proper notice, in both Nassau and Suffolk counties for the purpose of receiving both oral and written comments from the public on matters related to such audit as described in paragraph one of this subdivision.

3. Each such audit shall be completed within eighteen months of initiation absent an extension for good cause shown by the department of public service or the independent auditor under contract with the authority with notice of such extension to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the authority and the department of public service. Such audit shall be provided to the board of the authority immediately upon its completion. The department of public service shall provide notice of completion of such audit to the governor, the temporary president of the senate, the speaker of the assembly, and the minority leaders of the senate and assembly, and the authority, upon receipt of such audit, shall post a copy of such audit, including findings and recommendations, on its website and the website of the service provider. Unless the board of the authority makes a preliminary determination that any particular finding or recommendation contained in such audit is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligation, or the provision for safe and adequate service, the board shall implement or cause its service provider to implement such findings and recommendations in accordance with the timeframe specified under such audit.

4. The board of the authority shall make any preliminary determination of inconsistency with respect to any such finding or recommendation within thirty days of receipt of the audit, with notice and the basis of such determination being provided to the department of public service. Such notice and basis shall be posted contemporaneously on the authority's website and the website of the service provider and the board shall, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing the

department of public service or the independent auditor responsible for undertaking such audit shall present the basis for its findings and recommendations and the board shall present the basis for its determination of inconsistency and the service provider may present is position. The authority, service provider and auditor may during the time period prior to such public hearing reach agreement on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementations with respect to any such findings and/or recommendations. The authority's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

5. Notwithstanding the foregoing, in the event that a comprehensive and regular management and operations audit as conducted in accordance with this subdivision indicates a finding of fraud, abuse or mismanagement by a service provider of the authority, and upon a finding by the public service commission that reasonable cause exists for the basis of such indication, the public service commission may order that any recommendations contained in the regular management and operations audit be implemented. The public service commission may also provide in their order, the date in which the recommendations be fully implemented. Failure to comply with any such order can result in the imposition of a civil penalty by the public service commission against the service provider.

(cc) To prepare an emergency response plan pursuant to this subdivision. 1. The service provider shall, in consultation with the authority, prepare and maintain an emergency response plan (i) to assure the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision as an event where widespread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and the service provider, (ii) consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of the public service law and any regulations and orders adopted thereto, and (iii) establishing the separate responsibilities of the authority and service provider. Such emergency response plan shall include plans setting forth how the communication and coordination of efforts between the authority, service provider, authority employees, service provider employees, authority company crews, service provider company crews, mutual aid crews, other utilities, local governments and any service provider or other entity performing services to assist the authority shall occur. Such emergency response plan shall include identification of and outreach plans for customers who have documented their need for essential electricity for medical needs, which shall include but not be limited to, apnea monitors for infants, cuirass respirators, hemodialysis machines, intravenous feeding machines, intravenous medical infusion machines, oxygen concentrators, positive pressure respirators, respirators/ventilators, rocking bed respirators, suction machines, and tank type respirators.

2. On or before February third, two thousand fourteen, the authority and service provider shall submit an emergency response plan to the department of public service for review. Contemporaneously with such submission, the authority shall provide notice of such proposed plan to the secretary of state for publication in the state register, the authority and service provider each shall post such plan on their websites and otherwise make such plan available for review in-person, and afford members of the public an opportunity to submit written comments and oral comments pursuant to at least one hearing to be held each in the county of Suffolk and the county of Nassau. Such written comments must be submitted by March fourteenth, two thousand fourteen. The authority and service provider shall provide a copy of all written comments they receive and a transcript of such public hearings to the department of public service for its consideration in reviewing the emergency response plan. The department shall provide any recommendations to the authority and service provider with respect to such plan on or before April fifteenth, two thousand fourteen. Such plan must be made final by June second, two thousand fourteen. For each year thereafter, the service provider shall submit an emergency response plan to the department of public service, and such department shall provide its recommendations, in accordance with a schedule to be established by such department and that is consistent with the schedule associated with

such department's review of similar such plans provided by electric corporations pursuant to subdivision twenty-one of section sixty-six of the public service law.

3. By June second, two thousand fourteen, and by June first annually thereafter, the authority and service provider shall jointly certify to the department of homeland security and emergency services that the emergency response plan ensures, to the greatest extent feasible, the timely and safe restoration of energy services after an emergency consistent with the requirements of paragraph (a) of subdivision twenty-one of the public service law and the department's recommendations. The filing of such emergency response plan shall also include a copy of all written mutual assistance agreements among utilities. The authority and service provider shall file with the county executives of Nassau and Suffolk county and the mayor of the city of New York the most recent version of the emergency response plan, and make sure that such amended versions are timely filed.

4. Starting in calendar year two thousand fourteen, the service provider annually shall undertake at least one drill to implement procedures to practice its emergency response plan. The service provider shall notify and allow participation in such drill of all appropriate municipal emergency responders and officials.

5. If, during an emergency event, electric service is not restored in three days, the service provider shall within sixty days from the date of full restoration file with the department a report constituting a review of all aspects of the preparation and system restoration performance during the event, and shall thereafter take into consideration any recommendations made by the department associated with such review.

(dd) On or before January first, two thousand fifteen, and by January first of each calendar year thereafter, to submit for review to the department of public service a report detailing the service provider's planned capital expenditures.

(ee) On or before July first, two thousand fourteen, and annually thereafter, to submit for review to the department of public service any proposed plan related to implementing energy efficiency measures, distributed generation or advanced grid technology programs for the purpose provided pursuant to paragraph (g) of subdivision three of section three-b of the public service law.

(ff) To assist and cooperate with the department of public service with respect to any review undertaken pursuant to section three-b of the public service law, including providing the department with reasonable access to all facilities and premises owned or operated by the authority or its service provider, allowing review of all books and records of the authority and its service provider, providing copies of requested documents, allowing interviews of all appropriate personnel, and responding in a reasonable and timely manner to any inquiries or reporting requests made by the department; provided, however, that the obligations set forth in this subdivision shall not extend to affiliates of the service provider.

(gg) Renewable generation and energy efficiency programs. 1. The authority in coordination with the service provider, the power authority of the state of New York and the New York state energy research and development authority shall, to the extent the authority's rates are sufficient to provide safe and adequate transmission and distribution service, and the measures herein, undertake actions to design and administer renewable energy and energy efficiency measures in the service area, with the goal of continuing and expanding such measures that cost-effectively reduce system-wide peak demand, minimize long-term fuel price risk to rate payers, lower emissions, improve environmental quality, and seek to meet New York state climate change and environmental goals. Such actions shall also include implementation of any renewable energy competitive procurement or feed-in-tariff programs that were approved by the authority as of the effective date of the chapter of the laws of two thousand thirteen which added this subdivision.

2. The service provider shall consider, consistent with maintaining system reliability, renewable generation and energy efficiency program results and options in establishing capital plans.

(hh) Starting in calendar year two thousand fifteen, the authority and the service provider shall submit to the department of public service for review, any and all data, information and reports which set forth the service provider's actual performance related to the metrics in the operations services agreement, including the authority's evaluation thereof, no less than forty-five days prior to the authority's determination of the service provider's annual incentive compensation.

(ii) The service provider shall assist and cooperate with the department of public service with respect to providing any data or information necessary for the department to post a compensation statement for the service provider in accordance with subdivision three of section one hundred eleven-a of the public service law.

* (jj) As deemed feasible and advisable by the trustees, to enter into contracts with the power authority of the state of New York for the provision of bill credits generated by the production of renewable energy by a renewable energy system developed, constructed, owned, or contracted for by the power authority of the state of New York under the renewable energy access and community help program established pursuant to subdivision twenty-seven-b of section one thousand five of this article and, unless such end-use electricity consumers opt out, to provide such bill credits to low-income or moderate-income end-use electricity consumers in disadvantaged communities, including such end-use electricity customers who have or who reside in buildings that have on-site net-metered generation or who participate in a community choice aggregation or community distributed generation project.

* NB There are 2 sb (jj)'s

* (jj) The authority and its service provider shall permit a residential customer to designate a third party to receive notice of the total amount due or past due on all bills, the amounts of any payments paid by or on behalf of such residential customer, and copies of all notices relating to termination of service and notices relating to collection of amounts due sent to such residential customer, provided that the designated third party indicates in writing a willingness to receive such notices, and provided further, where a residential customer opts for third-party notifications, such residential customer may opt to continue to receive such notices.

* NB There are 2 sb (jj)'s

(kk) The authority and its service provider shall permit a landlord, upon written request of both the landlord and tenant, to designate a third party to be notified of all requests for discontinuance of service to units occupied by such tenant, provided that the designated third party indicates in writing a willingness to receive such notices, and provided further, where the tenant and landlord customers opt for third-party notifications, such tenant and landlord customers may opt to continue to receive such notices.

* NB There are 2 § 1020-f's

§ 1020-g. Powers to provide and maintain generating, transmission and resource recovery waste to energy facilities. Without limiting the generality of the powers conferred upon the authority by section one thousand twenty-f of this title, the authority shall have the specific power:

(a) Subject to the provisions of subdivision one of section ten hundred twenty-s of this title, to acquire, construct, improve, rehabilitate, maintain and operate such generating, transmission and related facilities as the authority deems necessary or desirable to maintain an adequate and dependable supply of gas and electric power within the service area;

(b) Subject to the provisions of subdivision one of section ten hundred twenty-s of this title, to acquire, construct, improve, rehabilitate, maintain and operate such hydroelectric or energy storage projects within the state as it deems necessary or desirable to contribute to the adequacy, economy and reliability of the supply of electric power and energy or to conserve fuel;

(c) Subject to the provisions of subdivision one of section ten hundred twenty-s of this title, to determine the location, type, size, construction, lease, purchase, ownership, acquisition, use and operation of any generating, transmission or other related facility, provided, however, that in making such determinations relating to electric power facilities the authority shall give primary consideration to the construction of energy efficient facilities, energy conservation, load management programs, and cogeneration in the service area;

(d) To proceed with the physical construction or completion of any generating, transmission or related facility;

(e) To apply to the appropriate agencies and officials of the federal and state governments, for such licenses, permits or approval of its plans or projects as it may deem necessary or advisable, and to accept such licenses, permits or approvals as may be tendered to it by such agencies or officials, upon such terms and conditions as it may deem appropriate;

(f) To institute suit, or to apply to any legislative body for legislation, or to take such other action as it may deem necessary or advisable in the furtherance of the purposes of this title and for the protection of its rights, if for any reason the authority shall fail to secure any such license, permit or approval as it may deem necessary or advisable;

(g) To study means of maintaining the customer base in, and attracting commerce and industry to the service area;

(h) To implement programs and policies designed to provide for the interconnection of: (i) (A) solar electric generating equipment owned or operated by residential customers, (B) farm waste electric generating equipment owned or operated by customer-generators, (C) solar electric generating equipment owned or operated by non-residential customers, (D) micro-combined heat and power generating equipment owned, leased or operated by residential customers, (E) fuel cell electric generating equipment owned, leased or operated by residential customers, and (F) micro-hydroelectric generating equipment owned, leased or operated by customer-generators and for net energy metering consistent with section sixty-six-j of the public service law, to increase the efficiency of energy end use, to shift demand from periods of high demand to periods of low demand and to facilitate the development of cogeneration; and (ii) wind electric generating equipment owned or operated by customer-generators and for net energy metering consistent with section sixty-six-l of the public service law.

(i) To develop, with public participation, a comprehensive least-cost plan which shall consider practical and economical use of conservation, renewable resources, and cogeneration for providing service to its customers;

(j) To cooperate with and to enter into contractual arrangements with private utility companies or public entities:

(i) with respect to the construction and operation of facilities by the authority and the sale of all or part of the output therefrom;

(ii) with respect to the construction, completion, acquisition, ownership and/or operation of generating facilities, fuel, docks, sidings, loading or unloading equipment, storage facilities and other subsidiary facilities and the disposition of the output of such generating facilities; and

(iii) with respect to the construction, acquisition, ownership, operation and/or use of transmission facilities;

(k) To cooperate with and to enter into contractual arrangements with municipalities with respect to the construction, improvement, rehabilitation, ownership and/or operation of generating facilities;

(l) To cooperate with and to enter into contractual arrangements with the New York state energy research and development authority in connection with the planning, siting, development, construction, operation and maintenance of generating facilities of the authority utilizing new energy technologies;

(m) Subject to the provisions of section ten hundred twenty-aa of this title, to construct, maintain and operate resource recovery waste to energy facilities; and

(n) After the establishment of Long Island Power Authority (LIPA) and the commencement of its function as a utility, LIPA shall acquire from LILCO all franchise and utility service responsibilities for all ultimate consumers of gas and electricity within LILCO's former service territory, including the responsibility to provide safe and adequate service.

*** § 1020-h. Acquisition of property, including the exercise of the power of eminent domain.** 1. The legislature hereby expressly finds and determines:

(a) The acquisition by the authority, through purchase or the exercise of the power of eminent domain, of either the securities or assets of LILCO whichever is less expensive for the ratepayers, as the authority may determine will be just to the ratepayers in the service area, is the most appropriate means of dealing with the emergency involving the economy, health and safety of the residents and the industry and commerce in the service area, notwithstanding the fact that LILCO presently may be devoted to a public use, since the public use of such property by the authority is hereby deemed to be superior to the public use of such property by any other person, association, or corporation.

(b) The authority, prior to exercising its power of eminent domain to acquire the stock or assets of LILCO, shall enter into negotiations with LILCO for the purpose of acquiring such stock or assets upon such terms as the authority, in its sole discretion, determines will result in rates equal to or less than the rates which would result if LILCO were to continue in operation.

(c) The situs of all stock issued by LILCO, a New York corporation, is the state of New York.

(d) The compensation paid by the authority to LILCO shall be just to the ratepayers in the service area who must pay such compensation.

(e) If the authority determines that it is the stock of LILCO that should be taken, the proper measure of damages shall be the fair market value thereof as evidenced by the price of such stock on the exchange on which they are traded on the valuation date since there is an established market for such stock that is reflective of its value. In no event, however, shall consequential or severance damages be awarded if control of LILCO shall have been taken by the authority.

(f) If the authority determines that it is the assets of LILCO that should be taken, fair market value would not constitute just compensation to LILCO since there is an insufficient market in the usual sense for its assets to ascertain the value thereof from the market. In determining the compensation payable for such assets, there shall be taken into consideration the capitalization of LILCO's expected future earnings.

(g) LILCO has no reasonable expectation of realizing actual earnings from the Shoreham plant or of giving effect to any earnings or returns which may have been reflected on the books of LILCO for accounting purposes. Moreover, it would not be reasonable, under current and reasonably foreseeable circumstances, to expect that the Shoreham plant would be reproduced by a public or private utility in LILCO's present position.

(h) LILCO would have to phase in over a long period of time any rate increases based on the costs of the Shoreham plant.

(i) The public service commission has imposed a limitation on the earnings which LILCO may realize on its interest in the Nine Mile Point nuclear power facility.

(j) The public service commission has imposed on LILCO imprudence penalties with respect to the Shoreham plant.

(k) In determining just compensation, the following factors shall be evaluated in deciding whether OCLD or RCNLD or neither constitutes the proper basis:

(i) LILCO is a regulated utility. Under the laws of the state providing for the regulation of utilities, LILCO's future earnings are restricted to the permitted rate of return times LILCO's OCLD.

(ii) LILCO presently is being operated as an enterprise the economic viability of which is dependent upon extraordinary financial stability adjustments by the public service commission. Such extraordinary and unprecedented rate relief was granted by the public service commission in order to provide cash flow relief to prevent LILCO's bankruptcy with the expectation that ratepayers would receive the full credit of such in lower rates, and that the public service commission required such extraordinary rate relief to be discontinued in the event that LILCO filed a petition for relief in a voluntary case under the Bankruptcy Act or if a final order for relief was entered involuntarily under such act. LILCO's lack of profitability results not from any repressive or other improper action taken by any governmental entity but from such factors as mismanagement, imprudent decisions regarding the Shoreham plant and general inefficiency.

(iii) There is no reasonable probability that, after condemnation of its assets, LILCO will reproduce them.

(iv) Use of RCNLD may result in an unwarranted windfall to LILCO and an unjustifiable penalty to the ratepayers who would have to pay it, since to the extent an award based on RCNLD would exceed an award based on OCLD, it would reflect to a large extent the effects of inflation which would not increase the value of the property to LILCO or its rate base for ratemaking purposes or to the authority for the purpose of continuing to generate and transmit electric power within the service area.

(l) Neither consequential nor severance damages are proper if the authority condemns all the assets of LILCO.

(m) In determining whether LILCO has any going concern value, the court shall take into consideration the fact that LILCO's continued operations are dependent upon the extraordinary financial stability adjustments granted by the public service commission.

(n) Such an acquisition by the authority of the securities or assets of LILCO serves the public purposes of assuring the provision of an adequate supply of gas and electricity in a reliable, efficient and economic manner and retaining existing commerce and industry in and attracting new commerce and industry to the service area, all of which are matters of state-wide concern.

2. In furtherance of the legislative findings and determinations set forth in subdivision one of this section, the authority is hereby authorized and empowered to acquire, through purchase or the exercise of the power of eminent domain, all or any part of the securities or assets of LILCO, as the authority in its sole discretion may determine; provided, however, that prior to proceeding with any such acquisition under this title, the board shall determine, in its sole discretion based upon such engineering, financial and legal data, studies and opinions as it may deem appropriate, that the rates projected to be charged after such acquisition and for such reasonable period of time as the board may determine will not be higher than the rates projected to be charged by LILCO during such period if such acquisition had not occurred.

3. The authority also is authorized and empowered, in its discretion, to make a tender offer or tender offers for all or any portion of the securities of LILCO at such price or prices as the authority may determine to be appropriate; provided, however that such tender offer or tender offers, in the sole judgment of the authority, will result in rates less than the rates which would result from continued operation by LILCO.

(a) The authority shall make such offer or offers or any adjustment thereof prior to acquiring any such securities or any assets of LILCO through the exercise of the power of eminent domain. The authority may pay for such securities in cash or by exchanging therefor the authority's bonds or a combination thereof.

(b) In the case of a tender offer in which a subsidiary of the authority acquires at least sixty-six and two-thirds percent of LILCO's common stock, such subsidiary may merge with LILCO and either continue in existence or dissolve, as it may determine.

(c) The provisions of section five hundred thirteen and article sixteen of the business corporation law and any other provisions of law relating to procedures in a corporate takeover, including without limitation chapter nine hundred fifteen of the laws of nineteen hundred eighty-five, shall not be applicable to the actions of the authority pursuant to this title.

(d) In determining whether acceptance of such a tender offer by the authority is in the best interests of LILCO, the directors of LILCO shall consider not only the dollar amount of such offer but the interests of employees, suppliers, ratepayers, creditors (including holders of LILCO's debt securities), and the economy of the service area and the state.

4. The authority, should it determine, in its sole discretion, to acquire the stock or assets of LILCO by the exercise of the power of eminent domain, shall not take title to nor possession of such stock or assets prior to a final determination of the amount of compensation to be paid for such stock or assets nor prior to a determination by the authority, in its sole discretion that the taking of such stock or assets will result in rates less than the rates which would result from continued operation by LILCO. Notwithstanding the provisions of the eminent domain procedure law, the provisions of subdivisions five and six shall apply to the acquisition of the stock or property of LILCO by the power of eminent domain, provided however, to the extent the provisions herein do not supersede or conflict with the provisions of such law the provisions of such law shall apply.

5. Procedure for acquisition of LILCO stock. (a) In the event the authority determines to acquire the stock of LILCO by the exercise of the power of eminent domain, having first entered into negotiations with LILCO for the purchase of such stock, the authority need not hold any public hearing on its intention to condemn such stock or on the question of the public use of such action, such finding having been made by the legislature herein. The authority shall commence such acquisition by serving upon LILCO and filing with the county clerk of the county in

which the principal office of LILCO is located a notice describing the stock being acquired, the valuation date, as determined by the authority, and such additional information as the authority may reasonably deem necessary to facilitate the process of condemnation and payment. The notice shall state that it is a notice of pendency of an acquisition proceeding and that the authority will elect whether or not to pay the amount of such award when it has been finally determined. The authority also shall cause a copy of such notice (i) to be served upon the stock transfer agent or agents designated by LILCO for the transfer and registration of its stock and (ii) to be published in at least five successive issues of a daily newspaper of national circulation.

(b) Upon receipt of such notice, the stock transfer agent or agents, at the expense of the authority, shall forthwith serve upon each of the registered owners of such stock a copy of such notice. Service shall be deemed sufficient if mailed by certified or registered mail to the address of each such owner as shown on LILCO's stock transfer books. Service of the notice upon the stock transfer agent or agents and its publication shall not be jurisdictional prerequisites to the validity of the taking. Failure to notify any owner of stock to be taken will not invalidate any proceedings brought hereunder or any title acquired by the authority.

(c) Upon filing of the notice described in paragraph (a) hereof, the authority shall petition a special term of the supreme court in the judicial district in which LILCO has its principal office for the acquisition of the stock. Such petition shall be generally in the form prescribed by the eminent domain procedure law so far as consistent herewith.

(d) The supreme court in the district in which LILCO has its principal office shall have exclusive jurisdiction to hear and determine all claims arising from the acquisition of stock by the exercise of the power of eminent domain and shall hear such claims without a jury and without referral to a referee or commissioners. Notwithstanding the provisions of section nine hundred one of the civil practice law and rules, upon motion to the court by the authority, the condemnation proceeding for the acquisition of stock shall be maintained as a class action, pursuant to remaining provisions of article nine of the civil practice law and rules, and the owners of the stock shall be deemed a defendant class on the basis of the following express legislative findings:

(i) the class of LILCO stock owners is so numerous that joinder of all members is impracticable;

(ii) the issue of valuation of LILCO stock is common to all LILCO stock owners and there are questions of law or fact common to the members of such class which predominate over any questions affecting only individual members;

(iii) the claims or defenses, if any, of any representative owner of LILCO stock to acquisition thereof by the authority are typical of the claims or defenses of the class;

(iv) there are representative parties who will fairly and adequately protect the interests of the class; and

(v) the prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to the issue of valuation and other issues common to the class.

(e) The procedure for determining just compensation shall be in the manner prescribed by the eminent domain procedure law, except to the extent such procedure is inconsistent with the provisions of this title, in which case the provisions of this title shall control.

(f) Upon the entry of an award finally determining just compensation for the stock, the authority shall have sixty days after receipt of notice of entry of such award within which to elect to proceed with the taking or to abandon such acquisition as provided in subdivision ten hereof. Notice of such election shall be served by the authority and by the stock transfer agent in the manner described in paragraph (a) hereof. If the authority elects to proceed with the acquisition, it shall deposit with the supreme court in which the condemnation proceeding was held an amount equal to the award within one hundred eighty days after receipt by the authority of notice of entry of such award. Upon the making of such deposit, the authority shall notify LILCO's stock transfer agent in writing of such deposit. The sum so depositied shall be applied as provided in the eminent domain procedure law. Upon making such deposit and giving such notice to the stock transfer agent, title to all stock described in the notice of taking shall immediately vest in the authority and the authority shall have the immediate right thereto. In the event the authority elects to abandon the acquisition, the provisions of subdivision ten hereof shall apply.

(g) It shall be a condition precedent to the payment of compensation for any such securities that such securities be surrendered to the supreme court or to such other entity, including the issuer's stock transfer agent, as the supreme court may direct.

6. Procedure for acquisition of LILCO assets. (a) If the authority shall find it necessary or convenient to acquire any real or personal property of LILCO, (other than securities), whether for immediate or future use, then the authority need not determine that such property is required for public use, since the legislature already has made such determination in this title which determination shall be binding for all purposes. The authority need not publish any notice of its intention to acquire such property or hold any public hearing with respect thereto or to the public use of such action.

(b) When any real property of LILCO within this state is sought to be acquired by the exercise of the power of eminent domain, and after the authority shall have entered into negotiations with LILCO for the purchase of such property, the authority shall cause a survey and map to be made thereof and shall cause such survey and map to be filed in its office and in the office of the county clerk in which such property is located. There shall be annexed to such survey and map a certificate executed by the chief engineer of the authority, or by such other officer or employee as may be designated by the board, stating that the property or interest therein described in such survey and map is necessary for its purposes.

(c) Upon filing such survey and map, the authority shall petition a special term of the supreme court in the judicial district in which the property is located for the acquisition of such property or interest therein. Such petition shall describe the property being acquired, the valuation date, as determined by the authority, and such additional information as the authority may reasonably deem necessary to facilitate the process of condemnation and payment. The petition shall state that the authority will elect whether or not to pay the amount of such award when it has been finally determined. In all other respects, such petition shall be generally in the form prescribed by the eminent domain procedure law, so far as consistent herewith. Such petition, together with a notice of pendency of the proceeding, shall be filed in the office of the county clerk of the county in which the property is located and shall be indexed and recorded as provided by law. A copy of such petition, together with a notice of the presentation thereof to such special term of the supreme court, shall be served upon the owners of such property as provided in the eminent domain procedure law. The authority may cause a duplicate original affidavit of the service thereof to be recorded in the books used for recording deeds in the office of the county clerk of the county in which the property described in such notice is located, and the recording of such affidavit shall be prima facie evidence of due service thereof.

(d) Subsequent proceedings shall be conducted generally in the manner prescribed by the eminent domain procedure law except to the extent the provisions thereof are inconsistent with the provisions of this title, in which case the provisions of this title shall control.

(e) In any proceeding involving the valuation of LILCO property taken by the authority the supreme court shall ascertain and determine just compensation for the property taken as of the valuation date, giving due consideration to the applicable findings and determinations of the legislature set forth in subdivision one hereof.

(f) Should LILCO's property be taken by the exercise of the power of eminent domain and if LILCO shall have agreed upon the compensation to be paid therefor in settlement of the proceeding, if, LILCO shall be entitled to payment of the agreed or awarded compensation within one hundred eighty days after the date of the agreement upon the amount of the compensation or of the entry of the award, together with interest upon the amount of such compensation from the time of acquisition thereof by the authority to the date of payment of such compensation; but such interest shall cease upon the service by the authority, upon the person or corporation entitled thereto, of a fifteen days' notice that the authority is ready and willing to pay the amount of such compensation upon the presentation of proper proofs and vouchers. Such notice shall be served personally or by registered mail and publication thereof shall be made at least once a week for three successive weeks in a daily newspaper of general circulation in the county in which such property or any part thereof is located.

(g) Upon the entry of an award finally determining just compensation for the property of LILCO, the authority shall have sixty days after receipt of notice of entry of such award within which to elect to proceed with the taking or to abandon such acquisition as provided in subdivision ten hereof. Notice of such election shall be served by the authority on the owners of such property in the manner described in paragraph (c) hereof. If the authority elects to proceed with the acquisition, it shall deposit with the supreme court in which the condemnation proceeding was held an amount equal to the award within one hundred eighty days after receipt by the authority of notice of entry of such award. Upon the making of such deposit, the authority shall notify LILCO in writing of such deposit. The sum so deposited shall be applied as provided in the eminent domain procedure law. Upon making such deposit and giving such notice to LILCO, title to all property described in the notice of taking shall immediately vest in the authority and the authority shall have the immediate right thereto. The order setting forth the award, together with evidence from the clerk of the court of receipt of the amount of the award, shall be filed in the office of the county clerk of the county in which the property is located and shall be indexed and recorded in the same manner as a notice of pendency under the eminent domain procedure law. The owner or person in possession of such property shall deliver possession thereof to the authority upon demand, and in case possession is not delivered when demanded or demand is not convenient because of absence of the owner or inability to locate or determine the owner, the authority may apply to the court without notice for an order requiring the sheriff to put it into possession of such real property. Such an order shall be executed as if it were an execution for the delivery of the possession of the property. In the event the authority elects to abandon the acquisition, the provisions of subdivision ten hereof shall apply.

7. At any time the authority and its duly authorized agents and employees may, on reasonable notice and during business hours, (i) enter upon any real property proposed to be acquired for the purpose of making the surveys or maps mentioned in this section, or of making such other surveys, inspections or examinations of real and personal property and (ii) inspect and make copies of the books and records of the issuer of

such securities, all as the authority may deem necessary or convenient for the purposes of this title.

8. Upon the acquisition of all the outstanding shares of stock of a corporate issuer representing all the voting rights and equity thereof, the authority shall as soon as reasonably practicable take all steps necessary to assure that the rights and claims of all the holders of any other stock and debt securities and all other creditors thereof are as secure as they were immediately prior to the acquisition by the authority. Nothing herein shall prohibit the authority from taking any appropriate and prudent action to renegotiate and restructure such debt or from purchasing the preferred stock and debt securities issued by such corporation at such prices as the authority may determine. The authority may also exchange its bonds for any outstanding preferred stock or debt securities with the consent of the holders of such preferred stock or debt securities.

9. As soon as practicable after the authority has acquired sufficient shares of LILCO stock to do so or after it has acquired all the property of LILCO pursuant to this title, the authority shall forthwith close and decommission the Shoreham plant and shall investigate and develop alternative uses, if any, for such plant.

10. If the authority determines, in its sole discretion, that the total cost of acquisition will result in rates in excess of the rates which would result from continued operation by LILCO, the authority shall abandon the acquisition. In such event, the authority shall serve notice of such abandonment (i) in the case of a stock acquisition, by causing to be mailed by certified or registered mail a copy of such notice to each former owner of stock as shown on LILCO's stock transfer books immediately prior to such acquisition at the address shown on such stock transfer books and by causing to be published a copy of such notice in at least five successive issues of a daily newspaper of national circulation or (ii) in the case of an asset acquisition, in the same manner as provided for the service of a petition for acquisition in paragraph (c) of subdivision six hereof. In addition, in the case of an asset acquisition the authority shall file a copy of the notice of

abandonment with the county clerk of the county in which is located any real property that was taken and with the clerk of the supreme court in which the proceeding was instituted.

11. The provisions with respect to the valuation of stock and property set forth in this section shall apply only to stock or property of LILCO, as the case may be, acquired by the authority by the exercise of the power of eminent domain.

* NB There are 2 § 1020-h's

*** § 1020-i. Subsidiaries.** 1. The authority shall have the right to exercise and perform all or part of its powers and functions through one or more wholly owned subsidiaries by acquiring the voting shares thereof or by resolution of the board directing any of its trustees, officers or employees to organize a subsidiary corporation pursuant to the business corporation law, the not-for-profit corporation law or the transportation corporations law. Such resolution shall prescribe the purpose for which such subsidiary corporation is to be formed.

2. The authority may transfer to any subsidiary corporation any moneys, property (real, personal or mixed) or facilities in order to carry out the purposes of this title. Each such subsidiary corporation shall have all the privileges, immunities, tax exemptions and other exemptions of the authority to the extent the same are not inconsistent with the statute or statutes pursuant to which such subsidiary was incorporated provided, however, that in any event any such subsidiary corporation shall be entitled to exemptions from the state public service law and any regulation by, or the jurisdiction of, the public service commission, and the state environmental quality review act to the extent provided in subdivision two of section one thousand twenty-s of this title.

* NB There are 2 § 1020-i's

*** § 1020-j. Notes of the authority.** The authority shall have the power and is hereby authorized from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code for any corporate purpose and to refund from time to time any notes by the issuance of new notes, whether the notes to be refunded have or have not matured. The authority may issue notes partly to refund notes or to discharge other obligations then outstanding and partly for any other corporate purpose of the authority. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds.

* NB There are 2 § 1020-j's

*** § 1020-k. Bonds of the authority.** 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any purpose authorized by this title, including without limitation (a) to acquire any real or personal property or facilities deemed necessary by the authority, (b) to pay interest on bonds or notes of the authority, (c) to establish reserves to secure such bonds and notes, (d) to establish or maintain such other funds or accounts for such purpose or purposes as the authority may deem necessary or desirable, and (e) to pay all other expenses of the authority incident to the issuance of such bonds or notes.

2. Except as may be otherwise expressly provided by the authority, the bonds and notes of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds or notes, or any trustee therefor, pledging any particular moneys or revenues.

3. The authority shall have power from time to time, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue

bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold with the proceeds applied to the purchase, payment or provision for payment of the bonds to be refunded.

4. Bonds may be issued, payable in annual installments or as term bonds or both. Bonds shall be authorized by resolution of the board of the authority and shall bear such date or dates, mature at such time or times, not exceeding fifty years from their respective dates, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America or by check at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. In the event that term bonds are issued, the resolution authorizing the same may make such provisions for the establishment and maintenance of sinking funds for the payment thereof as the authority may deem necessary or appropriate. Bonds or notes may be sold at public or private sale at such price or prices as the authority shall determine but shall not be sold by the authority at private sale unless such sale and terms thereof have been approved in writing by the state comptroller. Pending preparation of definitive bonds or notes, the authority may issue bonds or notes in temporary form which shall be exchanged for bonds or notes in definitive form when available.

5. Any resolution or resolutions authorizing any bonds or any issue of bonds may (a) delegate to an officer or officers of the authority the power to approve the issuance of bonds from time to time and to fix the details of any such bonds or issues of bonds by an appropriate certificate of such authorized officer or officers and (b) contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized as to: (i) pledging or creating a lien on all or any part of the moneys, revenues or properties of the authority to secure the payment of the bonds or of any particular issue of bonds or any portion of any issue of bonds, subject to such agreements with bondholders as may then exist;

(ii) the rates, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(iii) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(iv) limitations on the right of the authority to restrict and regulate the use of any of its property;

(v) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

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

(vii) the procedure, if any, by which the terms of any contract with bondholders may be amended, the amount or percentage of outstanding bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(viii) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders or of a trustee acting on their behalf in the event of a default; and

(ix) any other matters of like or different character, which in any way may affect the security and protection of the bonds and the rights of the holders thereof.

6. Notwithstanding any other provisions of this title, any such resolution or resolutions shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that any contracts entered into by the authority for the sale, transmission or distribution of electricity shall contain rates, fees or charges sufficient to pay, the costs of operation and maintenance of the facilities owned or operated by the authority, payments in lieu of taxes, renewals, replacements and capital additions, the principal of and interest on any obligations issued pursuant to such resolution as the same severally become due and payable, and to establish or maintain any reserves or other funds or accounts required or established by or pursuant to the terms of such resolution or resolutions.

7. It is the intention of the legislature that any pledge of moneys, revenues or property or of a revenue producing contract or contracts made by the authority shall be valid and binding from the time when the pledge is made; that the moneys, revenues or proceeds so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge or lien is created pursuant to this subdivision need be recorded in order to perfect such pledge or lien.

8. Neither the trustees of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority shall have power out of any funds available therefor to purchase bonds or notes at such price or prices as it deems advisable. The authority may hold, pledge, cancel or resell such bonds, subject to agreements with bondholders.

10. All bonds, notes and other obligations issued by the authority under the provisions of this title are hereby declared to have all the qualities and incidents of negotiable instruments under the applicable laws of the state.

* NB There are 2 § 1020-k's

*** § 1020-l. State and municipalities not liable on bonds or notes.** The bonds, notes and other obligations of the authority shall not be a debt of the state or of any municipality, and neither the state nor any municipality shall be liable thereon. The authority shall not have the power to pledge the credit, the revenues or the taxing power of the state or of any municipality, and neither the credit, the revenues nor the taxing power of the state or of any municipality shall be, or shall be deemed to be, pledged to the payment of any bonds, notes or other obligations of the authority. Each evidence of indebtedness of the authority, including the bonds and notes of the authority, shall contain a clear and explicit statement of the provisions of this section.

* NB There are 2 § 1020-l's

*** § 1020-m. Legal investments.** Any bonds or notes issued by the authority are hereby made securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all trusts, estates and guardianships and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

* NB There are 2 § 1020-m's

*** § 1020-n. Deposit and investment of moneys of the authority.** 1. All moneys of the authority from whatever source derived, except as otherwise authorized or provided in this title, shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The moneys in such accounts shall be withdrawn on the order of such person or persons as the authority may authorize. All deposits of such moneys shall be secured in accordance with section two thousand nine hundred twenty-five of this chapter. The state comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing; the authority shall not be required to pay a fee for any such examination.

2. The authority shall have power to contract with holders of any of its bonds or notes, or any trustee therefor, as to the custody, collection, securing, investment and payment of any moneys of the authority and of any moneys held in trust or otherwise for the payment of bonds or notes, and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys shall be secured in accordance with section two thousand nine hundred twenty-five of this chapter, and all banks and trust companies in the state are authorized to give such security for such deposits.

3. Subject to agreements with noteholders and bondholders or any trustee therefor, the authority shall prescribe a uniform system of accounts in accordance with generally accepted accounting principles.

* NB There are 2 § 1020-n's

*** § 1020-o. Agreement of the state.** 1. The state of New York does hereby pledge to and agree with the holders of any obligations issued under this title and the parties to any contracts with the authority hereunder that the state will not limit or alter the rights hereby vested in the authority until such obligations together with the interest thereon are fully met and discharged and/or such contracts are fully performed on the part of the authority, provided that nothing herein contained shall preclude such limitation or alteration if and when adequate provision shall be made by law for the protection of the holders of such obligations of the authority, or those entering into such contracts with the authority. The authority as agent for the state is authorized to include this pledge and agreement by the state in all agreements with the holders of such obligations and in all such contracts.

2. Nothing in this title shall be construed as diminishing or enlarging any valid existing rights under any license heretofore issued

pursuant to the provisions of the federal power act.
* NB There are 2 § 1020-o's

*** § 1020-p. Exemption from taxation.** 1. It is hereby found and declared that the operation of the authority is primarily for the benefit of the people of the state of New York, for the improvement of their health, welfare and prosperity, and is a public purpose, and the authority shall be regarded as performing an essential governmental function in carrying out the provisions of this title.

2. The authority shall be required to pay no taxes nor assessments upon any of the property acquired or controlled by it or upon its activities in the operation and maintenance thereof or upon income derived therefrom, provided that nothing herein shall prevent the authority from entering into agreements to make payments in lieu of taxes with the governing bodies of municipalities, as provided for in section one thousand twenty-q of this title.

3. The securities and other obligations issued by the authority, their transfer and the income therefrom shall, at all times, be free from taxation by the state or any municipality, except for estate and gift taxes.
* NB There are 2 § 1020-p's

*** § 1020-q. Payments in lieu of taxes.** 1. Each year after property theretofore owned by LILCO is acquired by the authority by any means authorized by this title and, as a consequence, is removed from the tax rolls, the authority shall make payments in lieu of taxes to municipalities and school districts equal to the taxes and assessments which would have been received from year to year by each such jurisdiction if such acquisition had not occurred, provided, however, that for the calendar year starting on January first, two thousand fifteen, and for each calendar year thereafter, such payments in lieu of taxes shall not exceed the in lieu of tax payments made to such municipalities and school districts in the immediately preceding year by more than two percent.

2. The authority shall also make payments in lieu of taxes for those taxes which would otherwise be imposed pursuant to sections one hundred eighty-six-a and one hundred eighty-six-c of the tax law, and to former section one hundred eighty-six-b of the tax law as such section was in effect on December thirty-first, nineteen hundred ninety-nine, and any taxes imposed by a city pursuant to the authorization granted by section twenty-b of the general city law.

3. No municipality or governmental subdivision, including a school district or special district, shall be liable to the authority or any other entity for a refund of property taxes originally assessed against the Shoreham plant. Any judicial determination that the Shoreham plant assessment was excessive, unequal or unlawful for any of the years from nineteen hundred seventy-six to the effective date of this title shall not result in a refund by any taxing jurisdiction of taxes previously paid by LILCO pursuant to such Shoreham plant assessment. The authority shall discontinue and abandon all proceedings, brought by its predecessor in interest, which seek the repayment of all or part of the taxes assessed against the Shoreham plant.

* NB There are 2 § 1020-q's

*** § 1020-r. Repayment of state appropriations.** All appropriations made by the state to the authority shall be treated as advances by the state to the authority, and shall be repaid to it without interest either out of the proceeds of bonds issued by the authority pursuant to the provisions of this title, or by the delivery of non-interest bearing bonds of the authority to the state for all or any part of such advances, or out of excess revenues of the authority, at such times and on such conditions as the state and the authority mutually may agree upon.

* NB There are 2 § 1020-r's

*** § 1020-s. Public service law generally not applicable to authority;**

inconsistent provisions in certain other acts superseded. * 1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, (b) article VIII of the public service law applies to the siting and operation of a major electric generation facility or a major electric transmission facility as defined therein, (c) article ten of such law applies to the siting of a generating facility as defined therein, (d) section eighteen-a of such law provides for assessment for certain costs, property or operations, (e) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law, (f) that section seventy-four of the public service law applies to qualified energy storage systems within the authority's jurisdiction, and (g) that section seventy-four-b of the public service law applies to Long Island community choice aggregation programs.

* NB Effective until December 31, 2040

* 1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, (b) article ten of such law applies to the siting of a generating facility as defined therein, (c) section eighteen-a of such law provides for assessment for certain costs, property or operations, (d) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law, (e) that section seventy-four of the public service law applies to qualified energy storage systems within the authority's jurisdiction, and (f) that section seventy-four-b of the public service law applies to Long Island community choice

aggregation programs.
  * NB Effective December 31, 2040

  2. The issuance by the authority of its obligations to acquire the securities or assets of LILCO shall be deemed not to be "state action" within the meaning of the state environmental quality review act, and such act shall not be applicable in any respect to such acquisition or any action of the authority to effect such acquisition.

  3. In the event that a comprehensive and regular management and operations audit, as provided by subdivision (bb) of section one thousand twenty-f of this article, indicates a finding of fraud, abuse, or mismanagement by a service provider of the authority, and upon a finding by the public service commission that reasonable cause exists for the basis of such indication, the public service commission may order that any recommendations contained in the regular management and operations audit be implemented. The public service commission may also provide in their order, the date in which any recommendation must be fully implemented. Failure to comply with any such order can result in the imposition of a civil penalty by the public service commission against the service provider or revocation of the service provider's authority to operate within the state.
  * NB There are 2 § 1020-s's

  *** § 1020-t. Authority not to construct or operate a nuclear powered facility in the service area.** In no event shall the authority construct or operate a nuclear powered facility in the service area.
  * NB There are 2 § 1020-t's

  *** § 1020-u. Employees of the authority not subject to the public employees' fair employment act.** All employees of the authority shall be exempt from the provisions of the public employees' fair employment act as set forth in article fourteen of the civil service law.
  * NB There are 2 § 1020-u's

*** § 1020-v. Equal employment opportunity and minority and women owned business enterprise programs.** 1. All contracts entered into by the authority pursuant to this title of whatever nature and all documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training and retraining, including apprenticeship and on-the-job training.

(b) At the request of the authority, the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the authority to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor shall state, in all solicitations or advertisements for employees placed by or on behalf of the contractor in the performance of the contract with the authority that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of paragraphs (a) through (c) of this subdivision in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract with the authority.

2. The authority shall establish measures, procedures and guidelines to ensure that contractors and subcontractors undertake meaningful programs to employ and promote qualified minority group members and women. Such procedures may require after notice in a bid solicitation, the submission of a minority and women workforce utilization program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any workforce utilization program adopted hereunder. The authority may take appropriate action, including the impositions of sanctions for non-compliance to effectuate the provisions of this section and shall be responsible for monitoring compliance with this title.

3. In the performance of projects pursuant to this title, minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The authority shall establish quantifiable standards and measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this title shall be construed to limit the ability of the authority to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock or other voting interest is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, American Indian, Pacific islander, or Alaskan native, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock to other voting interests of which is owned by citizens or permanent resident noncitizens who are women, and such

ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

4. In order to implement the requirements and objectives of this section, the authority shall establish procedures to monitor contractors compliance with provisions hereof, provide assistance in obtaining competing qualified minority and women-owned business enterprises to perform contracts proposed to be awarded, impose contractual sanctions for non-compliance, and take other appropriate measures to improve the access of minority and women-owned business enterprises to these contracts.

* NB There are 2 § 1020-v's

*** § 1020-w. Audit and annual reports.** The accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant selected by the authority, upon recommendation of its finance and audit committee. The authority shall submit annually to the governor, the state comptroller, the temporary president of the senate, the speaker of the assembly and the county executives and governing bodies of the counties of Suffolk and Nassau, a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, which report shall be verified by the chairman of the authority. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of this chapter.

* NB There are 2 § 1020-w's

§ 1020-x. Authority subject to open meetings law. The authority shall be subject to the provisions of article seven of the public officers law relating to the open meetings law.

§ 1020-y. Court proceedings; preferences; venue. 1. Any action, suit or proceeding to which the authority may be a party in which any question arises as to the validity of this title or the valuation of stock or assets acquired by the authority by the exercise of the power of eminent domain shall be preferred over all other civil causes in all courts of the state, except election matters, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this title or the valuation of stock or assets acquired by the authority by the exercise of the power of eminent domain in which such counsel may be allowed to intervene. The venue of any action or proceeding questioning the validity of this title shall be laid in the county in which the principal office of the authority is located.

2. In the event any party shall appeal an award of compensation for the taking by the authority of stock or assets, such party shall post a bond in such amount, if any, as the supreme court shall deem appropriate to adequately protect the interests of the other party under all the circumstances.

3. Except in an action for wrongful death, an action against the authority founded on tort shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by, and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1020-z. Corporate existence. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds, notes or other obligations outstanding, unless adequate provision has been made for the payment thereof.

§ 1020-aa. Conflicts of interest. 1. If any member, officer or employee of the authority shall have an interest, either direct or indirect, in any contract to which the authority is, or is to be, a party, such interest shall be disclosed to the authority in writing and shall be set forth in the minutes of the authority. The member, officer or employee having such interest shall not participate in any action by the authority with respect to such contract.

2. No member, officer or employee shall be deemed to have such an interest solely by reason of the ownership of two percent or less of the securities of a corporation which is, or is to be, a party to a contract with the authority, including without limitation the holding company of any banking institution in which the funds of the authority are, or are to be, deposited or which is, or is to be, acting as trustee or paying agent under any bond or note resolution, trust indenture or similar instrument to which the authority is a party.

3. Nothing in this section shall be deemed or construed to limit the right of any member, officer or employee of the authority to acquire an interest in bonds or notes of the authority.

§ 1020-bb. Exculpation. 1. The trustees and officers of the authority, while acting within the scope of their authority as trustees or officers, shall not be subject to any personal or civil liability resulting from the exercise, carrying out or advocacy of any of the authority's purposes or powers, unless the conduct of the trustees or officers is finally determined by a court of competent jurisdiction to constitute intentional wrongdoing.

2. The provisions of section seventeen of the public officers law shall apply to trustees and officers of the authority, in connection

with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any obligations under or pursuant to the terms of this title.

3. Notwithstanding any other provisions of law to the contrary, the provisions of section eighteen of the public officers law shall apply to the employees of the authority, in connection with any and all claims, demands, suits, actions or proceedings which may be brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any obligations under or pursuant to the terms of this title. Whenever the provisions of section seventeen of the public officers law do not apply to the trustees and officers of the authority, the provisions of section eighteen of the public officers law shall apply to such trustees and officers.

4. Any costs incurred by the state in accordance with subdivision two of this section shall be treated as advances by the state to the authority, and shall be repaid to it without interest either out of the proceeds of bonds issued by the authority pursuant to the provisions of this title, or by the delivery of non-interest bearing bonds of the authority to the state for all or any part of such advances, or out of excess revenues of the authority, at such times and on such conditions as the state and the authority mutually may agree upon. Any agreement entered into by the state and the authority for the repayment of any costs incurred pursuant to subdivision two of this section, shall be subject to the approval of the public authorities control board.

5. As used in this section, the terms "trustee", "officer" and "employee" shall include a former trustee, officer or employee and his or her estate or judicially appointed personal representative.

§ 1020-cc. Authority subject to certain provisions contained in the state finance law, the public service law, the social services law and the general municipal law. 1. All contracts of the authority shall be subject to the provisions of the state finance law relating to contracts made by the state. The authority shall also establish rules and regulations with respect to providing to its residential gas, electric and steam utility customers those rights and protections provided in article two and sections one hundred seventeen and one hundred eighteen of the public service law and section one hundred thirty-one-s of the social services law. The authority shall conform to any safety standards regarding manual lockable disconnect switches for solar electric generating equipment established by the public service commission pursuant to subparagraph (ii) of paragraph (a) of subdivision five and subparagraph (ii) of paragraph (a) of subdivision five-a of section sixty-six-j of the public service law. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three and paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law.

2. The authority and service provider shall provide to the state comptroller on March thirty-first and September thirtieth of each year a report documenting each contract in excess of two hundred fifty thousand dollars per year entered into with a third party and related to management and operation services associated with the authority's electric transmission and distribution system, including the name of the third party, the contract term and a description of services or goods to be procured, and post such report on each of their websites. All contracts entered into between the service provider and third parties are not subject to the requirements of subdivision one of this section.

§ 1020-dd. Authority not to seek nor any subsidiary of the authority, to apply for or accept preference hydroelectricity. The authority nor any subsidiary of the authority, shall not seek, apply for, nor accept hydroelectricity produced by the power authority of the state of New York and marketed subject to the federal preference clause contained in the Niagara Redevelopment Act at 16 USC Section 836(b)(1) and distributed by the Power Authority of the State of New York subject to section ten hundred five of this chapter. Nothing herein shall be construed to prohibit the authority from entering into agreements with public bodies within its service territory for the wheeling and/or distribution of such hydroelectricity.

§ 1020-ee. Nine Mile Point II; disposition of interest. The authority shall make every effort to convey its interest in the Nine Mile Point II nuclear generating facility through the sale of its interest in such facility to the power authority of the state of New York or to one or more of the co-tenants of such plant, provided, however, that in any acquisition of such interest by the power authority of the state of New York or by one or more of the co-tenants, the authority shall agree to remain responsible for the purchase of such share of the power generated by such facility as it is required to purchase under agreements entered into by LILCO and obligating the authority.

§ 1020-ff. Rates charged to veterans' organizations. 1. The authority shall charge a rate for electric service, regardless of the type of service offered, to any post or hall owned or leased by a not-for-profit veterans' organization that is no greater than the rate charged to domestic customers receiving single-phase service within the same village, town or municipality.

2. The authority shall not recover revenues foregone pursuant to subdivision one of this section from customers of the authority. To the extent that a lack of recovery of such foregone revenues may prevent the authority from meeting its bond coverage requirements, the authority shall reduce its non-personnel operating expenses by an amount equal to its foregone revenue.

§ 1020-gg. Energy plan. The authority shall complete a biennial energy plan in accordance with the provisions of article six of the energy law. In addition to any requirements of article six of the energy law, the authority shall provide copies of its biennial energy plan to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the assembly committee on energy and the chair of the senate committee on energy and telecommunications. Further, the authority shall cooperate and participate in the state energy planning procedures as enumerated in article six of the energy law.

§ 1020-hh. Green jobs-green New York on-bill recovery. 1. Within three hundred days of the effective date of this section, the authority shall establish a program to provide for the billing and collection of on-bill recovery charges for payment of obligations of its customers to the green jobs-green New York revolving loan fund established pursuant to title nine-A of article eight of the public authorities law. Such program shall be consistent with the standards set forth in subdivision three of section forty-two and section sixty-six-m of the public service law. To the maximum extent practicable, funding available from the New York state energy research and development authority shall be utilized to defray any costs associated with electronic data interchange improvements or other costs of initiating and implementing this program. Billing and collection services under such tariffs shall commence as soon as practicable after establishment of the program.

2. The authority may suspend its offering of the on-bill recovery charge provided that the authority makes a finding that there is a significant increase in arrears or utility service disconnections that the authority determines is directly related to such charge, or a finding of other good cause.

§ 1020-ii. Public notice before approval of utility transmission facilities. 1. As used in this section, the following terms shall have the following meanings:

(a) "municipality" means a county, city, town or village in the service area;

* (b) "utility transmission facility" means any electric transmission line operating at sixty-five kilovolts or higher in the service area, including associated equipment. It shall not include any transmission line which is an in-kind replacement or which is located wholly underground. This section also shall not apply to any major electric

transmission facility subject to the jurisdiction of article seven of the public service law; and

* NB Effective until December 31, 2040

* (b) "utility transmission facility" means any electric transmission line operating at sixty-five kilovolts or higher in the service area, including associated equipment. It shall not include any transmission line which is an in-kind replacement or which is located wholly underground. This section also shall not apply to any major utility transmission facility subject to the jurisdiction of article seven of the public service law; and

* NB Effective December 31, 2040

(c) " authority customer" means the customer of record located within five hundred feet of a proposed utility transmission facility.

2. The authority shall not construct any utility transmission facility without first providing public notice as provided by this subdivision. Such public notice shall be provided by the authority before the environmental significance of such action is determined by the authority, pursuant to article eight of the environmental conservation law. The public notice shall provide the following information:

(a) the location of the site or right-of-way;

(b) a description of the transmission facility to be built thereon;

(c) a summary of any studies including an environmental assessment or environmental impact statement pursuant to article eight of the environmental conservation law which have been made of the environmental impact of the project, and a description of such studies;

(d) a statement explaining the need for the facility;

(e) a description of any reasonable alternate location or locations assessed for the proposed facility;

(f) a description of the comparative merits and detriments of each location submitted; and

(g) a statement of the reasons why the primary proposed location is best suited for the facility.

When completed, copies of the environmental assessment form, environmental impact statement and studies referred to in the notice shall be filed with the authority and shall be available for public inspection.

3. Notice shall be provided by first class mail to:

(a) each municipality in which any portion of such facility is to be located, both as primarily proposed and in the alternative locations listed. Notice to a municipality shall be addressed to the chief executive officer thereof;

(b) each member of the legislature through whose district the utility transmission facility or any alternate proposed would pass; and

(c) each authority customer.

§ 1020-jj. Energy storage deployment policy. The authority shall encourage the installation of qualified energy storage systems in its service territory through implementation of the energy storage deployment policy as set forth and defined in section seventy-four of the public service law.

§ 1020-kk. Semi-annual expenditure and lobbying report. 1. On or before March thirty-first, two thousand twenty-two and every semi-annual period thereafter: (a) the authority shall report to the governor, the temporary president of the senate and the speaker of the assembly regarding advertising and lobbying on behalf of the authority by the authority, the trustees of the authority, or any employee of the authority; and (b) any service provider of the authority shall report to the governor, the temporary president of the senate and the speaker of the assembly regarding advertising and lobbying on behalf of the authority, or in connection with the service provider's provision of management and operation services or the operation of the authority's electric transmission and distribution system.

2. For the purposes of this title, the following terms shall have the following meanings:

(a) Lobbying shall mean any attempt to influence:

(i) the passage or defeat of any legislation or resolution by either house of the state legislature including but not limited to the introduction or intended introduction of such legislation or resolution or approval or disapproval of any legislation;

(ii) the adoption, issuance, rescission or modification of a gubernatorial executive order;

(iii) the adoption or rejection of any rule or regulation having the force and effect of law by a state agency;

(iv) the passage or defeat of any local law, ordinance, resolution, or regulation by any municipality;

(v) the adoption, issuance, rescission, modification or terms of any executive order issued by the chief executive officer of a municipality; and

(vi) the adoption or rejection of any rule, regulation, or resolution having the force and effect of a local law, ordinance, resolution or regulation.

(b) Advertising shall mean any promotional activity or public service announcement that requires the purchase of media space, including television airtime, radio airtime, internet media space, billboards, newspaper space, magazine space or any private publication which requires the expenditure of any public funds.

3. The authority and its service providers shall prepare separate reports to include the following information:

(a) For lobbying, such report shall include, but not be limited to: the name of the trustee, employee of the authority or service provider engaging in lobbying; the name of the public official or public employee that was lobbied; the date and time of the meeting or communication; the subject matter of the lobbying, and any expenses incurred by the authority or its service provider for travel, lodging, or meals in connection with such lobbying.

(b) For advertising, such report shall include, but not be limited to, itemization of any public funds spent on advertising and information pertaining to the advertising marketing plan including measurable goals and objectives for the advertising campaign.

4. The requirements of this section shall not be construed to require the disclosure of information that is otherwise protected from disclosure by any law, regulation, order, or the civil practice law and

rules.

§ 1020-ll. Pilot thermal energy network projects. Within three months of the effective date of this section, the authority and its service provider shall submit for review to the department of public service at least one and as many as five proposed pilot thermal energy network projects as defined in subdivision twenty-nine of section two of the public service law. Within six months of the effective date of this section, and upon recommendation by the department of public service, the authority shall determine whether it is in the public interest to approve or modify such pilot thermal energy network projects and shall direct the service provider to implement such proposed or modified pilot thermal energy network projects. The authority shall promulgate rules and regulations consistent with the standards set forth in subdivisions two and three of section sixty-six-t of the public service law.

§ 1020-mm. Prioritization of emergency services. 1. If, during a widespread prolonged outage that affects at least twenty thousand customers in the service territory of the authority, and the service provider is not able to restore electric power services within twenty-four hours to any affected police department, fire department, ambulance service or advanced life support first response service facility that is prewired with an appropriate transfer switch for using an alternate generated power source, such service provider shall notify the village, town or city in which such facility is located.

2. Towns, cities, and villages shall provide to counties, and counties shall to the extent practicable, provide the service provider and the division of homeland security and emergency services with a list of such police departments, fire departments, ambulance services and advanced life support first response services located within such municipality's territorial boundaries within one year of the effective date of this section, and periodically thereafter as necessary to update such list.

3. For the purposes of this section, "alternate generated power

source" shall mean electric generating equipment that is of the capacity that is capable of providing adequate electricity to operate all life safety systems and the basic operations of a police department, fire department, ambulance service or advanced life support first response service.

§ 1020-nn. Implementation of Excelsior power program in authority's service area. The authority and its service provider shall develop and implement a program designed to reduce peak energy demand consistent with the provisions of section sixty-seven-b of the public service law. The authority shall annually submit a public report to the department of public service describing the implementation, operation, and results of the program. Pursuant to section three-b of the public service law, the department of public service may review and make recommendations concerning the implementation and operation of the program by the authority and its service provider.

§ 1020-xx. Liberal interpretation. This title, being necessary for the prosperity of the state and its inhabitants, shall be liberally construed to effect the purposes hereof.

§ 1020-yy. Severability. The provisions of this title are severable, and if any part or provision hereof, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remainder of this title or the application of such provision to any other person or circumstance, but shall be confined in its operation to the provision, person or circumstance directly involved in the controversy in which such judgment shall have been rendered.

§ 1020-zz. Inconsistent provisions of other laws superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other law or any part thereof, the provisions of this title shall be controlling.

* TITLE 1-A

GREEN ISLAND POWER AUTHORITY

* NB There are 2 A5 T1-A's

*** § 1020. Short title.** This title may be cited as the "Green Island Power Authority Act."

* NB There are 2 § 1020's

*** § 1020-a. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section one thousand twenty-c of this title.

2. The term "bonds" shall mean bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title.

3. The term "comptroller" shall mean the comptroller of the state.

4. The term "civil service commission" shall mean the civil service commission of the county of Albany.

5. The term "district" shall mean the Green Island power district created by section one thousand twenty-b of this title.

6. The term "board of trustees" shall mean the board of trustees of the village of Green Island.

7. The term "mayor" shall mean the mayor of the village of Green Island.

8. The term "properties" shall mean the power distribution system or systems of the authority, whether situated within or without the territorial limits of the district, including the plants, works, structures, poles, lines, conduits, mains, systems, instrumentalities or part thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, transmission facilities and distribution facilities, or any other property incidental to and included in such system or part thereof, and any improvements, extensions or betterments.

9. The term "municipalities" shall mean any county, city, town, village, school district, and any other political subdivision of the state.

10. The term "revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived from the operation of the properties of the authority including, but not limited to, investment proceeds and proceeds of insurance, condemnation, and sales or other disposition of assets, together with all federal, state or municipal aid.

11. The term "state" shall mean the state of New York.

12. The term "village" shall mean the village of Green Island.
* NB There are 2 § 1020-a's

*** § 1020-b. Green Island power district.** There is hereby defined and established an area to be known as the "Green Island power district," which shall embrace all the territory located within the village of Green Island, Albany county.
* NB There are 2 § 1020-b's

*** § 1020-c. Green Island power authority.** 1. There is hereby created and established a public corporation, to be known as the "Green Island power authority". The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws.

2. The authority shall have the power to acquire such real estate and other property as may be necessary for its corporate purposes, to sue and be sued, to incur debts, liabilities and obligations, to issue bonds and other evidences of indebtedness, to have a seal, and to exercise all powers authorized by this title and reasonably necessary for accomplishing its purposes, or properly incidental thereto, subject to the provisions herein contained and to the constitution and laws of the United States and of the state.

3. The authority and its existence shall continue for a period of

twelve years and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities and bonds have otherwise been discharged and thereupon all rights and properties of the authority then remaining shall pass to and be vested in the village.

4. The authority shall consist of five members, to be residents of the village and be appointed by the board of trustees on designation of the mayor. The term of office of a member shall be five years, but in the first instance such members shall be appointed to hold office, one for one year, one for two years, one for three years, one for four years and one for five years, the term of each to be fixed by the resolution making the appointment. Upon resignation of a member, or a vacancy occurring in any other manner, it shall be filled by appointment for the unexpired term. In other respects, all vacancies shall be filled in the manner corresponding to the original appointment.

5. The members of the authority may appoint an executive committee of not less than three members and may delegate full powers to such committee. They may appoint such other committees of not less than three members each with such powers as they may provide. They may elect one of the members as a chairman and may elect or appoint other officers and determine their powers. They may by a vote of a majority of members adopt by-laws and provide for their annual and regular meetings and for the calling of special meetings. The treasurer of the village shall be ex-officio treasurer of the authority and his compensation as such treasurer shall be fixed by the members. Each member before entering upon the duties of his office shall take the constitutional oath of office, which shall be filed in the office of the secretary of state. Three members shall constitute a quorum for the transaction of business and the concurrence of three members at a meeting shall be necessary to the validity of any resolution, order or determination. Any member may be removed by the board of trustees for inefficiency, neglect of duty or misconduct in office, after a hearing upon charges and an opportunity to be heard in person or by counsel upon not less than ten days' notice. The members shall receive such salary as shall be determined by the board of trustees. They shall receive no reimbursement for the ordinary expenses of attending meetings, but may by resolution of the members be

allowed their expenses of a special or extraordinary nature. A member may receive additional compensation to be fixed by the members, if appointed an officer of the authority.

6. No public officer or employee shall be ineligible for appointment as a member or officer of the authority and any public officer or employee may accept such appointment and serve as a member or officer without forfeiture of any other public office or position of public employment by reason thereof. Any one or more members or officers of the authority may be an officer or employee of the village. In the event that an officer or employee of the village shall be appointed as a member or officer of the authority, acceptance or retention of such appointment shall not be deemed a forfeiture of his village office or employment, or incompatible therewith or affect his tenure or compensation in any way.

7. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the village of Green Island and the state of New York, and that said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

8. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority except as otherwise provided in this subdivision.

a. The authority's rates, services and practices with respect to power and energy purchased from the power authority of the state of New York shall be subject to regulation by such power authority pursuant to the provisions of the power authority act and any contract between the two authorities.

b. The authority's rates, services and practices with respect to power and energy that is either (i) generated by an electric plant owned, operated or managed by the authority, or (ii) purchased by the authority from sources other than the power authority of the state of New York shall be subject to regulations of the public service commission under the provisions of the public service law.

** c. Articles seven and eight of the public service law shall apply to the authority's siting and operation of a major electric transmission facility as therein defined and article ten of the public service law shall apply to the authority's siting and operation of a major electric generating facility as therein defined.

** NB Effective until December 31, 2040

** c. Article seven of the public service law shall apply to the authority's siting and operation of a major transmission facility as therein defined and article ten of the public service law shall apply to the authority's siting and operation of a major electric generating facility as therein defined.

** NB Effective December 31, 2040

* NB There are 2 § 1020-c's

*** § 1020-d. Powers of the authority.** The power conferred by this title shall be exercised by the members of the authority, subject to the terms of this title. In the exercise of those powers, either directly or through its officers and employees, the members may do the following things, among others, and the following list of powers shall not be deemed complete or exclusive, or to deny the existence of other powers, whether similar or different, so long as they are reasonably necessary for accomplishing the purposes declared and indicated in this title:

1. To determine the location, type, size, construction, lease, purchase, ownership, acquisition, use and operation of any facilities or other structure or property, within or without the territorial limits of the district;

2. To acquire on behalf and in the name of the authority, whether by agreement with and purchase from the owner or owners, or within the district by eminent domain, or by lease, the whole or any part of any existing facilities or of any other property which it is authorized to

acquire under this title; provided, however, that the authority may not acquire real property of a municipality or a political subdivision of the state unless such municipality or political subdivision shall consent thereto; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority. In the exercise of the power of eminent domain, as herein provided, the property being acquired shall be deemed, when so determined by the authority, to be for a public use;

3. To develop, acquire, construct, reconstruct, rehabilitate and improve facilities for the transmission or distribution of light, heat, power or any connected service;

4. To maintain, operate and manage, and contract for the maintenance, operation and management of properties of the authority;

5. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals for its plans and projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

6. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damages done;

7. Subject to its agreement with the village, to supply and sell light, heat and power and any connected services within the district, to fix rates and charges for the furnishing or rendition of light, heat or

power or of any connected service, and to collect through bills therefor the revenues derived therefrom, so as to provide revenues to the authority sufficient at all times to pay, as the same shall become due, the principal of and interest on the bonds of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority;

8. To adopt, revise and amend bylaws for the management of its affairs and, subject to agreements with bondholders, rules for the sale of light, heat or power or of any connected service, and the collection of rates and charges therefor. A copy of such rules and bylaws, and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the clerk of the village;

9. To enter into cooperative agreements with other authorities, municipalities, utility companies, individuals, firms or corporations for the interconnection of facilities and the exchange of interchange or services and commodities, upon such terms and conditions as shall be determined to be reasonable;

10. To execute contracts, borrow money, issue bonds and sell or dispose of the same in such amounts and at such rates of interest as may be advisable;

11. To appoint and remove a secretary and such clerical, engineering, legal and other professional assistants as it may deem necessary for the purposes of this title and to fix their compensation, subject to the provisions of the civil service law;

12. To appoint and remove all employees, to transfer employees from their positions to other positions and to consolidate or abolish such positions, subject to the provisions of the civil service law;

13. To make any plans, studies or investigation which it may deem

necessary, convenient or desirable to enable it effectually to carry out the provisions of this title;

14. Within ninety days of the first sale of light, heat or power or any connected service, to promulgate regulations granting to residential customers, the protections afforded by article two of the public service law and section one hundred thirty-one-s of the social services law; and

15. To do whatever may be necessary to give effect to the purposes of this title, and in general to have and exercise all other powers necessary or incidental to the purposes of this title.

* NB There are 2 § 1020-d's

*** § 1020-e. Power to furnish service within district.** The authority shall have power to construct or acquire, and to equip, own and operate, within or without the territorial limits of the district, any properties and any and all other real and personal property, used, connected with or appertaining to the furnishing and transmission of electric current for light, heat and power, for the purpose of furnishing such service to the district and to any corporate or natural persons in such district and also, for such purpose, to purchase electrical energy from the power authority of the state of New York, or from any state agency, or from any municipality, or from any private or public corporation.

* NB There are 2 § 1020-e's

*** § 1020-f. Sale of surplus.** Whenever any electrical energy which the authority may acquire creates a surplus over the amount of light, heat and power, in any of such services, required by the residents of the district to which such service is contracted, the authority may sell such surplus in territory outside the district to persons or public or private corporations. In acquiring any facility or property which also serves any municipality or territory outside the district, the authority, if it deems it advantageous and economical so to do, may, with the consent of the board of trustees, serve any such municipality or territory or sell heat, power or electrical energy to persons, public or private corporations in such territory or to such municipality.

* NB There are 2 § 1020-f's

*** § 1020-h. Bonds and notes of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in conformity with applicable provisions of the uniform commercial code for any of its corporate purposes, including incidental expenses in connection therewith, and to secure the payment of the same by the pledge of the revenues of the authority or by lien on the property of the authority. The authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject only to any agreements with the holders of outstanding bonds pledging any particular moneys, earnings or revenues.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or any nongovernmental insurer or financial institution any insurance, guaranty or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds of the authority.

3. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, except that bonds and any renewal thereof shall mature within forty years of the

date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance, bear interest at such rate or rates per annum payable at such times, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places and be subject to such terms and conditions, as such resolution or resolutions may provide. Such bonds of the authority may be sold at public or private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by (i) the comptroller, where such sale is not to such comptroller, or (ii) the director of the budget, where such sale is to such comptroller. The foregoing provisions shall be applicable to bonds issued by the authority notwithstanding the provisions of any other general, special or local law to the contrary.

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

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

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

(d) limitations on the right of the authority to restrict and regulate the use of the properties in connection with which such bonds are issued;

(e) limitations in the purposes to which the proceeds of sale of any issue of bonds may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

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

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

(h) the creation of special funds into which any revenues or other moneys of the authority may be deposited;

(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand twenty-i of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of its properties or any part thereof;

(m) limitations on the amount of moneys or revenues to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depositary, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters, of like or different character, which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may

deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any of its properties and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or properties and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. Neither the resolution nor any other instrument by which such pledge or security interest is created nor any financing statement relating thereto need be recorded or filed.

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

8. Neither the members nor officers of the authority, nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

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

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such orginal note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale for such price or prices as the authority shall determine, provided that no issue of notes may be sold at private sale unless the terms of such sale shall have been approved in writing by (i) the comptroller, where such sale is not to such comptroller, or (ii) the director of the budget, where such sale is to such comptroller.

* NB There are 2 § 1020-h's

*** § 1020-i. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of bondholders. The venue of any such action or proceeding shall be laid in the county of Albany.

4. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the properties and subject to any pledge or agreement with bondholders shall take possession of such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal in connection therewith

which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB There are 2 § 1020-i's

*** § 1020-j. State and village not liable on bonds and notes.** The bonds and other obligations of the authority shall not be a debt of the state or of the village and, subject to section one thousand twenty-o of this title, the board shall have no power to make them payable out of any funds except those of the authority.

* NB There are 2 § 1020-j's

*** § 1020-k. Agreements of the state.** The state does pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not limit or alter the rights hereby vested in the authority to establish and collect the revenues and other charges referred to in this title and to fulfill the terms of any agreements made with or for the benefit of the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully

met and discharged.
* NB There are 2 § 1020-k's

*** § 1020-l. Bonds legal investments for fiduciaries.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.
* NB There are 2 § 1020-l's

*** § 1020-m. Exemption from taxes.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the village and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any of the properties acquired by it or under its jurisdiction or control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. Any bonds issued pursuant to this title, together with the income therefrom, shall be exempt from taxation except for estate and transfer

taxes. The revenues, moneys and all other properties of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

* NB There are 2 § 1020-m's

*** § 1020-n. Tax contract by the state.** The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds that the bonds of the authority issued pursuant to this title and the income therefrom shall be exempt from such taxation, as aforestated in subdivision two of section one thousand twenty-m of this article, and that all moneys, funds and revenues pledged to pay or secure the payment of such bonds shall at all times be free from such taxation as aforestated in such subdivision.

* NB There are 2 § 1020-n's

*** § 1020-o. Payments by municipalities.** The board of trustees of the village and the governing body of any municipality in which surplus of the authority is sold pursuant to section one thousand twenty-f of this title are authorized to make payments to the authority for its support. It is hereby determined that such payments are for a public purpose for the benefit of the people of such village and such municipalities.

* NB There are 2 § 1020-o's

*** § 1020-p. Duty of authority to maintain and operate.** It shall be the duty of the authority, subject to any limitation on the amount of revenues to be expended for such purpose, to maintain and operate and where necessary to reconstruct its properties.

* NB There are 2 § 1020-p's

*** § 1020-q. Transfer of officers and employees.** Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board or department by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority. But notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund, system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers or employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission of the county of Albany shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. It is hereby declared that in the interest of efficiency and insofar as may be practicable, all employees engaged in the operation of any property or properties, except in an executive capacity, at the time such property or properties shall have been acquired by the authority, pursuant to the provisions of this title, shall become the employees of the authority. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission of the county of Albany may adopt and make applicable to such authority.

* NB There are 2 § 1020-q's

*** § 1020-r. Officers and employees not to be interested in transactions.** It shall be a misdemeanor for any of the members of the authority, or any officer, agent, servant or employee thereof, employed or appointed by them to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

* NB There are 2 § 1020-r's

*** § 1020-s. Contracts.** All contracts, or orders, for work, material or supplies performed or furnished in connection with construction or any procurement shall be awarded by the authority pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure for more than five thousand dollars shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed proposals shall be published at least once in a newspaper or trade paper selected by the authority for such purpose, such publication to be at least ten days before the date for the receipt of bids. If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest responsible bidder. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain for such period as shall be stipulated any construction done under the contract, all in the manner prescribed and required by the authority; and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the authority or its duly authorized agent. If the bidder whose bid has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security the authority shall have the right to declare his deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the authority may, if the best interests of the authority be thereby served, adopt on behalf of the authority any or all sub-contracts made by such contractor for such work and all such sub-contractors shall be bound by such adoption if made; and the authority shall in the manner provided herein readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the sub-contract or sub-contracts so adopted.

No bid shall be accepted from or any contracts awarded to, any person or corporation who is in arrears to the authority, or the village of Green Island upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation of the authority, or the village. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor.

* NB There are 2 § 1020-s's

*** § 1020-t. Audit.** The accounts of the authority shall be subject to the supervision of the comptroller.

* NB There are 2 § 1020-t's

*** § 1020-u. Actions against authority.** 1. In any action founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee, agent or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

2. Except in an action for wrongful death, an action against the authority founded on tort shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB There are 2 § 1020-u's

*** § 1020-v. Separability clause.** If any section, clause or provision of this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, in its terms or in its operation, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB There are 2 § 1020-v's

*** § 1020-w. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

* NB There are 2 § 1020-w's

TITLE 1-B

NORTH COUNTRY POWER AUTHORITY

§ 1021. Short title. This title shall be known and may be cited as the "North Country power authority act".

§ 1021-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Acquire" means, with respect to any right, title or interest in or to any property, either the act of taking by the exercise of the power of eminent domain, or the acquisition by purchase or otherwise.

2. "Act" means the North Country power authority act, being this title.

3. "Authority" means the North Country power authority established by section one thousand twenty-one-b of this title.

4. "Commission" means the Public Service Commission.

5. "Comptroller" means the state comptroller.

6. "Directors" means the board of directors of the authority.

7. "Federal government" means the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

8. "Final determination" or "finally determined" means a judicial decision (a) by the highest court of competent jurisdiction, or (b) by a court of competent jurisdiction from which no appeal has been taken and the time within which to appeal has expired.

9. "NCPA" means the North Country power authority, and its successors

and assigns.

10. "Municipality" means any county, city, town, village, municipal corporation, school district or other political subdivision of the state, including any agency, authority or public corporation of the state or any of the foregoing, or any combination thereof, other than the authority.

11. "Property" means the power distribution system or systems of the authority, whether completed facilities or projects in construction, whether situated within or without the territorial limits of the service area, including the plants, works, structures, poles, lines, conduits, mains, systems, instrumentalities or parts thereof and appurtenances thereto, lands, franchises and interest in land, including lands under water and riparian rights, space rights and air rights, contract rights, substations, and distribution facilities, or any other property incidental to and included in such system or part thereof, and any improvements, extensions or betterments. The term "property" shall also include any and all interests in real property less than full title, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages related to such real estate.

12. "Revenues" means all rates, rents, fees, charges, payments and other income and receipts derived by the authority from the operation of the properties of the authority other than the proceeds of the sales of its securities, including, but not limited to, investment proceeds and proceeds of insurance, condemnation, and sales or other disposition of assets, together with all federal, state or municipal aid.

13. "Security" means any bond, note or other obligation issued by the authority.

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

15. "State agency" means any board, authority, agency, department, commission, public corporation, body politic or instrumentality of the state.

§ 1021-b. North Country power authority. 1. A corporation known as the North Country power authority is hereby established and charged with the duties and having the powers provided in this title. The authority shall be a state authority, a body corporate and politic constituting a public benefit corporation, a political subdivision of the state, exercising governmental and public powers, perpetual in duration, capable of suing and being sued and having a seal, and which shall have the powers and duties enumerated in this title, together with such others as may be conferred upon it by law.

2. The authority shall be governed by a board of directors consisting of nine directors, to be residents of the service area, and to be appointed by the governor. Seven such directors shall be appointed upon the recommendation of the supervisors and mayors of the municipalities within the following regions, with the designations to be made in the following manner: the village of Potsdam will designate one designee to be forwarded to the governor; the village of Canton and the town of Canton will jointly designate one designee to be forwarded to the governor; the towns of Bombay, Brasher, Fort Covington, Moira and Westville will jointly designate one designee to be forwarded to the governor; the towns of Fowler and Gouverneur will jointly designate one designee to be forwarded to the governor; the towns of Lisbon, Louisville, Madrid, Norfolk and Waddington will jointly designate one designee to be forwarded to the governor; the towns of Potsdam, Stockholm, Colton and the village of Norwood will jointly designate one designee to be forwarded to the governor; and the towns of DeKalb, Edwards, Hermon, Russell and Pierrepont will jointly designate one designee to be forwarded to the governor. Every decade the directors shall examine the population of the seven regions, and if needed, adjust the make-up or demarcation of the regions, for the necessity or convenience of performing its functions and administering its affairs and to maintain a reasonable equality of population between the regions.

The governor shall select one of the directors to serve as chair, and such chair shall serve at the pleasure of the governor. The term of office of a director, including the director serving as chair, shall be five years, but in the first instance such directors shall be appointed to hold office as follows: three for one year; three for three years; and three for five years. Upon resignation of a director, or a vacancy occurring in any other manner, such vacancy shall be filled by appointment for the unexpired term. In other respects, all vacancies shall be filled in the manner corresponding to the original appointment. Each director shall continue to hold office and serve until a successor is appointed, qualified and assumes office.

3. The members of the board shall serve without compensation but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties, as may be authorized by the directors, in each case upon appropriate documentation by the submitting director. No director or any entity, the majority of which is owned or controlled by any director, shall receive any additional compensation from NCPA or be employed by NCPA in any other capacity by whatever means.

4. Five directors shall constitute a quorum for the transaction of business, and the affirmative vote of five directors at a meeting shall be necessary to the validity of any resolution, order or determination. The directors, in by-laws or by resolution, may allow for attendance at a meeting of the directors by speaker phone or any other electronic means by which all meeting participants can hear one another.

5. The directors shall appoint an executive committee of not less than three directors and shall delegate such duties and responsibilities of the directors to the executive committee as it may determine from time to time, except that the directors shall not delegate to the executive committee the power to authorize the issuance of securities. The directors may appoint such additional committees with such duties and responsibilities as they may determine from time to time.

6. (a) The directors shall from time to time select such officers and

employees, including a chief executive officer and such engineering, management and legal officers, and other professional employees, including but not limited to accounting, planning, construction, finance, appraisal, banking and trustee services, as the directors may require for the performance of their duties and shall prescribe the duties and compensation of each such officer and employee.

(b) If any employees are hired as a consequence of an acquisition of the assets of National Grid, they shall be hired subject and be entitled to all applicable provisions of (i) any existing contract or contracts with labor unions and (ii) all existing pension or other retirement plans. Notwithstanding the provisions of any general, special or local law, the board may determine that such class of employees of the authority may elect to become members of the New York state employees' retirement system on the basis of compensation payable to them by the authority.

7. (a) The authority shall be subject in all respects to the general supervision and jurisdiction of the public service commission in the same manner as a municipal electric utility is subject to the jurisdiction of the public service commission under the public service law.

(b) The authority shall not make any commitment, enter into any agreement nor incur any indebtedness unless prior approval has been received from the New York state public authorities control board pursuant to article one-A of this chapter.

(c) In addition to all of the powers of the public service commission, prior to acquiring any property and commencing operations, the authority shall secure an order from the commission authorizing such acquisition and commencement. The commission shall have the power to deny the authority's application to acquire property and commence operations. The authority shall comply with any and all requests for documents, materials, and testimony that the commission may seek. The commission shall consider, including but not limited to, the following factors before issuing an order: ratepayer impacts; system reliability; environmental impacts, conservation of energy resources; preservation or creation of economic opportunities; power efficiency and availability; public health and welfare; and any other factor it deems relevant. The authority granted pursuant to this paragraph shall terminate upon commencement of distribution of power.

8. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have securities outstanding, unless adequate provision has been made for the payment thereof.

9. In the event that the authority does not commence delivering electric power within ten years of the effective date of this title, the authority shall cease to exist and the provisions of this title shall be of no further force and effect, subject to the terms of any bonds, notes or other debt obligations then outstanding.

§ 1021-c. North Country power authority service area; extension of service area. 1. The service area of the North Country power authority shall include all the territory located within so much of the county of Franklin as constitutes the Towns of Bombay, Fort Covington, Moira and Westville, and so much of the county of St. Lawrence as constitutes the Towns of Brasher, Canton, Colton, DeKalb, Edwards, Fowler, Gouverneur, Hermon, Lisbon, Louisville, Madrid, Norfolk, Pierrepont, Potsdam, Russell, Stockholm, and Waddington and the Villages of Canton, Norwood, and Potsdam or such portions thereof as shall be determined by the directors, but the service area shall exclude the portions of said municipalities in Franklin and St. Lawrence counties which are served as of the effective date of this title by another existing non-profit municipal electric utility. The service area of the North Country power authority shall include such other territories, as shall be determined by the directors, wholly within Franklin or St. Lawrence county, and adjacent to one or more of the above-referenced municipalities, in which rate payers rely on uninterrupted electric service from power facilities of the authority located within said municipalities. A map of the service area shall be filed in the offices of the county clerks of Franklin and St. Lawrence counties.

2. The service area of the North Country power authority may be

extended at any time to include additional territory within Franklin or St. Lawrence counties by the directors in accordance with the following procedure, provided however, the procedure does not conflict with any rule or regulation of the public service commission or any other law. Whenever the directors determine that the territory included within the service area should be extended, consistent with the provisions of this title, the directors shall adopt a resolution proposing the additional territory, wholly within Franklin or St. Lawrence county, to be included, which may be all the territory within one or more named municipalities or, by adequate description, a portion of any such municipality or municipalities. The directors shall fix the dates, hours and places for three public hearings before such directors upon the question of such extension and cause notice thereof and of the additional territory to be included within the service area to be published in two newspapers of general circulation in the county not less than twenty nor more than thirty days before such date. At least one of such hearing shall be held within the bounds of the proposed additional territory. At such time the directors shall hear all persons, taxpayers or officials who may wish to be heard and shall finally determine the additional territory, if any, to be included in such extension. Such determination shall be made by resolution of the directors adopted by a two-thirds vote of all directors then in office. A map of the service area, as extended, shall thereupon be filed in the offices of the county clerks of Franklin and St. Lawrence counties.

§ 1021-d. Powers and duties of the authority. The powers conferred by this title shall be exercised by the directors, subject to the terms of this title. In the exercise of those powers, either directly or through its officers and employees, the directors may do the following things, among others, and the following list of powers shall not be deemed complete or exclusive, or to deny the existence of other powers, whether similar or different, so long as they are reasonably necessary for accomplishing the purposes declared and indicated in this title:

1. To make and alter by-laws for the regulation of its affairs and conduct of its activities, to schedule annual, regular and special

meetings of the directors, as the conduct of the business of the authority may warrant, and to adopt and amend an official seal;

2. To develop, acquire, construct, reconstruct, rehabilitate and improve facilities for the distribution of electric power or any connected service;

3. To determine the location, type, size, construction, lease, purchase, ownership, acquisition, use and operation of any facilities or other structure or property, within or without the service area;

4. To investigate, implement and integrate, to the fullest extent practicable and economically feasible, such resource conservation and energy efficiency measures and equipment intended to reduce power demand and usage, utilize green technologies, alternative and renewable fuels, net metering and demand response programs, all as integral elements in its investments in new equipment for distribution of power, and in its marketing and sale of electricity to consumers;

5. To acquire on behalf of and in the name of the authority, whether by agreement with and purchase from the owner or owners, or by arbitration, or within the service area by eminent domain, pursuant to the procedures set forth in the eminent domain procedure law, or by lease, the whole or any part of any existing facilities or of any other property to be used in connection with power distribution by the authority as set out in this title; provided, however, that the authority shall not acquire real property of a municipality or a political subdivision of the state unless such municipality or political subdivision shall consent thereto; and provided further that the authority shall not acquire by the exercise of eminent domain any transmission or generation facilities; and provided further that the authority shall not acquire by the exercise of eminent domain any facilities for distribution operating at a voltage in excess of twenty-two thousand volts from any person, corporation or association, public or private, engaged in the business of distribution and sale of electricity to ultimate customers unless the authority is unable to acquire by contract with the owners or operators thereof, the right to

use such facilities on just, reasonable and non-discriminatory terms. In the exercise of the power of eminent domain, as provided in this subdivision, the property being acquired shall be deemed, when so determined by the authority, to be for a public use;

6. To distribute electric power and any connected services within the service area, to fix rates and charges for the furnishing or rendition of electric power or of any connected service, and to collect revenues. Provided however, that prior to the first sale of electric power or any connected service, the authority shall promulgate regulations granting to customers the protections afforded by article two of the public service law and section one hundred thirty-one-s of the social services law;

7. To maintain, operate and manage, and contract for the maintenance, operation and management of properties of the authority;

8. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals for its plans and projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

9. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damages done;

10. To enter into cooperative agreements with other authorities, municipalities, utility companies, individuals, firms or corporations, and the dominion of Canada and its political subdivisions, for the interconnection of facilities and the exchange or interchange of electric power or connected services, upon such terms and conditions as shall be determined to be reasonable;

11. To execute contracts, borrow money, issue bonds, notes and other

obligations as provided in section one thousand twenty-one-i of this title, and sell the same in such amounts and at such prices, interest rates and other financial terms as may be determined by the directors;

12. To enter into agreements to purchase power from the power authority of the state of New York, the state, any state agency, any municipality, any private entity or any other available source at such price or prices as may be negotiated, including the power to enter into any agreement or any negotiation for the purchase of power from the dominion of Canada, or any political subdivision, public authority or private corporation therein;

13. To make any plans, studies or investigations which it may deem necessary, convenient or desirable to enable it effectually to carry out the provisions of this title;

14. To do whatever may be necessary to give effect to the purposes of this title, and in general to have and exercise all other powers necessary or incidental to the purposes of this title.

§ 1021-e. Deposit and investment of moneys of the authority. 1. All moneys of the authority, from whatever source derived, except as otherwise authorized or provided in this title, shall upon receipt be deposited forthwith in a bank or banks designated by the directors, to be selected in accordance with such standards as the directors shall set forth in the by-laws or investment guidelines of the authority, which standards shall take into account the creditworthiness and capital position of the depositary bank or banks. The moneys in such accounts may be invested in obligations of the state or the United States, or guaranteed by either in accordance with practices that the directors shall set forth in the by-laws or investment guidelines of the authority. The moneys in such accounts shall be withdrawn on the order of such person or persons as the directors shall authorize in the by-laws of the authority and shall be applied to the use of the authority as the directors shall authorize in the by-laws of the authority. All deposits of such moneys shall be secured in accordance with section twenty-nine hundred twenty-five of this chapter. The state comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing; the authority shall not be required to pay a fee for any such examination.

2. The authority shall have power to contract with holders of any of its bonds or notes or other obligations, or any trustee therefor, as to the custody, collection, securing, investment and payment of any moneys of the authority and of any moneys held in trust or otherwise for the payment of bonds or notes or other obligations, and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or other obligations or in any way to secure bonds or notes or obligations and deposits of such moneys shall be secured in full in direct obligations of the federal government the payment of which is guaranteed by the United States of America. Such investments shall be held on deposit only in banks having a minimum credit rating and a minimum accumulated capital, as the directors shall specify in the by-laws or investment guidelines of the authority.

3. Subject to agreements with noteholders and bondholders or any trustee therefor, the authority shall prescribe a uniform system of accounts in accordance with generally accepted accounting principles.

4. The directors shall adopt investment guidelines and standards to implement the foregoing provisions of this section, which guidelines and standards shall be reviewed annually by the directors and shall be made available to state and municipal officials and to the public.

§ 1021-f. Conflicts of interest. Eligibility for appointment as a director, officer or employee of the authority shall be subject to the provisions of section twenty-eight hundred twenty-five of this chapter. In addition to the requirements of such section:

1. If any director, officer or employee of the authority shall have an interest, either direct or indirect, in any contract to which the authority is or is to be a party, such interest shall be disclosed to the authority in writing and shall be set forth in the minutes of the authority. The director, officer or employee having such interest shall not participate in any action by the authority with respect to such contract.

2. No director, officer or employee of the authority shall be deemed to have such an interest solely by reason of the ownership of two percent or less of the securities of a corporation which is or is to be a party to a contract with the authority, including without limitation the holding company of any banking institution in which the funds of the authority are, or are to be deposited, or which is or is to be acting as trustee or paying agent under any bond or note resolution, trust indenture or similar instrument to which the authority is a party.

3. Nothing in this section shall be deemed or construed to limit the right of any director, officer or employee of the authority to acquire an interest in the securities of the authority.

§ 1021-g. Sale of surplus power. Whenever any electric power which the authority may acquire creates a surplus over the amount of electric power required by the residents of the service area, the authority may sell such surplus in territory outside the service area to persons, or public or private corporations. In acquiring any facility or property which also serves any municipality or territory outside the service area, the authority, if it deems it advantageous and economical so to do, may, with the consent of the directors, serve any such municipality or territory or sell electric power to persons, or public or private corporations in such territory or to such municipality.

§ 1021-h. Audit and annual reports. 1. The accounts of the authority shall be subject to the supervision of the comptroller and an annual audit shall be performed by an independent certified public accountant selected by the directors and shall be made available to the municipalities served by the NCPA and to the public.

2. The authority shall submit a detailed annual report pursuant to and as specified in section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the county executives of the counties of Franklin and St. Lawrence, and with the mayors and supervisors of the municipalities within the service area and shall be made available to the municipalities served by the NCPA and to the public. Nothing in this section shall be deemed to exempt the authority from any rule or regulation, including public authorities law.

§ 1021-i. Bonds, notes and other obligations of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue its bonds, notes or other obligations, in an aggregate amount not to exceed one hundred twenty-five million dollars, for the purpose of financing any capital project authorized by this title, including but not limited to, the acquisition of any real or personal property or facilities deemed necessary by the authority, development and professional expenses, and funding any capital or other reserve funds established in connection with the authority's operations or issuances, in such principal amount as the directors shall determine necessary to perform its corporate duties and further its purposes as authorized in this title. The maximum maturity of any such bond shall not exceed thirty years from its date of issuance. The maximum maturity of any such note or other obligation shall not exceed five years from its date of issuance.

2. Except as may be otherwise expressly provided by the authority, the issuance of bonds, notes or other obligations, shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds, notes or other obligations pledging any particular moneys or revenues.

3. The authority shall have power from time to time, whenever it deems

refunding expedient, to refund any bonds, notes or other obligations by the issuance of new bonds, notes or other obligations, up to one hundred twenty-five million dollars in the aggregate, whether the bonds, notes or other obligations to be refunded have or have not matured, and may issue bonds, notes or other obligations partly to refund bonds, notes or other obligations then outstanding and partly for any other purpose described in this section. Refunding bonds, notes or other obligations may be exchanged for the bonds, notes or other obligations to be refunded, with such cash adjustments as may be agreed, or may be sold with the proceeds applied to the purchase or payment of the bonds to be refunded.

4. Bonds may be issued either in a series with multiple discrete maturity dates or as term bonds with a single maturity date. The bonds, notes or other obligations shall be authorized by resolution of the directors and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, payable annually or semi-annually, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. In the event that term bonds, notes or other obligations are issued, the resolution authorizing the same may make such provisions for the establishment and management of adequate sinking funds for the payment thereof, as the authority may deem necessary.

5. The bonds, notes or other obligations of the authority may be sold at public or private sale for such price or prices as the authority shall determine. For a private sale of its securities, the authority shall obtain the written approval of the terms of such sale from the comptroller if such sale is to a party other than the comptroller, or from the director of the budget where such sale is to the comptroller, in either case prior to closing the issuance transaction.

6. Any resolution authorizing any issuance of bonds, notes or other obligations may contain provisions, which shall be a part of the contract between the authority and the holders of the issued securities,

as to:

(a) pledging all or any part of the revenues of the authority or its projects or any revenue producing contract or contracts made by the authority with any individual, partnership, limited liability company, corporation or association to secure the payment of the bonds, notes or other obligations, subject to such agreements with holders of securities of the authority;

(b) pledging, assigning or creating a lien on all or any part of assets of the authority, including mortgages and obligations security mortgages, to secure the payment of the bonds, subject to such agreements with holders of securities of the authority;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) establishment of special funds for deposit of moneys received from the proceeds of the issuance of securities as the directors shall determine, consistent with the authorizing resolution and the provisions of this title;

(e) limitations on the purpose to which the proceeds of sale of any issuance of bonds, notes or other obligations then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds, notes or other obligations;

(f) limitations of the issuance of additional bonds, notes or other obligations; the terms upon which additional bonds, notes or other obligations may be issued and secured; and the refunding of outstanding bonds, notes or other obligations;

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

(h) providing for the appointment and powers of a trustee for holders of securities, and the rights, powers and duties of such trustee as the directors may determine;

(i) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(j) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default provided, however, that such rights and remedies shall not be inconsistent with the laws of the state and the other provisions of this article; and provided, further, however, that nothing contained in this article shall be deemed to restrict the right of the state or of any municipality to amend, modify or otherwise alter statutes, local laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto; and there shall not be included in any resolution or contract or agreement with the holders of the bonds, notes or other obligations authorized by this article any provision which provides that a default shall occur as a result of the state or of a municipality exercising its right to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto; and

(k) any other provisions not inconsistent with those enumerated in this subdivision and necessary to effect its issuances of bonds, notes or other obligations and the rights of the holders of its securities, or otherwise in furtherance of its corporate purposes.

7. Notwithstanding any other provision of this title, any such resolution or resolutions shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that any contracts entered into by the authority for the sale or distribution of power shall contain rates, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on any obligations issued pursuant to such resolution as the same severally become due and payable, and to maintain any debt service coverage ratios and any reserves required by the terms of such resolution or resolutions. Provided however, that the total rates, fees, and charges shall not exceed the prevailing electric rate in the North Country. The prevailing electric rate in the North Country shall mean the average of the total rates, fees, and charges paid by customers of National Grid and New York State Electric and Gas, or any successors, in St. Lawrence, Franklin, and Jefferson counties. Compliance with the prevailing electric rates in the North Country shall be left to the sole determination of the public service commission.

8. It is the intent of this title that any pledge of revenues or other moneys or of a revenue producing contract or contracts made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys or proceeds of any contract or contracts so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

9. Neither the directors of the authority nor any person executing the bonds, notes or other obligations shall be liable personally on the bonds, notes or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

10. The authority shall have the power out of any funds available therefor to purchase bonds, notes or other obligations. The authority may hold, pledge, cancel or resell such bonds, notes or other obligations, subject to and in accordance with agreements with bondholders.

11. Any bonds, notes or other obligations issued by the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever who are authorized to invest in bonds, notes or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; subject to the provisions of any other general or special law to the contrary.

12. The authority is authorized to obtain from any department or

agency of the United States of America or the state or any nongovernmental insurer or financial institution any insurance, guaranty or other credit support device, to the extent available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds, notes or other obligations issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds, notes or other obligations of the authority.

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

14. All bonds, notes and other obligations issued by the authority under the provisions of this title are hereby declared to have all the qualities and incidents of negotiable instruments under the applicable laws of the state.

15. Nothing in this subdivision shall be deemed to allow the authority to exceed its one hundred twenty-five million dollar aggregate debt limit.

§ 1021-j. State and municipalities not liable on bonds or notes or other obligations. The securities of the authority shall not be a debt of the state or of any municipality, and neither the state nor any municipality shall be liable thereon. The authority shall not have the power to pledge or restrict the credit, the revenues or the taxing power of the state or of any municipality, and neither the credit, the revenues nor the taxing power of the state or of any municipality shall be or shall be deemed to be pledged to the payment of any securities of the authority. Each evidence of indebtedness of the authority, including the securities of the authority, shall contain a clear and explicit statement of the provisions of this section. Nothing in this article shall be deemed to obligate the state or any municipality to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 1021-k. Agreement of the state. The state does hereby pledge to and agree with the holders of any bonds, notes or other obligations issued by the authority under this title, that the state will not limit or alter the rights hereby vested in the authority to establish and collect the revenues and other charges referred to in this title and to fulfill the terms of any agreements made with or for the benefit of the holders of the securities, or in any way impair the rights and remedies of the bondholders until such securities are fully met and discharged. The authority is authorized to include this pledge of the state in all agreements by the authority with the holders of its securities. Nothing contained in this article shall be deemed to restrict any right of the state or municipality to amend, modify, repeal or otherwise alter statutes imposing or relating to taxes or fees, or appropriations relating thereto. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this article any provision which provides that a default occurs as a result of the state or of a municipality exercising its right to amend, modify, or repeal or otherwise alter any statute imposing or relating to taxes, fees, or appropriations relating thereto.

§ 1021-l. Exemption of the authority from taxation. 1. It is hereby found and declared that the operation of the authority is primarily for the benefit of the people of the participating municipalities, counties and the state, for the improvement of their health, welfare and prosperity, and is a public purpose, and the authority shall be regarded as performing an essential governmental function in carrying out the provisions of this title.

2. The authority shall be required to pay no taxes nor assessments upon any of the property acquired or controlled by it or upon its activities in the operation and maintenance thereof or upon income derived therefrom, provided that nothing herein shall prevent the authority from entering into agreements to make payments in lieu of taxes.

3. The authority shall make payments in lieu of taxes to municipalities and school districts equal to the taxes and assessments which would have been received from year to year by such jurisdiction.

4. The authority shall also make payments in lieu of taxes for those taxes which would otherwise be imposed upon a utility corporation pursuant to: (a) section one hundred eighty-six-a and former section one hundred eighty-six of the tax law as such sections were in effect on December thirty-first, nineteen hundred ninety-nine; (b) any taxes imposed by a city within the authority's service area pursuant to the authorization granted by section twenty-b of the general city law; and (c) any taxes imposed by a village within the authority's service area pursuant to authorization granted by section 5-530 of the village law.

5. Notwithstanding the exemption in subdivision two of this section, the authority shall also be subject to the assessments imposed pursuant to section eighteen-a of the public service law.

6. The securities issued by the authority, and the income therefrom shall, at all times, be free from taxation, except for estate and gift

taxes.

7. Nothing in this article shall relieve the authority from its obligations to register for sales tax purposes, collect state or local sales and compensating use taxes imposed by or pursuant to the authority of articles twenty-eight and twenty-nine of the tax law, and otherwise comply with those articles on its sale of property or services.

§ 1021-m. Actions against the authority. 1. Any action, suit or proceeding to which the authority may be a party in which any question arises as to the validity of this title or the valuation of stock or assets acquired by the authority by the exercise of the power of eminent domain shall be preferred over all other civil causes in all courts of the state, except election matters, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this title or the valuation of stock or assets acquired by the authority by the exercise of the power of eminent domain in which such counsel may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court pursuant to article five of the civil practice law and rules.

2. In the event any party shall appeal an award of compensation for the taking by the authority of stock or assets, such party shall post a bond in such amount, if any, as the supreme court shall deem appropriate to adequately protect the interests of the other party under all the circumstances.

3. An action against the authority founded on tort shall be commenced in compliance with all the requirements of section fifty-e of the general municipal law, except that an action against the authority for wrongful death shall be commenced in accordance with the provisions of title eleven of article nine of this chapter. Except in an action for wrongful death, an action against the authority for damages for injuries

to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

§ 1021-n. Equal employment opportunity. All contracts entered into by the authority pursuant to this title of whatever nature and all documents soliciting bids or proposals therefor shall contain or make reference to the following provision:

The contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training and retraining, including apprenticeship and on-the-job training.

§ 1021-o. Limitation of liability; indemnification. 1. The directors, officers and employees of the authority, while acting within the scope of their authority as directors, officers or employees, shall not be subject to any personal or civil liability resulting from the exercise, carrying out or advocacy of any of the authority's purposes or power unless the conduct of the directors, officers or employees is finally determined by a court of competent jurisdiction to constitute intentional wrongdoing or recklessness.

2. The provisions of section eighteen of the public officers law shall apply to directors, officers and employees of the authority in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in

compliance with any actions taken pursuant to the powers of this title.

3. As used in this section, the terms "director", "officer" and "employee" shall include a former director, officer or employee and his or her estate or judicially appointed personal representative.

4. Nothing in this section shall limit the obligations of a "director," "officer," or "employee" of the authority or of a subsidiary of the authority as a "person required to collect tax," as such term is defined in article twenty-eight of the tax law, if such director, officer or employee is, or was, under a duty to act for the authority or subsidiary, or both, as the case may be, in complying with any requirement of article twenty-eight or related provision of article twenty-nine of the tax law.

§ 1021-p. Website. The authority shall make accessible to the public, via its official or shared internet website, documentation pertaining to its mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

§ 1021-q. Prevailing wage. Whenever the authority enters into any contract, subcontract, lease, grant, bond, covenant or other agreement for or in connection with any construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement project, such project shall be deemed to be a public works project for the purposes of article eight of the labor law, and all of the provisions of article eight of the labor law shall be applicable to all the work involved in the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement of such project. Funds, financial assistance, or any other benefits provided pursuant to this article shall not be utilized for or in connection with the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement of any project to which the provisions of article eight of the labor law are not applicable.

§ 1021-r. Periodic review by legislature. Beginning in the year two thousand fifteen, and not more than every ten years thereafter, the legislature of the state of New York shall conduct a comprehensive review, of the structure, activities and operations of the NCPA, and the NCPA shall provide such records, reports and testimony as the legislature may request to assist in the conduct of this review.

§ 1021-s. Severability. The provisions of this title are severable, and if any clause, sentence, paragraph, action or part of this title, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remainder of this title or the application of such provision to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof or person or circumstance directly involved in the controversy in which such judgment shall have been rendered.

* TITLE 2

ALBANY LIGHT, HEAT AND POWER AUTHORITY

* NB Terminated July 1, 1963

*** § 1025. Short title.** This title may be cited as the "Albany Light, Heat and Power Authority Act."
* NB Terminated July 1, 1963

*** § 1026. Albany Light, Heat and Power Authority.** There is hereby defined and established an area in the county of Albany to be known as the "Albany light, heat and power district," which shall embrace all the territory comprised within the cities of Albany, Cohoes and Watervliet, the villages of Ravena, Green Island, Colonie, Menands, Voorheesville and Altamont, and the towns of Bethlehem, Coeymans, Colonie, Green Island, Guilderland and New Scotland, within such county. Such district may be extended at any time to include additional territory within such county, in the manner provided in section one thousand twenty-eight.

There is also hereby created and established a public corporation, to be known as "Albany Light, Heat and Power Authority," hereinafter in this title referred to as "the authority." The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. It shall have the power to acquire by the exercise of the right of eminent domain or otherwise such real estate and other property as may be necessary, to sue and be sued, to incur debts, liabilities and obligations, to issue bonds and other evidences of indebtedness, to have a seal, and to exercise all powers authorized by this title and reasonably necessary for accomplishing its purposes, or properly incidental thereto, subject to the provisions herein contained and to the constitution and laws of the United States and of New York state. Such powers shall be exercised in the name of the authority. Such authority shall continue only until July first, nineteen hundred sixty-three, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged; provided, however, that no appropriation made to the authority by the state of New York or by any political subdivision thereof, shall be deemed a liability for the purposes of this section.

* NB Terminated July 1, 1963

*** § 1027. Members of authority.** The members, constituting the board of directors of the authority, shall consist of not exceeding five persons, to be appointed by the board of supervisors of Albany county. Three members shall when appointed be residents of the city of Albany and shall be appointed by such board on designation of the mayor of such city. The term of office of a member shall be five years, but in the first instance such members shall be appointed to hold office, one for one year, one for two years, one for three years, one for four years and one for five years, the term of each to be fixed by the resolution making the appointment. Upon resignation of a member, or a vacancy occurring in any other manner, it shall be filled by appointment for the unexpired term. In other respects all vacancies shall be filled in manner corresponding to the original appointment. Each member before entering upon the duties of his office shall take the constitutional oath of office, which shall be filed in the office of the secretary of state. Three directors shall constitute a quorum for the transaction of business and the concurrence of three directors at a meeting shall be necessary to the validity of any resolution, order or determination. Any member may be removed by the board of supervisors for inefficiency, neglect of duty or misconduct in office, after a hearing upon charges and an opportunity to be heard in person or by counsel upon not less than ten days' notice. The members shall receive such salary as shall be determined by the board of supervisors of the county. They shall receive no reimbursement for the ordinary expenses of attending meetings, but may by resolution of the board of directors be allowed their expenses of a special or extraordinary nature. A member may receive additional compensation to be fixed by the board of directors, if appointed an officer of the authority. The directors of the authority may appoint an executive committee of not less than three members and may delegate full powers to such committee. They may appoint such other committees of not less than three members each with such powers as they may provide. They may elect one of the members as a president and may elect or appoint other officers and determine their powers. They may by a vote of a majority of members adopt by-laws and provide for their annual and regular meetings and for the calling of special meetings. The treasurer of the county of Albany shall be ex-officio treasurer of the authority and his compensation as such treasurer shall be fixed by the board of supervisors.

* NB Terminated July 1, 1963

*** § 1028. Enlargement of district.** Whenever it shall appear to the board of supervisors that the area included within the district should be extended it shall adopt a resolution stating the additional territory to be included which may be all the territory within one or more named municipalities or by adequate description a part of any such territory. It shall fix the date and hour for a hearing upon the question of such extension and cause notice thereof and of the additional territory to be included within the district to be published in two newspapers of general circulation in the county not less than twenty nor more than thirty days before such date. At such time the board shall hear all persons, taxpayers or officials who may wish to be heard and shall finally determine the additional territory, if any, to be included in such extension. Such determination shall be made by resolution of the board adopted by a two-thirds vote thereof. A map of the district as extended shall thereupon be filed in the office of the county clerk.

* NB Terminated July 1, 1963

*** § 1029. Powers of the board.** The power conferred by this title shall be exercised by the board of directors of the authority, subject to the terms of such title. In the exercise of those powers, either directly or through its officers and employees, the board may do the following things, among others, and the following list of powers shall not be deemed complete or exclusive, or to deny the existence of other powers, whether similar or different, so long as they are reasonably necessary for accomplishing the purposes declared and indicated in this title:

1. To determine upon the location, type, size, construction, lease, purchase, ownership, acquisition, use and operation of any plant or plants or other structure or property, within or without the territorial limits of the district;

2. To acquire on behalf and in the name of the county or the authority, whether by agreement with and purchase from the owner or owners, or by condemnation, the whole or any part of any existing plant or plants or of any other property which it is authorized to acquire under this title;

3. Subject to the provisions of the public service law, and to its agreement with any municipality, to fix rates and charges for the furnishing or rendition of light, heat or power or of any connected service, and to collect through bills therefor which shall be rendered at least once in each calendar month the revenues derived therefrom;

4. To appoint and at pleasure discharge a secretary and such clerical, engineering, legal and other professional assistants as it may deem necessary for the purposes of this title and to fix their compensation;

5. To appoint and at pleasure remove all employees, to transfer employees from their positions to other positions and to consolidate or abolish such positions;

6. To enter upon any lands and within any building whenever in its judgment it may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this title;

7. When so authorized by resolution of the board of supervisors with respect to service within any town or by resolution of the governing body of any other municipality, to investigate the cost of operation of any light, heat or power utility or service within any municipality, and for such purpose to examine and inspect the records, books, papers, accounts and other documents of any owner, whether individual or corporate, of any plant or plants, within or without the territorial limits of the district, and to make copies thereof or extracts therefrom;

8. To make to the public service commission, the annual report prescribed by subdivision seven of section sixty-six of the public service law, which report shall be verified by the oath of the president of the authority;

9. By the whole, or by any one or more, of the members of the authority, to make any investigation which it may deem necessary to enable it effectually to carry out the provisions of this title and, for that purpose, to take and hear proofs and testimony, to compel the attendance of witnesses and to require the production of records, books, papers, accounts and other documents including public records;

10. To execute contracts, borrow money, issue bonds, certificates of indebtedness and other obligations, and sell or dispose of the same in such amounts and at such rates of interest as may be advisable. This shall include the power to dispose of its bonds or other obligations to, and to borrow money from, the Reconstruction Finance Corporation, the federal emergency administrator of public works or any other federal or state agency, and it may also accept a grant from such corporation, administrator or agency, and donations from any public or private source;

11. To adopt, revise and amend rules and regulations to enable the authority to carry out the purposes of this title, every such rule and regulation, and each amendment thereof, to be filed with the county clerk;

12. Subject to and in accordance with the provisions of section seventy-seven of the public service law, to do whatever may be necessary to give effect to the purposes of this title, and in general to have and exercise all other powers necessary or incidental to the purposes of this title which may be exercised by a gas and electric corporation under the transportation corporation law.

* NB Terminated July 1, 1963

*** § 1030. Deposit for temporary possession of property.** Whenever the authority, in any proceedings instituted by it for the acquisition of any existing plant or plants by condemnation, shall make application for temporary possession pursuant to the provisions of section twenty-four of the condemnation law, the sum to be fixed by the court for deposit, as a condition of granting such application, need not exceed ten per centum of the assessed valuation of the real property sought to be acquired in such proceeding as such assessed valuation appeared upon the last assessment rolls for state or county taxes prior to the commencement of such proceeding.

* NB Terminated July 1, 1963

*** § 1031. Properties acquired by the authority.** The board of supervisors, when appointing the authority, may adopt a resolution providing, or it may by later agreement with the authority provide, that all properties acquired by the authority shall be acquired in or transferred to the name of the county or taken and held by the authority as a governmental agency of the county. The board of supervisors may at such time or by a later resolution provide that the county shall raise all or any part of the money necessary for the purposes of this title and may provide a fund from which appropriations may be made by the board of supervisors for the acquisition, construction and equipment of such properties, and to pay all costs, charges, expenses and liabilities incurred or to be incurred by the authority, or which the county may properly advance to the authority for the purposes of this title. The county shall be reimbursed out of the revenues of the authority for any moneys so paid. In making advances to the authority the board of supervisors may require a resolution of the authority and agreements by it pledging the revenues of the authority to the county and giving to the county a prior charge upon such revenues substantially as provided under section one thousand thirty-five, and limiting the power of the authority including the power to issue any obligations of its own under this title. Whenever the authority shall be and continue in default for a period exceeding thirty days in meeting any obligation it may have assumed to the county, the board shall also have power by resolution to remove any one or more or all of the members and to fill the vacancies caused thereby.

* NB Terminated July 1, 1963

*** § 1032. Power to furnish service within district.** The authority shall have power to construct or acquire, by purchase or condemnation, or to lease, and to equip, own and operate, within or without the territorial limits of the county, any plant, works, structures, poles, lines, wires, conduits, mains, systems, waterpower, franchises, and any and all other real and personal property, used, connected with or appertaining to the manufacture, conveying, transportation and furnishing of gas, whether natural or manufactured or a mixture of both, for light, heat and power and in the generation, furnishing and transmission of electric current for light, heat and power, for the purpose of furnishing such service to the county and to any municipality or district and to persons in such district, including the state capitol and the branches, departments and offices of the state government; and also, for such purpose, to purchase gas or electrical energy from the state of New York, or from any state agency, or from any municipality within or outside of the county, or from any private or public corporation.

* NB Terminated July 1, 1963

*** § 1033. Power to contract with municipalities within district.** The authority shall also have power to contract with the governing body of any municipality within the district with a view to the construction, acquisition, maintenance and operation of any such service for or within such municipality and except in the case of towns when so authorized by the board of supervisors it shall not have power to furnish any such service within any municipality except by agreement with the governing body thereof. In any such contract with a municipality the authority may agree with respect to the rates for services and any other matters necessary or incidental to construction, acquisition, maintenance and operation therein. It may, if it seems to it necessary or proper, provide for the collection of its revenue by the municipality and for an accounting between it and the municipality, and for compensation to the municipality for its services. It may likewise, with the approval of the board of supervisors, agree upon a basis by which all or any part of its properties, rights and interests in such municipality, including any properties taken or held in the name of the county, may thereafter be acquired by and transferred to such municipality. In any agreement as to rates, the power shall be deemed to be reserved, whether or not expressed, to charge adequate rates to properly operate and maintain any such service and to pay any bonds and other obligations of the authority, including any obligation to the county under this title.

* NB Terminated July 1, 1963

*** § 1034. Sale of surplus.** Whenever the productive capacity of the plants and properties of the authority together with any gas or electrical energy which it may acquire from other sources, creates a surplus over the amount of light, heat and power, in any of such services, required by the municipalities and residents of the district to which such service is contracted, the authority may sell such surplus in territory outside the district, either within or outside the county, to persons, public or private corporations or other municipalities. In acquiring, by purchase or condemnation, any plant or property in the district which also serves any municipality or territory outside the district, the authority, if it deems it advantageous and economical so to do, may, with the approval of the public service commission and the consent of the board of supervisors, serve any such municipality or territory or sell gas, heat, power or electrical energy to persons, public or private corporations in such territory or to such municipality. The authority shall not in any case duplicate any service already existing in any municipality or territory outside the district, without the approval of the public service commission.

* NB Terminated July 1, 1963

*** § 1035. Bonds of the authority.** The bonds, certificates of indebtedness and other obligations of the authority, unless disposed of to the Reconstruction Finance Corporation, the federal emergency administrator of public works or any other federal agency, shall be sold at public sale at not less than par. A resolution or resolutions authorizing any such obligations may contain provisions which shall be part of the contract with the holders thereof, which provisions may:

(a) pledge the revenues of the authority to secure the payment of such bonds and agree to maintain adequate rates for such purposes;

(b) give to any such bonds a prior charge upon such revenues;

(c) require such revenues to be set aside for sinking funds and reserve funds, safeguarding the deposit, use and investment thereof;

(d) limit or restrict the power of the authority under this title insofar as the same may be deemed advisable to secure the payment of such bonds;

(e) limit the power of the authority to issue additional obligations or restrict such power by relation to the revenues of the authority and with respect to the purposes thereof and the use of the proceeds or otherwise;

(f) authorize the appointment of a trustee or receiver as provided in section one thousand forty, limit the rights of bondholders to enforce their bonds by independent action, and in the event of a receivership require the return of all properties to the authority when the bonds are paid or redeemed and all costs paid;

(g) contain any other provisions reasonably necessary or deemed advisable to secure and provide for the payment of said bonds and the rights and remedies of the holders thereof;

(h) provide for the form of such bonds, coupon, registered or registerable coupon, and for ascertaining the owners or holders thereof for any purpose under section one thousand forty or;

(i) provide for the amendment of any such resolution in any respect, and the amount of bonds the holders of which must consent thereto or whose objection thereto after published or written notice may prevent such amendment.

* NB Terminated July 1, 1963

*** § 1036. Referendum.** No bonds shall be issued under this title by the authority in an aggregate amount at any time outstanding exceeding ten million dollars. No such bonds shall be issued by the authority without the approval of a majority of the electors of the district voting on the question of such approval. Such question may be submitted by the board of supervisors either at a general election or a special election called for such purpose. The question submitted to the electors of the district shall be: "Shall the authority issue not exceeding (filling in the amount) dollars bonds under the Albany Light, Heat and Power Authority Act?" If such proposition is adopted, the authority may issue bonds under the power so given. The submission of such question and the conduct of and canvass of the votes cast at such election in the district shall be provided for by the board of supervisors as nearly as may be in accordance with the provisions of the election law. Notice of the submission of such question and a general statement of the purposes to which the proceeds of the bonds are to be applied shall be published in the official newspapers of the county, designated by the board of supervisors, once a week for six weeks immediately preceding such election. At any time prior to the election at which such question is to be submitted to the electors for approval, the board of supervisors may, not later than fifteen days prior to such election, rescind its action in submitting the same whereupon such question shall not be submitted at such election, or, if submitted, the vote of the electors thereon shall be without effect. Neither the submission of such question nor the validity or result of such election shall be questioned in any court or elsewhere except in an action or proceeding commenced not later than twenty days after the determination of such result by the county board of canvassers has been filed in the office of the county board of elections.

* NB Terminated July 1, 1963

*** § 1037. State and county not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state or of the county, and, subject to section one thousand forty-one, the board shall have no power to make them payable out of any funds except those of the authority.

* NB Terminated July 1, 1963

*** § 1038. When bonds legal investments for fiduciaries.** On or before January first of each year commencing with the year nineteen hundred thirty-six, the comptroller shall file with the superintendent of banks his certificate stating the average annual revenues of the authority, or of the properties acquired or to be acquired by the authority, for the then preceding five years, as the case may be, and the maximum amount required in any future year to meet the interest and maturing principal of the outstanding obligations of the authority. If in his opinion the obligations of the authority are on the facts so determined and in his judgment sufficiently secured to constitute a suitable investment for the public funds of the state, he shall so certify, but such certification may later be withdrawn by him. If and so long as such average annual revenues exceed one and one-third times such maximum amount so certified, and the comptroller's certificate that the obligations of the authority constitute a suitable investment for public funds shall be in effect, the comptroller and all other public officers and bodies of this state and all municipalities, districts and subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees and other fiduciaries in the state may properly and legally invest funds in their control in such obligations.

* NB Terminated July 1, 1963

*** § 1039. Exemption from taxation.** The real and personal property of the authority shall be exempt from all taxation, and so shall all of its activities and operations, except that the owners of its bonds and other

obligations shall be subject to transfer and estate taxes.
* NB Terminated July 1, 1963

*** § 1040. Remedies of bondholders.** 1. If, and to the extent, and in the events, provided in the resolution authorizing the bonds, the holders of not less than twenty-five per centum in the aggregate principal amount of bonds at any time outstanding, may by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, appoint a trustee to represent all the bondholders for the purposes hereafter provided, which trustee or successor trustee may, however, be removed or a new trustee appointed at any time by the holders of not less than fifty-one per centum of such bonds by similar instrument or instruments so filed, and so proved or acknowledged. Subject to such authorizing resolution, such trustee may, and upon written request of the holders of not less than twenty-five per centum in principal amount of the bonds then outstanding shall, in his or its name:

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority and the members or officers thereof to collect rates and other revenue adequate to carry out any agreements as to, or pledge of, such rates and revenue, and to require the authority and members or officers thereof to carry out any other agreements with the bondholders and to perform its and their duties under this title;

(b) bring suit upon the bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(e) after thirty days' notice in writing to the authority and if, and in the events, specified in the resolution, declare all bonds due and payable, and thereafter if, and in the events, specified in the resolution, annul such declaration and its consequences.

2. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders and the venue

thereof shall be laid in Albany county.

3. Subject to the authorizing resolution, any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver who may enter and take possession of the properties of the authority or any part or parts thereof and operate and maintain the same and collect and receive all rates, charges and other revenues thereafter arising therefrom and exercise such other powers of the authority as the court may deem advisable in the same manner as the authority itself might do and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any rates, charges and other revenues derived from such properties.

* NB Terminated July 1, 1963

*** § 1041. County may levy tax within district.** Should it appear to the board of supervisors at any time that the revenue of the authority is or will be insufficient to provide for the payment of any bonds issued under this title and to reimburse the county for any moneys that it may have advanced to the authority, the board of supervisors shall determine the amount of money necessary to be raised for such purpose, and shall levy a tax on the territory of the district and upon the several parcels of real estate in the district in an amount sufficient to produce the amount necessary to be raised as aforesaid; provided that such tax shall not be levied to pay any bonds of the authority unless the authority with the consent of the board of supervisors has pledged such tax prior to the issuance of such bonds. Such tax shall be levied and apportioned upon such territory and collected from the several parcels of real estate in the district in like manner as other county taxes.

It is hereby determined that the liability imposed upon the territory included in the district is based upon the special benefit to such territory accruing under this title and that the tax to be levied because of such liability and in proportion to the taxable value of real estate in such territory will be in proportion to such benefits.

* NB Terminated July 1, 1963

*** § 1042. Examination by comptroller.** The state comptroller and his legally authorized representatives are hereby authorized and empowered from time to time and when requested by the authority the comptroller is hereby directed, to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

* NB Terminated July 1, 1963

*** § 1043. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, in its terms or in its operation, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Terminated July 1, 1963

*** § 1044. Inconsistent provisions in other acts superseded.** In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

* NB Terminated July 1, 1963

* TITLE 2-A

NEW YORK CITY MUNICIPAL WATER FINANCE AUTHORITY

* NB There are 2 A5 T2-A's

§ 1045-a. Short title. This title shall be known and may be cited as the "New York city municipal water finance authority act".

§ 1045-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the public benefit corporation created by section one thousand forty-five-c of this title, known as the New York city municipal water finance authority.

2. "Bonds" shall mean bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "City" shall mean the city of New York.

4. "Comptroller" shall mean the comptroller of the city.

5. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a water, sewerage or water and sewerage system or water project, as the case may be, as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto and claims arising therefrom.

6. "Contracting agency" shall mean any municipality, agency, authority or board, state agency, public authority or public benefit corporation authorized to award contracts for design, construction, services or materials for water projects authorized by this title.

7. (a) "Cost", as applied to any water project, shall include the cost of construction, the cost of the acquisition of all property, including

both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary, reasonably related or incidental to the construction of such water project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any water project in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the water project hereunder.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, with respect to any fund established to support a program of water projects in Westchester and Putnam counties from the proceeds of bonds issued pursuant to this chapter, "cost" as applied to any water project shall also include any interest paid after January twenty-first, nineteen hundred ninety-seven, without any other limitation as to when paid and without regard to the availability of any other sources of payment therefor, on bonds, notes or other evidences of indebtedness issued by any local governmental entity after January twenty-first, nineteen hundred ninety-seven to finance expenditures that would otherwise be costs of such water projects.

8. "Mayor" shall mean the mayor of the city of New York.

9. "Municipal bond" shall mean a bond, note or other evidence of indebtedness lawfully issued by the city pursuant to the local finance law or any other law applicable thereto.

10. "Person" shall mean any person, firm, partnership, association, or

corporation organized or existing under the laws of the state or any other state, exclusive of public corporations as defined pursuant to article two-A of the general construction law.

11. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, groundwater riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or rights, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

12. "Sewage" shall mean the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also shall be considered "sewage" within the meaning of this title.

13. "Sewerage facility" or "sewerage facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, treating and disposing of sewage, including main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfall, pumping stations, treatment and disposal plants, groundwater recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorous removal equipment, and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

14. "Sewerage system" shall mean the sewage collection, pumping, treatment neutralizing, storage and disposal system or systems in the possession of, or under the jurisdiction and control of, the city or the water board, including all additions, increases, enlargements, extensions or improvements thereto.

15. "State" shall mean the state of New York.

16. "State agency" shall mean any state office, department, board, commission, bureau or division, or other agency or instrumentality of the state.

17. "System revenues" shall mean rents, fees, charges, payments and other income and receipts derived from users of a water system or sewerage system of the city or the water board including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sale or other disposition of any part thereof, together with all federal or state aid therefor.

18. "Water board" shall mean the water board or a sewer and water board, as the case may be, created by a special act of the state legislature, for the city as a body corporate and politic, constituting a public benefit corporation, and having the powers and duties as provided in this title.

19. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated, or constructed or planned for the purpose of supplying, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, water-works or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or division and other plants, structures, equipment, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, treatment or distribution of water.

20. "Water project" shall mean any sewerage facility, water facility or water and sewerage facility, as the case may be, including the planning, development, financing or construction thereof.

21. "Water system" shall mean the water supply and distribution system or systems owned by, in the possession of the city or the water board or under the jurisdiction, control and regulation of the city, including all additions, increases, enlargements, extensions or improvements thereto.

§ 1045-c. New York city municipal water finance authority. 1. A corporation known as the New York city municipal water finance authority is hereby created for public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall be administered by a board of directors consisting of seven members as follows: the commissioner of environmental protection of the city, the state commissioner of environmental conservation, the director of management and budget of the city, the commissioner of finance of the city, two public members to be appointed by the mayor and one public member to be appointed by the governor. One public member appointed by the mayor shall serve for a term of one year, one public member appointed by the mayor shall serve for a term of two years, and the public member appointed by the governor shall serve for a term of two years from January first next succeeding the date of their appointment. Their successors shall serve for terms of two years each. Members shall continue in office until their successors have been appointed and qualified. The mayor or the governor shall fill any vacancy which may occur by reason of death, resignation or otherwise in a manner consistent with the original appointment. A public member may be removed by the mayor or the governor, whichever appointed him, for cause, but not without an opportunity to be heard in person or by counsel, in his defense, upon not less than ten days' notice. The mayor shall select a chairman from among the directors appointed by him who shall serve in such capacity at his pleasure. The chairman shall preside over all meetings of the board of directors and shall have such other duties as may be prescribed by the board.

2. Each director who is a public member shall be entitled to

reimbursement for his actual and necessary expenses incurred in the performance of his official duties and a per diem allowance of one hundred fifty dollars when rendering service as such director, provided that the aggregate of such per diem allowance to any one director in any one fiscal year of the authority shall not exceed the sum of five thousand dollars.

3. Such public members may engage in private employment, or in a profession or business, subject to the limitations contained in sections twenty-six hundred four, twenty-six hundred five, twenty-six hundred six and twenty-six hundred seven of the New York city charter for members appointed by the mayor, and subject to the limitations contained in sections seventy-three and seventy-four of the public officers law for members appointed by the governor. The authority shall, for the purposes of such sections be a "city agency" or a "state agency," as the case may be and such directors shall be "officers" of the authority for the purposes of such sections.

4. Four directors of the authority of whom at least three members shall be ex officio shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Resolutions authorizing the issuance of bonds or notes of the authority and resolutions authorizing any loan, lease, sale or other agreement in respect to a water project shall be approved by not less than four members of the authority at a meeting duly called for such purposes at which a quorum is in attendance, but for the transaction of any other business or the performance of any other power or function of the authority, the authority may act by a majority of the members present at any meeting at which a quorum is in attendance. The authority may delegate to one or more of its directors, or its officers, agents and employees, such powers and duties as it may deem proper. The commissioner of environmental protection of the city, the state commissioner of environmental conservation, the director of management and budget of the city, and the commissioner of finance of the city may each, by written instrument, filed with and approved as to form by the authority, designate a deputy or assistant in their respective departments or offices, to perform, in their absence, their respective

duties under this title. The term "director" as used in this subdivision shall include such persons so designated as provided herein. The designation of such persons shall be deemed temporary only and shall not affect the civil service or retirement rights of any persons so designated.

5. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, or of any charter, no officer or employee of the city or the state, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law by reason of his acceptance of membership on the authority, provided, however, that a director who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

6. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the city except as otherwise may be specified in such law.

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

8. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

§ 1045-d. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable or non-negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To make and amend by-laws for its organization and internal management, and rules and regulations governing the exercise of its power and the fulfillment of its purposes under this title and file such by-laws with the secretary of state and clerk of the city;

5. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

6. To acquire, by purchase, gift, grant, transfer, contract or lease, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title provided, however, the authority may not acquire or otherwise receive real property of the city without the consent of the city and to sell, lease as lessor, transfer and dispose of any property or interests therein at any time required by it in the exercise of its powers;

7. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the city, and to retain or employ counsel, auditors, engineers and private consultants for rendering professional or technical services and

advice;

8. To make plans and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

9. To make use of existing studies, surveys, plans, data and other material in the possession of any state agency, any municipality or the water board in order to avoid duplication of effort;

10. To enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

11. To conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof to have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the authority shall fail or refuse to aid or assist the authority in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the authority is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

12. To enter into agreements with the water board and the city for the financing by the authority of water projects, as herein provided;

13. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this chapter, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

14. To do all things necessary, convenient or desirable to carry out

its purposes and for the exercise of the powers granted in this title.

§ 1045-e. Approval of water projects. The authority shall not enter into any contract or agreement with the city or the water board with respect to the financing of any water project pursuant to section one thousand forty-five-i of this title, unless the state commissioner of environmental conservation and the state commissioner of health shall have completed all statutory reviews and approvals with respect to such project which, as of the date of such contract or agreement, are required by law. Nothing herein shall be construed to diminish the full authority and responsibility of each department of the state for statutory reviews and approvals.

§ 1045-f. Water board. 1. A city water board may be created by a special act of the state legislature at the request of the city, as a body corporate and politic, constituting a corporate municipal instrumentality of the state and having the powers and duties as provided in this title.

2. The water board shall consist of seven members appointed by the mayor. Terms of office of the members shall be two years except that the terms of four of the board members first appointed shall be one year. At least one member shall have experience in the science of water resource development. No member shall be a director of the authority. The mayor shall appoint a chairman from among the members of the board. All members shall continue to hold office until their successors are appointed and qualified. Vacancies shall be filled in the manner provided for original appointments. Vacancies, occurring otherwise than by expiration of term of office, shall be filled in the same manner as original appointments for the unexpired terms.

3. Each member of the water board shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties and a per diem allowance of one hundred fifty dollars when rendering service as a member; provided that the aggregate of such

per diem allowance to any one member in any one fiscal year of the board shall not exceed the sum of five thousand dollars.

4. Notwithstanding any inconsistent provision of law, general, special or local, or any city charter, no officer or employee of the city shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law, by reason of his acceptance of membership on the water board, provided, however, that a member of the board who holds other public office or employment shall receive no additional compensation for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

5. The mayor may remove any member for inefficiency, neglect of duty or misconduct in office after giving such member a copy of the charges against such member and an opportunity to be heard and defended, in person or by counsel, upon not less than ten days' notice. If any member shall be so removed, the mayor shall file in the office of the clerk of the city a complete statement of charges against such member, and the mayor's findings thereon, together with a complete record of the proceedings.

6. Members of the water board, other than members holding other public office or employment, may engage in private employment, or in a profession or business, subject to the limitations contained in sections twenty-six hundred four, twenty-six hundred five, twenty-six hundred six and twenty-six hundred seven of the New York city charter.

7. A majority of the members of the water board shall constitute a quorum for the transaction of any business or the exercise of any power of the board. The water board shall have power to act by the affirmative vote of not less than a majority of the members in office at any duly held meeting thereof. The water board may delegate to one or more of its members or its officers, agents and employees, such powers and duties as it may deem proper. Any member who is an officer of the city may, by written instrument, filed with and approved as to form by the board,

designate another city officer to perform in his absence his duties under this title. The term "member" as used in this section shall include such persons so designated as provided herein. The designation of any such person shall be deemed temporary only and shall not affect the civil service or retirement rights of the person so designated.

8. The water board and its corporate existence shall continue so long as it shall have contractual duties or obligations outstanding and until its existence shall be terminated by law. Upon termination of the existence of the water board, all of the rights and assets of the water board then remaining shall pass to and vest in the city.

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

§ 1045-g. General powers of the water board. Except as otherwise limited by this title, the water board shall have power:

1. To sue and be sued;

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

3. To make and amend by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and duties and the fulfillment of its purposes under this title;

4. To establish, fix, revise, charge and collect and enforce the payment of all fees, rates, rents and other service charges for the use of, or services furnished by the sewerage system, water system, or both, as the case may be, so as to receive revenues which, together with other revenues available to the board, if any, shall be at least sufficient at

all times so that such system or systems shall be placed on a self-sustaining basis in accordance with section one thousand forty-five-j of this title; provided, however that the water board shall not establish a limit of less than four years commencing from the date of the bill for services to challenge any fee, rate, rent or other service charges for the use of or services furnished by the water and/or sewerage systems; any such challenge shall specifically set forth the basis for such claim;

5. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the water board to carry out any powers expressly given it in this title, provided nothing herein contained shall authorize the water board to borrow money or otherwise contract indebtedness;

6. To enter into an agreement pursuant to section one thousand forty-five-i of this title with the authority and the city to provide a means whereby the authority shall finance the cost of constructing water projects, as described in the agreement, and the water board may agree to assume title to the water or sewerage system, or both, and to raise revenues from users through fees, rates, rents or other service charges necessary or appropriate to secure such financing and to pay the cost of the operation, management and repair of such water or sewerage system;

7. To acquire, purchase, lease as lessee, hold and use any property, real, personal or mixed, or any interest therein necessary or desirable to carry out the purposes of this title and, subject to any limitations in any agreement with the city entered into pursuant to section one thousand forty-five-h of this title, to sell, lease as lessor, transfer or otherwise dispose of any such property or interest therein;

8. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the city, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering

professional or technical services and advice;

9. To acquire from the city title to the sewerage system, water system, or both the sewerage and water systems, as the case may be, of such city;

10. To make plans, surveys and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the water board and to prepare recommendations in regard thereto;

11. To make use of existing studies, surveys, plans, data and other material in the possession of the city in order to avoid duplication of effort, and such city is hereby authorized to make the same available to the water board and otherwise to assist it in the performance of its functions;

12. With the consent of the mayor of the city to use officers or employees of the city and to pay a proper portion of the compensation or costs for the services of such officers or employees;

13. To conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof to have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the water board shall fail or refuse to aid or assist the water board in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the water board is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

14. To apply for and to accept any gifts or grants of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any state agency, the city or from any other sources, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

15. To invest moneys not required for immediate use or disbursement, subject to such restrictions as may be imposed by any agreement with the authority, in such obligations or deposits with such banks or trust companies as it may determine and designate, provided that any such deposit with a bank or trust company shall be continuously and fully secured by direct obligations of the city, the state or the United States of America, or obligations the principal of and interest on which are guaranteed by the state or the United States of America, of a market value equal at all times to the amount of the deposit;

16. To establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by any agreement with the authority and the city; and

17. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1045-h. Transfer of sewerage or water systems by the city to the water board. 1. The city may, acting either by the mayor alone or by resolution of the board of estimate of the city, enter into an agreement with the water board for the transfer to the water board, for use in the exercise of its corporate powers and purposes, the sewerage system or water system, or both, of the city as the same then shall be owned by the city. Any such agreement may provide for the transfer of title of such system or systems by deed, lease or other arrangement to the water board. To the extent not inconsistent with this title, any such agreement may impose such limitations or conditions as may be agreed upon by and between the city and water board with respect to the power of the water board to sell or otherwise dispose of any property acquired by the board pursuant to such agreement, and may provide for or authorize the water board to surrender to the city, property no longer required by the water board for its public purposes. Notwithstanding the provisions of any general, special or local law or charter to the contrary, any action taken by the city pursuant to this subdivision shall not be subject to a permissive or mandatory referendum.

2. Any such agreement shall set forth the liabilities of the city which it is contemplated are to be paid by the water board from moneys available to it; provided, however, that such agreement does not require the water board to assume the liabilities of the city; provided further, notwithstanding the foregoing, the city shall continue to be the record owner for real estate tax purposes of any facilities located outside of its municipal boundaries.

3. Any such agreement may provide for the payment by the city to the water board from any funds of the city, of such amount as may be determined appropriate for use by the water board.

4. The city and the water board are hereby authorized and empowered to make or enter into any contracts, agreements, deeds, leases, conveyances or other instruments as may be necessary or appropriate to effectuate the purposes of this title, and they shall have power and authority to do so and to authorize the doing of all things incidental, desirable or necessary to implement the provisions of this title.

5. Notwithstanding the foregoing provisions of this section, no agreement contemplated by this section shall become effective for any purpose unless and until the same shall have been approved in writing by resolution of the authority.

6. Upon the filing by the water board with the clerk of the city and the secretary of state of a copy of the instruments or documents effectuating the transfer authorized by this section, the water board shall take possession of the sewerage system or water system, or both, of the city thereby transferred.

7. Any application filed or proceeding heretofore commenced in relation to the sewerage system or water system, or both, transferred to the water board pending with the state departments of environmental conservation or health or any other state agency or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the water board and be binding upon the water board to the same extent and in the same

manner as if the water board had been a party to such application or proceeding from its inception, and the water board shall be deemed a party thereto to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the water board and shall be assigned and transferred by the city to the water board unless such assignment and transfer is prohibited by federal law.

8. The rules and regulations of the water board may provide for the discontinuance or disconnection of the supply of water or the provision of sewerage service, or both, as the case may be, by the city for non-payment of fees, rates, rents or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water or the provision of sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law. A copy of all by-laws, rules and regulations and amendments thereto, duly certified by the secretary of the water board, shall be filed in the offices of the clerk of the city and the secretary of state within three months and thereafter published once in the official newspaper of the city. Violation of such rules and regulations shall subject the offending party to a civil penalty in an action brought by the water board, not exceeding one hundred dollars for each day the violation continues. Jurisdiction is hereby conferred upon the civil court of the city and the environmental control board of the city to hear and determine, subject to the provisions of the civil practice law and rules, any violation of such rules and regulations.

§ 1045-i. Agreement among the water board, the city and the authority for the provision of water projects. 1. The authority, the water board and the city, acting either by the mayor alone or by resolution of the board of estimate of the city, may enter into agreements for the purpose of providing for the construction and financing of a water project.

2. Any such agreements (i) shall describe in sufficient detail for reasonable identification the particular water project to be financed in whole or in part by the authority, (ii) shall describe the plan for the financing of the cost of the construction of such water project, including the amount, if any, to be provided by the water board and the source or sources thereof, (iii) shall set forth the method by which and by whom and the terms and conditions upon which moneys provided by the authority shall be disbursed, (iv) may require, in the discretion of the authority, the payment to the authority of the proceeds of any state and federal grants available to the water board, (v) shall provide for the establishment of user fees, rates, rents and other charges and the charging and collection thereof by the water board for the use of, or services furnished, rendered or made available by such system such as to provide that such board receive revenues at least sufficient, together with other revenues of the board, if any, to meet the requirements of subdivision one of section one thousand forty-five-j of this title, provided that revenues received by such board shall be deposited in a special fund established pursuant to this title and disbursed to, and upon certification of, the authority, (vi) may provide for the transfer by the city to the water board pursuant to section one thousand forty-five-h of this title of ownership of the sewerage system or water system, or both, as the case may be, of which such project will form a part by the city, (vii) shall provide for the construction and completion of such water project by the city and for the operation, maintenance and repair thereof as an integrated part of the system of which such water project forms a part, subject to such terms and conditions, not inconsistent with this title, which may be in the public interest and necessary or desirable properly and adequately to secure the holders of bonds of the authority, provided, however, all contracts for public work and all purchase contracts shall be awarded by the city as provided by law for the award of such contracts by the city and that all contracts for construction shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards and working hours. Except as otherwise provided in section two hundred twenty-two of the labor law, when the entire cost of constructing a building as part of any water project shall exceed three million

dollars, the city shall prepare separate specifications for the following three subdivisions of the work to be performed: (a) plumbing and gas fitting; (b) steam heating, hot water heating, ventilating and air conditioning apparatus; and (c) electric wiring and standard illuminating fixtures, (viii) shall provide for the discontinuance or disconnection of the supply of water or the provision of sewerage service, or both, as the case may be, for non-payment of fees, rates, rents or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water or the provision of sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law, and (ix) in the discretion of the authority, require reports concerning the project from the water board to the authority and the city.

2-a. Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: (a) plumbing and gas fitting, (b) steam heating, hot water heating, ventilating and air conditioning apparatus and (c) electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

3. If the city executes an agreement pursuant to this section, relating to the financing of water projects by revenue bonds, it shall have and shall be deemed to have annulled its power to levy user fees, rents and other charges on participating properties or customers for the cost of financing, operating and maintaining such water or sewerage system or both, as the case may be, under its jurisdiction until all bonds of the authority shall have been paid or discharged in accordance with the agreement and the resolution of the authority authorizing such bonds. If the city has outstanding general obligation bonds issued for acquiring or constructing water or sewerage facilities, whether the bonds are payable from revenues, special assessments, or taxes, it may authorize the authority pursuant to the agreement to issue its revenue bonds under this title for the purpose of retiring the outstanding bonds.

4. No such agreement shall be executed until the city and water board shall have held a public hearing at which users of the water system or the sewerage system or the water system and sewerage system, as the case may be, shall have had opportunity to be heard concerning the proposed provisions thereof. Notice of such hearing shall be published at least thirty days in advance in the state register, in the official newspaper or newspapers of the city, and in at least one newspaper of general circulation in each of the areas served by the water system or sewerage system, as the case may be.

5. Such agreement shall be effective upon the issuance by the authority of notes and bonds to finance the cost of constructing water projects of the city.

6. Any such agreement may be amended, revised or extended by supplemental agreements authorized and executed in the same manner as the original agreement, provided that any such supplemental agreement shall not be inconsistent with the provisions of this title.

7. (a) Following the execution of the agreement by and between the

authority, the water board and the city pursuant to this section, the clerk of the city, shall publish a notice in substantially the following form: "Notice is hereby given that the city of New York has on   day of   entered into an agreement with the New York city municipal water finance authority in relation to the construction and financing of (here insert a brief description of the sewerage or water facility or facilities to which such agreement relates) pursuant to the New York City Municipal Water Finance Authority Act for the purpose of placing its water or sewerage system or water and sewerage system, as the case may be, on an independent basis, imposing fees and rents on water or sewerage system users, or both, which, together with other revenues available for such purpose, if any, are sufficient to pay to the authority debt service on bonds issued by the authority pursuant to the agreement and for operation and maintenance of the facility (title to which is transferred to the water board pursuant to the agreement). Such agreement in general terms provides (here insert a brief summary of the substantive provisions of such agreement). A copy of the complete agreement is on file for public inspection in the office of the clerk of the city where the same may be examined by any interested person during regular business hours. The validity of this agreement may be hereafter contested only upon the ground or grounds that: (i) such agreement violates, or the performance of any provision thereof by any party thereto would violate, the provisions of any law or the state constitution, or (ii) the provisions of law which should have been complied with in relation to the authorization and execution were not substantially complied with, and in any event an action, suit or proceeding is commenced within sixty days after the date of this notice.

(Clerk or other official
designated by the city council
of the city of New York)"

(b) The publication authorized by this subdivision shall be in the state register and in the official newspaper or newspapers of the city.

(c) After the expiration of the sixty day period set forth in such notice the validity of such agreement shall be conclusively presumed and the validity thereof shall not thereafter be questioned by either a party plaintiff or a party defendant and no court shall have jurisdiction in any action, suit or proceeding contesting such validity.

(d) Neither any error or omission in the notice of publication provided for in this subdivision shall affect or impair the validity of an agreement executed pursuant to this section so long as the notice substantially conforms to the provisions of this section.

§ 1045-j. Imposition and disposition of sewer and water fees, rates, rents or charges. 1. The water board shall establish, fix and revise, from time to time, fees, rates, rents or other charges for the use of, or services furnished, rendered or made available by, the sewerage system or water system, or both, as the case may be, owned by the water board pursuant to this title in such amount at least sufficient at all times so as to provide funds in an amount sufficient together with other revenues available to the board, if any, (i) to pay to the authority, in accordance with any agreement with the authority, an amount sufficient for the purpose of paying the principal of and the interest on the outstanding notes or bonds of the authority as the same shall become due and payable and maintaining or funding a capital or debt service reserve fund therefor and, to the extent requested by the city in, or annually pursuant to, the agreement to pay to the city, in accordance with the agreement, an amount sufficient for the purpose of paying the principal of and interest on general obligation bonds thereof issued for or allocable to the water system or sewerage system or both, as the case may be, as the same shall become due and payable, and to maintain or fund reserves therefor, (ii) to pay to the city, in accordance with the agreement, an amount sufficient for the purpose of paying the costs of administering, maintaining, repairing and operating and the cost of constructing capital improvements to the water system or sewerage system or both, as the case may be, (iii) to pay to the city in accordance with the agreement entered into pursuant to section one thousand forty-five-i of this title an amount sufficient for the purpose of paying liabilities issued for or allocable to the water system or sewerage system or both, as the case may be, as the same shall become due and payable, (iv) to meet any requirements of any agreement including requirements relating to the establishment of reserves for renewal and replacement and for uncollected charges and covenants respecting rates, (v) to pay all other reasonable and necessary expenses of the authority and the water board in relation thereto, and (vi) to the extent requested by the city in or pursuant to the agreement, to pay or provide for such other purposes or projects as such city considers appropriate and in the public interest. Any surplus of funds remaining in the water board after such payments have been made shall be returned to the city for deposit in the general fund.

2. There is hereby established in the custody of the water board a special fund to be known as the local water fund. Such fund shall consist of the revenues derived from the fees, rates, rents and service charges established, charged and collected pursuant to this title and any other income earned or moneys received by the water board. Revenues in the local water fund shall be kept separate and shall not be commingled with any other moneys in the custody of the water board. All moneys, properties and assets acquired by the water board, whether as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and reused in accordance with the purposes and provisions of this article.

The water board shall deposit promptly, to the credit of the local water fund, revenues collected under this article in a bank, banking house or trust company as may be designated in or pursuant to the agreement.

3. No such fee, rate, rent or other charge shall be established, fixed or revised unless and until the water board has held a public hearing at which the users of the water system or sewerage system, or both, as the case may be, the owners of property served or to be served and others interested, have had an opportunity to be heard concerning the same. Notice of such public hearing shall be published by the water board at least twenty days before the date set therefor, in at least one newspaper of general circulation in each of the areas served by the water system or sewerage system, as the case may be. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such hearing. A copy of the notice shall be filed in the office of the clerk of the city and shall be available for inspection by the public. At all such

hearings, any users of the water system, sewerage system, or both, as the case may be, owners of property served or to be served and any other interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision of the water board on matters considered at such public hearing shall be in writing and be made available in the office of the water board for public inspection during regular office hours. Such decision shall be published in at least one newspaper of general circulation in each of the areas served by the water system or sewerage system, as the case may be within thirty days after such decision is made. The fees, rates, rents or other charges so established for any class of users of property served shall be extended to cover any additional premises thereafter served which are within the same class, without the necessity of a hearing thereon.

4. The fees, rates, rents or other charges established, fixed and revised from time to time by the water board shall be collected by the water board at such times and in such manner as may be determined by the rules and regulations adopted by the water board consistent with the provisions of this title.

4-a. (a) The water board may enter into agreements with one or more financing agencies or card issuers to provide for the acceptance by the water board of credit cards as a means of payment of fees, rates, rent or other charges owed by a person to the water board. Any such agreement shall govern the terms and conditions upon which a credit card proffered as a means of payment of a fee, rate, rent or other charge shall be accepted or declined and the manner in and conditions upon which the financing agency or card issuer shall pay to the water board the amount of fees, rates, rent or other charges paid by means of a credit card pursuant to such agreement. Any such agreement may provide for the payment by the water board to such financing agency or card issuer of fees for the services provided by such financing agency or card issuer pursuant to such agreement, which fees may consist of a discount deducted from or payable in respect to the amount of each such fee, rate, rent or other charge or otherwise as the agreement may provide.

(b) If the water board has entered into an agreement pursuant to paragraph (a) of this subdivision, it may accept credit cards as a means of payment of fees, rates, rent or other charges, as provided in any agreement entered into pursuant to paragraph (a) of this subdivision and may pay such fees as are specified in such agreement to such financing agency or card issuer in consideration of the services rendered by such financing agency or card issuer thereunder; provided, however, that the water board may require any person offering a credit card as a means of payment of such fee, rate, rent or other charge to pay to the water board a reasonable administrative service fee not to exceed the costs incurred by the water board in connection with such credit card transaction, which costs shall include any fee payable by the water board to such financing agency or card issuer.

(c) The water board may promulgate any rules or regulations necessary to carry out the provisions of this subdivision.

(d) For purposes of this subdivision, the terms "card issuer", "credit card", "financing agency" and "person" shall have the same meaning as provided in subdivision (a) of section five of the general municipal law.

5. Such fees, rates, rents or other charges, if not paid when due, shall constitute a lien upon the premises served and a charge against the owners thereof, which lien and charge shall bear interest at the same rate as would unpaid taxes of the city. Such lien shall take precedence over all other liens or encumbrances, except taxes, and may be foreclosed against the lot or building served in the same manner as a lien for such taxes. The amount which remains due and unpaid for sixty days may, with interest thereon at the same rate as unpaid city taxes and with reasonable attorneys' fees, be recovered by the water board in a civil action in the name of the water board against such owners. The city, and any state agency shall be subject to the same fees, rates, rents or other charges under the same conditions as other users of such water system or sewerage system, or both, as the case may be. Tax exempt organizations shall be charged according to the provisions of chapter six hundred ninety-six of the laws of eighteen hundred eighty-seven, as amended by chapters eight hundred ninety-three and eight hundred ninety-four of the laws of nineteen hundred eighty and by provisions which may by law extend the provisions of such chapters from time to time. Any agreement for the supply of water or sewerage services between

the city or an agency thereof and any other municipality or water supply system, or any administrative determination by a state agency, or any other arrangement in this regard, in effect at the time the water board shall be established, shall remain in full force and effect and be binding upon the water board as if it were a party to such agreement, determination or other arrangement. All rights, powers, duties, obligations and functions provided by law with respect to the fixing of charges or rates for the supply of water or sewerage services to users outside the city, including but not limited to those set forth in article one of title K of chapter fifty-one of the administrative code of the city of New York and article eight of the environmental conservation law, shall be deemed to apply, as appropriate, to the water board established pursuant to this title. In addition to any other lawful enforcement methods and pursuant to rules and regulations of the water board promulgated pursuant to this title, the payment of fees, rates, rents or other charges for water service or sewerage service to any premises may be enforced by discontinuing the water service or sewerage service to such premises provided that such discontinuance or disconnection of any supply of water or the provision of sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a water-works corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law.

6. The water board shall pay to the authority such amounts at such times and in such manner as may be provided in the agreement by and among the authority, the water board and the city consistent with the priorities set forth in such agreement. There is hereby created a lien, by this title made a statutory lien within the meaning of the uniform commercial code and any other state or federal law, upon the gross revenues of the water board, in favor of the payment of all amounts due pursuant to such agreement and in the order and priority set forth therein and which lien shall be a first lien upon such gross revenues. The gross revenues so subject to such statutory lien shall be and remain subject to such statutory lien until the payment in full of each such item in accordance with such priority. Said statutory lien shall not be

construed to give any holder or owner of any bond of the authority power to compel the sale of any water system or sewerage system, as the case may be.

7. If there be any default by the water board in the making of the payments to the authority required under this section, as a result of the failure by the water board to impose sufficient fees, rates, rents or other charges, the authority may petition for the appointment by any court having jurisdiction in any proper action of a receiver to administer on behalf of the water board, under the direction of said court, the affairs of the water board in order to achieve system revenues at least sufficient to make such payments; and by and with the approval of said court, to establish, fix and revise, from time to time, fees, rates, rents or other charges at least sufficient therefor in conformity with this title, and the resolution or trust indenture of the authority providing for the issuance of its bonds and in accordance with such orders as the court shall make.

8. The water board shall prepare and transmit to the city on or before the first day of December in each year a list of those persons or property owners within such city who are in arrears in the payment of fees, rates, rents or other charges for a period of sixty days or more after the last day fixed for payment thereof without penalty. The list shall contain a brief description of the properties for which the services were provided, the names of the persons liable to pay for the same and the amounts chargeable to each, including penalties and interest computed to the next succeeding December thirty-first. The city shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of such city under the name of "delinquent water charges" or "delinquent sewerage charges" or "delinquent water and sewerage charges" as may be appropriate and as may be directed by the water board. Such amounts, as and when collected by the commissioner of finance of the city, shall be paid over to the water board. All of the provisions of the tax laws of the state covering the enforcement and collection of unpaid taxes of the city shall apply to the collection of such unpaid fees, rates, rents or other charges.

9. Neither the public service commission, nor any city or state agency, shall have any jurisdiction over the water board or authority or any power over the regulation of the fees, rates, rents or other charges established, fixed or revised by the water board except with respect to the supply of water or sewerage services to users outside the city as provided in article one of title K of chapter fifty-one of the administrative code of the city of New York.

9-a. The water board shall hold public hearings, in each borough of the city of New York, prior to promulgating or fixing annual water and sewer rates for such city. Notice of such public hearing shall be conspicuously published in a newspaper of general circulation, within each borough, at least one week prior to the hearing.

§ 1045-k. Tax exemption of the water board property and activities. 1. It is hereby determined that the creation of a water board and the carrying out of its corporate purposes is in all respects for the benefit of the city and is a public purpose and the water board shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The water board shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Notwithstanding the provisions of subdivisions one and four of this section, any real property of the water board located outside the boundaries of the city, shall be exempt from the payment of taxes, special ad valorem levies and special assessments only if and to the extent that such real property would have been exempt if owned by the city.

3. Notwithstanding any provision in this section to the contrary, the

water board may pay, or may enter into agreements with any municipality to pay, a sum or sums, annually or otherwise, or to provide other considerations to such municipality, with respect to real property of the water board located within such municipality and provided that any such payment or agreement to pay shall be subject to approval by the authority.

4. The water board shall not be required to pay any taxes or other governmental fees or charges, whether imposed by the state or any municipality, including without limitation franchise taxes, sales taxes or other excise taxes, or any other tax or charge upon its property or activities or upon any of its revenues or other income.

§ 1045-l. Pledge effective without filing or recording. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues or other personal property made or created by the authority, the water board or the city pursuant to this title shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority, the water board or the city, as the case may be, irrespective of whether or not such parties have notice thereof. No instrument by which such pledge or security interest is created nor any financing statement need be recorded or filed.

§ 1045-m. Governmental capacity of the authority, the water board and the city. The authority, the water board and the city in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1045-n. Transfer of officers and employees to and from city and state agencies; retirement rights of officers and employees. Officers and employees of city and state agencies may be transferred to the authority or water board and officers and employees of the authority or water board may be transferred to appropriate city and state agencies without examination and without loss of any civil service or retirement status or rights. Any officer or employee of the authority or water board who heretofore acquired or shall hereafter acquire such position status by transfer and who at the time of such transfer was a member of the New York city employees' retirement system shall continue to be a member of such system as long as he or she continues in such service, and shall continue to have all the rights, privileges and obligations of membership in such system. Employment by the authority or water board shall constitute city-service for the purposes of chapter one of title thirteen of the administrative code of the city of New York. Transfers shall be in accordance with section seventy of the civil service law or the rules of the civil service commission of the city, as the case may be. No such transfer shall be made except with the approval of the head of the agency involved, the director of the division of the budget or the director of management and budget of the city, as the case may be, and the chairman of the authority or water board, as applicable, and in compliance with the rules and regulations of the civil service commission of the city or the state, as the case may be.

§ 1045-o. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any water project or water projects, or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority shall be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the city, and the authority, the water board and the city, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or non-governmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the authority, or on any municipal obligations of governmental units purchased or held by the authority; and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the authority.

* 3. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates, mature at such time or times, except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by (i) the comptroller, where such sale is not to such comptroller, or (ii) the director of management and budget, where such sale is to such comptroller.

* NB There are 2 sub 3's

* 3. Whenever the authority shall determine that the issuance of its bonds is appropriate, the mayor and the comptroller shall make a joint recommendation as to the arrangements necessary for the issuance and sale of such bonds including the underwriting of such bonds through negotiated agreement or public letting or the private sale of such bonds and such recommendation shall include compensation for services rendered as they deem appropriate. The mayor and the comptroller shall recommend

to the authority the price or prices, interest rate or rates, maturities and other terms and conditions for the issuance of the bonds, except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Following such recommendation, bonds shall be authorized by resolution of the authority which shall set forth the arrangements for the issuance of the bonds, the price or prices, the interest rate or rates, maturities, terms of redemption, form and other terms of the bonds. Such resolution and the minutes of the authority related thereto shall be transmitted to the mayor and the comptroller for their approval or disapproval thereof. Approval of such resolution shall be indicated by the execution of the resolution by the mayor and the comptroller whereupon such resolution shall come into full force and effect in accordance with its terms.

* NB There are 2 sub 3's

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

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

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

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

(d) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

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

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

(g) the creation of special funds into which any revenues or other moneys may be deposited;

(h) the terms and provisions of any trust, deed or indenture securing the bonds under which the bonds may be issued;

(i) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand forty-five-p of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(k) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(l) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(m) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, consistent or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act, including refraining from doing any act, which the

authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the directors of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (i) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date, or (ii) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption, plus accrued interest to

the next interest payment date.

§ 1045-p. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (i) of subdivision four of section one thousand forty-five-o of this title:

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

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of New York.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§ 1045-q. State, city and water board not liable on authority bonds. Neither the state, nor the city, nor the water board nor any subdivision thereof shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the city or such water board.

§ 1045-r. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the chairman of the authority or of such other officer or officers as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States, or of the state or of the city of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1045-s. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 1045-t. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority or the water board to fulfill the terms of any agreement made with or for the benefit of the holders of bonds, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1045-u. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city and of the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The authority shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Notwithstanding any provision in this section to the contrary, the authority may pay, or may enter into agreements with any municipality to pay, a sum or sums, annually or otherwise, or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom shall be free from such taxation, as aforestated herein, and that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxes as aforestated herein.

§ 1045-v. Actions against authority and water board. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority or the water board for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or the board or of any member, officer, agent or employee thereof, unless (i) a notice of claim shall have been made and served upon the authority or the water board, as the case may be, within the time limit by and in compliance with section fifty-e of the general municipal law, (ii) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (iii) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority or water board for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the authority or the water board upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall not exceed the rate of interest on judgments and accrued claims against municipal corporations as provided in the general municipal law from time to time. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise

satisfied.

§ 1045-w. Interest in contracts prohibited. It shall be a misdemeanor for any member or any officer, agent, servant or employee of the authority or of the water board to be in any way or manner interested, directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority or the board, as the case may be, is empowered by this title to make.

§ 1045-x. Authority, water board and city to take affirmative action. 1. Each contracting agency which awards contracts for design, construction, services or materials for water projects authorized by this title shall require that such contracts and documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue programs of affirmative action to insure that minority group persons and women are afforded equal employment opportunity without discrimination. Such action shall be taken with reference, but not be limited to recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) At the request of the contracting agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which he has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, in performance of the contract that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of paragraphs (a) through (c) of this subdivision in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its working connection with a contract.

2. Each contracting agency shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action as required by this section. Such procedures may require, after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. Such procedures and guidelines shall be consistent with the guidelines promulgated by the office of federal contract compliance programs of the United States department of labor pursuant to presidential executive order eleven thousand two hundred forty-six, as amended, and any state statutory or regulatory requirements. A contracting agency shall, in the promulgation of procedures and guidelines pursuant to this section, cooperate with any federal, state or local agency established for the purpose of implementing affirmative action compliance programs.

3. Any contracting agency empowered to award contracts for design, construction, services or materials shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or

permanent resident noncitizens who are Black, Hispanic, Asian, American Indian or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

4. In the implementation of subdivisions two and three of this section, the contracting agency shall consider compliance by any contractor with the requirements of any federal, state or local law concerning minority business enterprises or equal employment opportunity, which may effectuate the requirements of this section. If the contracting agency determines that by virtue of the imposition of the requirements of any such law, in respect to contracts affected by this section, that the provisions thereof duplicate or conflict with such law, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. In order to implement the requirements and objectives of this section, contracting agencies shall be responsible for monitoring the contractors' compliance with the provisions hereof, for advising contractors on the availability of competing qualified minority business enterprises to perform contracts proposed to be awarded and for making recommendations to contractors to improve the access of minority business enterprises to such contracts.

§ 1045-y. Audit and annual report. The accounts of the authority and the water board shall be subject to the supervision of the city comptroller. The authority and the water board shall annually submit to the mayor, the comptroller and the director of management and budget a detailed report. In addition, an annual audit of the authority shall be conducted by an independent certified public accountant. Such audited report shall be submitted to the mayor, the comptroller and the director of management and budget.

§ 1045-z. Limited liability. Neither the members of the authority nor of the water board, nor any officer or employee of the authority nor the water board acting in behalf thereof, while acting within the scope of his authority, shall be subject to any liability resulting from (i) the construction, ownership, maintenance or operation of any project financed with the assistance of the authority, (ii) the construction, ownership, maintenance or operation of any sewerage system or facility or water system or facility owned by the water board, or (iii) carrying out any of the powers expressly given in this title. A director, officer or employee of the authority shall be deemed an "employee" for the purposes of section fifty-k of the general municipal law, provided, however that any director, either appointed by the governor or an employee of the state shall be deemed an "employee" for the purposes of section eighteen of the public officers law for any actions relating to their activities as a director of the authority created by this title.

§ 1045-aa. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1045-bb. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local or of the city charter or any local law, ordinance or resolution of the city, the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the state department of environmental conservation or the state department of health.

* TITLE 2-A

NEW YORK CITY WATER BOARD

Section 1046. New York city water board.

* NB There are 2 A5 T2-A's

§ 1046. New York city water board. For the benefit of the city of New York and the inhabitants thereof, a water board, to be known as the New York city water board, is hereby established for the accomplishment of any or all of the purposes specified in this title. It shall have the powers and duties now or hereafter conferred by this title upon a water board. It shall be organized in a manner prescribed by and be subject to the provisions of this title. The board, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of this title.

TITLE 2-B

BUFFALO MUNICIPAL WATER FINANCE AUTHORITY

§ 1048-a. Short title. This title shall be known and may be cited as the "Buffalo municipal water finance authority act".

§ 1048-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the public benefit corporation created by section one thousand forty-eight-c of this title, known as the Buffalo municipal water finance authority.

2. "Bonds" shall mean bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "City" shall mean the city of Buffalo.

4. "Common council" or "council" shall mean the common council of the city of Buffalo.

5. "Comptroller" shall mean the comptroller of the city.

6. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a water system or water project as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto and claims arising therefrom.

7. "Contracting agency" shall mean any municipality, agency, authority or board, state agency, public authority or public benefit corporation authorized to award contracts for design, construction, services or materials for water projects authorized by this title.

8. "Cost", as applied to any water project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary, reasonably related or incidental to the construction of such water project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any

reserve or other special fund from the proceeds of such bonds and the financing of the placing of any water project in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the water project hereunder.

9. "Mayor" shall mean the mayor of the city of Buffalo.

10. "Municipal bond" shall mean a bond, note or other evidence of indebtedness lawfully issued by the city pursuant to the local finance law or any other law applicable thereto.

11. "Person" shall mean any person, firm, partnership, association, or corporation organized or existing under the laws of the state or any other state, exclusive of public corporations as defined pursuant to article two-A of the general construction law.

12. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, groundwater riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or rights, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

13. "State" shall mean the state of New York.

14. "State agency" shall mean any state office, department, board, commission, bureau or division, or other agency or instrumentality of the state.

15. "System revenues" shall mean rents, fees, charges, payments and other income and receipts derived from users of a water system of the city or the water board including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sale or other disposition of any part thereof, together

with all federal or state aid therefor.

16. "Water board" shall mean the water board created by a special act of the state legislature, for the city as a body corporate and politic, constituting a public benefit corporation, and having the powers and duties as provided in this title.

17. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated, or constructed or planned for the purpose of supplying, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, water-works or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or division and other plants, structures, equipment, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, treatment or distribution of water.

18. "Water project" shall mean any water facility including the planning, development, financing or construction thereof.

19. "Water system" shall mean the water supply and distribution system or systems owned by, in the possession of the city or the water board or under the jurisdiction, control and regulation of the city, including all additions, increases, enlargements, extensions or improvements thereto.

§ 1048-c. Buffalo municipal water finance authority. 1. A corporation known as the Buffalo municipal water finance authority is hereby created for public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall be administered by a board of directors consisting of seven members as follows: the commissioner of public works of the city, the state commissioner of environmental conservation, the chairperson of the finance committee of the common council of the city, the commissioner of administration and finance of the city, two public members to be appointed by the mayor and confirmed by the common council of the city, and one public member to be appointed by the governor. One public member appointed by the mayor shall serve for a term of one year, one public member appointed by the mayor shall serve for a term of two years, and the public member appointed by the governor shall serve for a term of two years from January first next succeeding the date of their appointment. Their successors shall serve for terms of two years each. Members shall continue in office until their successors have been appointed and qualified. The mayor or the governor shall fill any vacancy which may occur by reason of death, resignation or otherwise in a manner consistent with the original appointment. A public member may be removed by the mayor or the governor, whichever appointed him, for cause, but not without an opportunity to be heard in person or by counsel, in his defense, upon not less than ten days' notice. The board of directors shall select a chairman from among the directors who shall serve in such capacity at the pleasure of the board. The chairman shall preside over all meetings of the board of directors and shall have such other duties as may be prescribed by the board.

2. Each director who is a public member shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties and a per diem allowance of one hundred fifty dollars when rendering service as such director, provided that the aggregate of such per diem allowance to any one director in any one fiscal year of the authority shall not exceed the sum of five thousand dollars.

3. Such public members may engage in private employment, or in a profession or business, subject to the limitations contained in chapter VIII sections ninety through ninety-two of the Buffalo city ordinances for members appointed by the mayor, and subject to sections seventy-three and seventy-four of the public officers law, for the members appointed by the governor. The authority shall, for the purposes

of such sections be a "city agency" or a "state agency", as the case may be and such directors shall be "officers" of the authority for purposes of such sections.

4. Four directors of the authority of whom at least three members shall be ex officio shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Resolutions authorizing the issuance of bonds or notes of the authority and resolutions authorizing any loan, lease, sale or other agreement in respect to a water project shall be approved by not less than four members of the authority at a meeting duly called for such purposes at which a quorum is in attendance, but for the transaction of any other business or the performance of any other power or function of the authority, the authority may act by a majority of the members present at any meeting at which a quorum is in attendance. The authority may delegate to one or more of its directors, or its officers, agents and employees, such powers and duties as it may deem proper. The comptroller shall be the chief fiscal officer of the authority. The commissioner of public works of the city, the state commissioner of environmental conservation, the director of the budget of the city, and the commissioner of administration and finance of the city may each, by written instrument, filed with and approved as to form by the authority, designate a deputy or assistant in their respective departments or offices, to perform, in their absence, their respective duties under this title. The term "director" as used in this subdivision shall include such persons so designated as provided herein. The designation of such persons shall be deemed temporary only and shall not affect the civil service or retirement rights of any persons so designated.

5. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, or of any charter, no officer or employee of the city or the state, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law by reason of his acceptance of membership on the authority, provided, however, that a director who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this title, but shall be

entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

6. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the city, unless otherwise provided in an agreement between the city and the authority, and except as otherwise may be specified in such law.

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

8. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

§ 1048-d. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable or non-negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To make and amend by-laws for its organization and internal management, and rules and regulations governing the exercise of its power and the fulfillment of its purposes under this title and file such by-laws with the secretary of state and clerk of the city;

5. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

6. To acquire, by purchase, gift, grant, transfer, contract or lease, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title provided, however, the authority may not acquire or otherwise receive real property of the city without the consent of the city and to sell, lease as lessor, transfer and dispose of any property or interests therein at any time required by it in the exercise of its powers;

7. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the city, and to retain or employ counsel, auditors, engineers and private consultants for rendering professional or technical services and advice;

8. To make plans and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

9. To make use of existing studies, surveys, plans, data and other material in the possession of any state agency, any municipality or the water board in order to avoid duplication of effort;

10. To enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized

by this title, the authority being liable only for actual damage done;

11. To conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof to have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the authority shall fail or refuse to aid or assist the authority in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the authority is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

12. To enter into agreements with the water board and the city for the financing by the authority of water projects, as herein provided;

13. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this chapter, and to comply, subject to the provisions of this title, with the terms and conditions thereof; and

14. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1048-e. Approval of water projects. The authority shall not enter into any contract or agreement with the city or the water board with respect to the financing of any water project pursuant to section one thousand forty-eight-i of this title, unless the state commissioner of environmental conservation and the state commissioner of health shall have completed all statutory reviews and approvals with respect to such project required by law to be completed prior to the date of such contract or agreement. Nothing herein shall be construed to diminish the full authority and responsibility of each department of the state for statutory reviews and approvals.

§ 1048-f. Water board. 1. A city water board may be created by a special act of the state legislature at the request of the city, as a body corporate and politic, constituting a corporate municipal instrumentality of the state and having the powers and duties as provided in this title.

2. The water board shall consist of seven members appointed by the mayor and confirmed by the common council of the city. Terms of office of the members shall be two years except that the terms of four of the board members first appointed shall be one year. At least one member shall have experience in the science of water resource development. No member shall be a director of the authority. The mayor shall appoint a chairman from among the members of the board. All members shall continue to hold office until their successors are appointed and qualified. Vacancies shall be filled in the manner provided for original appointments. Vacancies, occurring otherwise than by expiration of term of office, shall be filled in the same manner as original appointments for the unexpired terms.

3. Each member of the water board shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties and a per diem allowance of one hundred fifty dollars when rendering service as a member; provided that the aggregate of such per diem allowance to any one member in any one fiscal year of the board shall not exceed the sum of five thousand dollars.

4. Notwithstanding any inconsistent provision of law, general, special or local, or any city charter, no officer or employee of the city shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law, by reason of his acceptance of membership on the water board, provided, however, that a member of the board who holds other public office or employment shall receive no additional compensation for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of

such services.

5. The mayor may remove any member for inefficiency, neglect of duty or misconduct in office after giving such member a copy of the charges against such member and an opportunity to be heard and defended, in person or by counsel, upon not less than ten days' notice. If any member shall be so removed, the mayor shall file in the office of the clerk of the city a complete statement of charges against such member, and the mayor's findings thereon, together with a complete record of the proceedings.

6. Members of the water board, other than members holding other public office or employment, may engage in private employment, or in a profession or business, subject to the limitations contained in chapter eight section ninety-two of the Buffalo code of ordinances.

7. A majority of the members of the water board shall constitute a quorum for the transaction of any business or the exercise of any power of the board. The water board shall have power to act by the affirmative vote of not less than a majority of the members in office at any duly held meeting thereof. The water board may delegate to one or more of its members or its officers, agents and employees, such powers and duties as it may deem proper. Any member who is an officer of the city may, by written instrument, filed with and approved as to form by the board, designate another city officer to perform in his absence his duties under this title. The term "member" as used in this section shall include such persons so designated as provided herein. The designation of any such person shall be deemed temporary only and shall not affect the civil service or retirement rights of the person so designated.

8. The water board and its corporate existence shall continue so long as it shall have contractual duties or obligations outstanding and until its existence shall be terminated by law. Upon termination of the existence of the water board, all of the rights and assets of the water board then remaining shall pass to and vest in the city.

9. It is hereby determined and declared that the water board and the

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

§ 1048-g. General powers of the water board. Except as otherwise limited by this title, the water board shall have power:

1. To sue and be sued;

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

3. To make and amend by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and duties and the fulfillment of its purposes under this title;

4. To establish, fix, revise, charge and collect and enforce the payment of all fees, rates, rents and other service charges for the use of, or services furnished by the water system, so as to receive revenues which, together with other revenues available to the board, if any, shall be at least sufficient at all times so that such system or systems shall be placed on a self-sustaining basis in accordance with section one thousand forty-eight-j of this title;

5. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the water board to carry out any powers expressly given it in this title, provided nothing herein contained shall authorize the water board to borrow money or otherwise contract indebtedness;

6. To enter into agreements pursuant to sections one thousand forty-eight-h and one thousand forty-eight-i of this title with the authority and the city to provide a means whereby the authority shall finance the cost of constructing water projects, as described in the

agreement, and the water board may agree to assume title to the water system, and to raise revenues from users through fees, rates, rents or other service charges necessary or appropriate to secure such financing and to pay the cost of the operation, management and repair of such water system;

7. To acquire, purchase, lease as lessee, hold and use any property, real, personal or mixed, or any interest therein necessary or desirable to carry out the purposes of this title and, subject to any limitations in any agreement with the city entered into pursuant to section one thousand forty-eight-h of this title, to sell, lease as lessor, transfer or otherwise dispose of any such property or interest therein;

8. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law and rules of the civil service commission of the city and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

9. To acquire from the city title to the water system of such city;

10. To make plans, surveys and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the water board and to prepare recommendations in regard thereto;

11. To make use of existing studies, surveys, plans, data and other material in the possession of the city in order to avoid duplication of effort, and such city is hereby authorized to make the same available to the water board and otherwise to assist it in the performance of its functions;

12. With the consent of the common council of the city to use officers or employees of the city and to pay a proper portion of the compensation or costs for the services of such officers or employees;

13. To conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof to have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the water board shall fail or refuse to aid or assist the water board in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the water board is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

14. To apply for and to accept any gifts or grants of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any state agency, the city or from any other sources, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

15. To invest moneys not required for immediate use or disbursement, subject to such restrictions as may be imposed by any agreement with the authority, in such obligations or deposits with such banks or trust companies as it may determine and designate, provided that any such deposit with a bank or trust company shall be continuously and fully secured by direct obligations of the city, the state or the United States of America, or obligations the principal of and interest on which are guaranteed by the state or the United States of America, of a market value equal at all times to the amount of the deposit;

16. To establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by any agreement with the authority and the city; and

17. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1048-h. Transfer of water systems by the city to the water board. 1. The city may, acting by resolution of the common council of the city, enter into an agreement with the water board for the transfer to the water board, for use in the exercise of its corporate powers and purposes, of the water system of the city as the same then shall be owned by the city. Any such agreement may provide for the transfer of title of such system by deed, lease or other arrangement to the water board. To the extent not inconsistent with this title, any such agreement may impose such limitations or conditions as may be agreed upon by and between the city and water board with respect to the power of the water board to sell or otherwise dispose of any property acquired by the board pursuant to such agreement, and may provide for or authorize the water board to surrender to the city, property no longer required by the water board for its public purposes. Notwithstanding the provisions of any general, special or local law or charter to the contrary, any action taken by the city pursuant to this subdivision shall not be subject to a permissive or mandatory referendum.

2. Any such agreement shall set forth the liabilities of the city which it is contemplated are to be paid by the water board from moneys available to it; provided, however, that such agreement does not require the water board to assume the liabilities of the city; provided further, notwithstanding the foregoing, the city shall continue to be the record owner for real estate tax purposes of any facilities located outside of its municipal boundaries. Notwithstanding the provisions of any general, special or local law or charter to the contrary, any moneys received by the city in consideration for the transfer of such water system to the water board may be deposited in the general fund of the city and used for any lawful city purpose.

3. Any such agreement may provide for the payment by the city to the water board from any funds of the city, of such amount as may be determined appropriate for use by the water board.

4. The city and the water board are hereby authorized and empowered to make or enter into any contracts, agreements, deeds, leases, conveyances or other instruments as may be necessary or appropriate to effectuate the purposes of this title, and they shall have power and authority to do so and to authorize the doing of all things incidental, desirable or

necessary to implement the provisions of this title.

5. Notwithstanding the foregoing provisions of this section, no agreement contemplated by this section shall become effective for any purpose unless and until the same shall have been approved in writing by resolution of the authority.

6. Upon the filing by the water board with the clerk of the city and the secretary of state of a copy of the instruments or documents effectuating the transfer authorized by this section, the water board shall take possession of the water system of the city thereby transferred.

7. Any application filed or proceeding heretofore commenced in relation to the water system transferred to the water board pending with the state departments of environmental conservation or health or any other state agency or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the water board and be binding upon the water board to the same extent and in the same manner as if the water board had been a party to such application or proceeding from its inception, and the water board shall be deemed a party thereto to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the water board and shall be assigned and transferred by the city to the water board unless such assignment and transfer is prohibited by federal law.

8. The rules and regulations of the water board may provide for the discontinuance or disconnection of the supply of water by the city for non-payment of fees, rates, rents or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law. A copy of all

by-laws, rules and regulations and amendments thereto, duly certified by the secretary of the water board, shall be filed in the offices of the clerk of the city and the secretary of state within three months and thereafter published once in the official newspaper of the city. Violation of such rules and regulations shall subject the offending party to a civil penalty in an action brought by the water board, not exceeding one hundred dollars for each day the violation continues. Jurisdiction is hereby conferred upon the city court to hear and determine, subject to the provisions of the civil practice law and rules, any violation of such rules and regulations.

§ 1048-i. Agreement among the water board, the city and the authority for the provision of water projects. 1. The authority, the water board and the city, acting by resolution of the common council of the city, may enter into agreements for the purpose of providing for the construction and financing of a water project.

2. Any such agreements (i) shall describe in sufficient detail for reasonable identification the particular water project to be financed in whole or in part by the authority, (ii) shall describe the plan for the financing of the cost of the construction of such water project, including the amount, if any, to be provided by the water board and the source or sources thereof, (iii) shall set forth the method by which and by whom and the terms and conditions upon which moneys provided by the authority shall be disbursed, (iv) may require, in the discretion of the authority, the payment to the authority of the proceeds of any state and federal grants available to the water board, (v) shall provide for the establishment of user fees, rates, rents and other charges and the charging and collection thereof by the water board for the use of, or services furnished, rendered or made available by such system such as to provide that such board receive revenues at least sufficient, together with other revenues of the board, if any, to meet the requirements of subdivision one of section one thousand forty-eight-j of this title, provided that revenues received by such board shall be deposited in a special fund established pursuant to this title and disbursed to, and upon certification of, the authority, (vi) may provide for the transfer

by the city to the water board pursuant to section one thousand forty-eight-h of this title of ownership of the water system of which such project will form a part, (vii) shall provide for the construction and completion of such water project by the city and for the operation, maintenance and repair thereof as an integrated part of the system of which such water project forms a part, subject to such terms and conditions, not inconsistent with this title, which may be in the public interest and necessary or desirable properly and adequately to secure the holders of bonds of the authority, provided, however, all contracts for public work and all purchase contracts shall be awarded by the city as provided by law for the award of such contracts by the city and that all contracts for construction shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards and working hours. Except as otherwise provided in section two hundred twenty-two of the labor law, when the entire cost of constructing a building as part of any water project shall exceed five hundred thousand dollars, the city shall prepare separate specifications for the following three subdivisions of the work to be performed: (a) plumbing and gas fitting; (b) steam heating, hot water heating, ventilating and air conditioning apparatus; and (c) electric wiring and standard illuminating fixtures, (viii) shall provide for the discontinuance or disconnection of the supply of water for non-payment of fees, rates, rents or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law, and (ix) in the discretion of the authority, require reports concerning the project from the water board to the authority and the city.

2-a. Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: (a) plumbing and gas fitting, (b) steam heating, hot water heating, ventilating and air conditioning apparatus and (c) electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

3. If the city executes an agreement pursuant to this section, relating to the financing of water projects by revenue bonds, it shall have and shall be deemed to have annulled its power to levy user fees, rents and other charges on participating properties or customers for the cost of financing, operating and maintaining such water projects under its jurisdiction until all bonds of the authority shall have been paid or discharged in accordance with the agreement and the resolution of the authority authorizing such bonds. If the city has outstanding general obligation bonds issued for acquiring or constructing water facilities, whether the bonds are payable from revenues, special assessments, or taxes, it may authorize the authority pursuant to the agreement to issue its revenue bonds under this title for the purpose of retiring the outstanding bonds.

4. No such agreement shall be executed until the city and water board shall have held a public hearing at which users of the water system shall have had opportunity to be heard concerning the proposed provisions thereof. Notice of such hearing shall be published at least thirty days in advance in the state register, in the official newspaper or newspapers of the city, and in at least one newspaper of general circulation in each of the areas served by the water system.

5. Such agreement shall be effective upon the issuance by the authority of notes and bonds to finance the cost of constructing water projects of the city.

6. Any such agreement may be amended, revised or extended by supplemental agreements authorized and executed in the same manner as the original agreement, provided that any such supplemental agreement shall not be inconsistent with the provisions of this title.

7. (a) Following the execution of the agreement by and between the authority, the water board and the city pursuant to this section, the clerk of the city, shall publish a notice in substantially the following form: "Notice is hereby given that the city of Buffalo has on day of entered into an agreement with the Buffalo municipal water finance authority in relation to the construction and financing of (here insert a brief description of the water facility or facilities to which such agreement relates) pursuant to the Buffalo Municipal Water Finance Authority Act for the purpose of placing its water system on an independent basis, imposing fees and rents on water system users which, together with other revenues available for such purpose, if any, are sufficient to pay to the authority debt service on bonds issued by the authority pursuant to the agreement and for operation and maintenance of the facility (title to which is transferred to the water board pursuant to the agreement). Such agreement in general terms provides (here insert a brief summary of the substantive provisions of such agreement). A copy of the complete agreement is on file for public inspection in the office of the clerk of the city where the same may be examined by any interested person during regular business hours. The validity of this agreement may be hereafter contested only upon the ground or grounds that: (i) such agreement violates, or the performance of any provision thereof by any party thereto would violate, the provisions of any law or the state constitution, or (ii) the provisions of law which should have been complied with in relation to the authorization and execution were not substantially complied with, and in any event an action, suit or proceeding is commenced within sixty days after the date of this notice.

(Clerk or other official
designated by the common council
of the city of Buffalo)"

(b) The publication authorized by this subdivision shall be in the state register and in the official newspaper or newspapers of the city.

(c) After the expiration of the sixty day period set forth in such notice the validity of such agreement shall be conclusively presumed and the validity thereof shall not thereafter be questioned by either a party plaintiff or a party defendant and no court shall have jurisdiction in any action, suit or proceeding contesting such validity.

(d) Neither any error or omission in the notice of publication provided for in this subdivision shall affect or impair the validity of an agreement executed pursuant to this section so long as the notice substantially conforms to the provisions of this section.

§ 1048-j. Imposition and disposition of water fees, rates, rents or charges. 1. The water board shall establish, fix and revise, from time to time, fees, rates, rents or other charges for the use of, or services furnished, rendered or made available by, the water system owned by the water board pursuant to this title in such amount at least sufficient at all times so as to provide funds in an amount sufficient together with other revenues available to the board, if any, (i) to pay to the authority, in accordance with any agreement with the authority, an amount sufficient for the purpose of paying the principal of and the interest on the outstanding notes or bonds of the authority as the same shall become due and payable and maintaining or funding a capital or debt service reserve fund therefor and, to the extent requested by the city in, or annually pursuant to the agreement, to pay to the city, in accordance with the agreement, an amount sufficient for the purpose of paying the principal of and interest on general obligation bonds of the city issued for or allocable to the water system as the same shall become due and payable, and to maintain or fund reserves therefor, (ii) to pay to the city, in accordance with the agreement, an amount sufficient for the purpose of paying the costs of administering, maintaining, repairing and operating and the cost of constructing capital improvements to the water system, (iii) to pay to the city in accordance with the agreements entered into pursuant to sections one thousand forty-eight-h and one thousand forty-eight-i of this title an amount sufficient for the purpose of paying liabilities issued for or allocable to the water system as the same shall become due and payable, (iv) to meet any requirements of any agreement including requirements relating to the establishment of reserves for renewal and replacement and for uncollected charges and covenants respecting rates, (v) to pay all other reasonable and necessary expenses of the authority and the water board in relation thereto, and (vi) to the extent requested by the city in or pursuant to the agreement, to pay or provide for such other purposes or projects as such city considers appropriate and in the public interest. Any surplus of funds remaining after such payments have been made shall be returned to the city for deposit in the general fund.

2. There is hereby established in the custody of the water board a special fund to be known as the local water fund. Such fund shall consist of the revenues derived from the fees, rates, rents and service charges established, charged and collected pursuant to this title and any other income earned or moneys received by the water board. Revenues in the local water fund shall be kept separate and shall not be commingled with any other moneys in the custody of the water board. All moneys, properties and assets acquired by the water board, whether as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and reused in accordance with the purposes and provisions of this article.

The water board shall deposit promptly, to the credit of the local water fund, revenues collected under this article in a bank, banking house or trust company as may be designated in or pursuant to the agreement.

3. No such fee, rate, rent or other charge shall be established, fixed or revised unless and until the water board has held a public hearing at which the users of the water system, the owners of property served or to be served and others interested, have had an opportunity to be heard concerning the same. Notice of such public hearing shall be published by the water board at least twenty days before the date set therefor, in at

least one newspaper of general circulation in the areas served by the water system. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such hearing. A copy of the notice shall be filed in the office of the clerk of the city and shall be available for inspection by the public. At all such hearings, any users of the water system, owners of property served or to be served and any other interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision of the water board on matters considered at such public hearing shall be in writing and be made available in the office of the water board for public inspection during regular office hours. Such decision shall be published in at least one newspaper of general circulation in the areas served by the water system within thirty days after such decision is made. The fees, rates, rents or other charges so established for any class of users of property served shall be extended to cover any additional premises thereafter served which are within the same class, without the necessity of a hearing thereon.

4. The fees, rates, rents or other charges established, fixed and revised from time to time by the water board shall be collected by the water board at such times and in such manner as may be determined by the rules and regulations adopted by the water board consistent with the provisions of this title.

5. Such fees, rates, rents or other charges, if not paid when due, shall constitute a lien upon the premises served and a charge against the owners thereof, which lien and charge shall bear interest at the same rate as would unpaid taxes of the city. Such lien shall take precedence over all other liens or encumbrances, except taxes, and may be foreclosed against the lot or building served in the same manner as a lien for such taxes. The amount which remains due and unpaid for sixty days may, with interest thereon at the same rate as unpaid city taxes and with reasonable attorneys' fees, be recovered by the water board in a civil action in the name of the water board against such owners. The city, and any state agency shall be subject to the same fees, rates, rents or other charges under the same conditions as other users of such water system. Any agreement for the supply of water services between the

city or an agency thereof and any other municipality or water supply system, or any administrative determination by a state agency, or any other arrangement in this regard, in effect at the time the water board shall be established, shall remain in full force and effect and be binding upon the water board as if it were a party to such agreement, determination or other arrangement. All rights, powers, duties, obligations and functions provided by law with respect to the fixing of charges or rates for the supply of water services to users outside the city, including but not limited to those set forth in article eight of the environmental conservation law, shall be deemed to apply, as appropriate, to the water board established pursuant to this title. In addition to any other lawful enforcement methods and pursuant to rules and regulations of the water board promulgated pursuant to this title, the payment of fees, rates, rents or other charges for water service to any premises may be enforced by discontinuing the water service to such premises provided that such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a water-works corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law.

6. The water board shall pay to the authority such amounts at such times and in such manner as may be provided in the agreement by and among the authority, the water board and the city consistent with the priorities set forth in such agreement. There is hereby created a lien, by this title made a statutory lien within the meaning of the uniform commercial code and any other state or federal law, upon the gross revenues of the water board, in favor of the payment of all amounts due pursuant to such agreement and in the order and priority set forth therein and which lien shall be a first lien upon such gross revenues. The gross revenues so subject to such statutory lien shall be and remain subject to such statutory lien until the payment in full of each such item in accordance with such priority. Said statutory lien shall not be construed to give any holder or owner of any bond of the authority power to compel the sale of any water system.

7. If there be any default by the water board in the making of the

payments to the authority required under this section, as a result of the failure by the water board to impose sufficient fees, rates, rents or other charges, the authority may petition for the appointment by any court having jurisdiction in any proper action of a receiver to administer on behalf of the water board, under the direction of said court, the affairs of the water board in order to achieve system revenues at least sufficient to make such payments; and by and with the approval of said court, to establish, fix and revise, from time to time, fees, rates, rents or other charges at least sufficient therefor in conformity with this title, and the resolution or trust indenture of the authority providing for the issuance of its bonds and in accordance with such orders as the court shall make.

8. The water board shall prepare and transmit to the city on or before the first day of December in each year a list of those persons or property owners within such city who are in arrears in the payment of fees, rates, rents or other charges for a period of sixty days or more after the last day fixed for payment thereof without penalty. The list shall contain a brief description of the properties for which the services were provided, the names of the persons liable to pay for the same and the amounts chargeable to each, including penalties and interest computed to the next succeeding December thirty-first. The city shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of such city under the name of "delinquent water charges" as may be appropriate and as may be directed by the water board. Such amounts, as and when collected by the commissioner of administration and finance of the city, shall be paid over to the water board. All of the provisions of the tax laws of the state covering the enforcement and collection of unpaid taxes of the city shall apply to the collection of such unpaid fees, rates, rents or other charges.

9. Neither the public service commission, nor any city or state agency, shall have any jurisdiction over the water board or authority or any power over the regulation of the fees, rates, rents or other charges established, fixed or revised by the water board except as provided by law with respect to the supply of water services to users outside the

city.

§ 1048-k. Tax exemption of the water board property and activities. 1. It is hereby determined that the creation of a water board and the carrying out of its corporate purposes is in all respects for the benefit of the city and is a public purpose and the water board shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The water board shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Notwithstanding the provisions of subdivisions one and four of this section, any real property of the water board located outside the boundaries of the city, shall be exempt from the payment of taxes, special ad valorem levies and special assessments only if and to the extent that such real property would have been exempt if owned by the city.

3. Notwithstanding any provision in this section to the contrary, the water board may pay, or may enter into agreements with any municipality to pay, a sum or sums, annually or otherwise, or to provide other considerations to such municipality, with respect to real property of the water board located within such municipality and provided that any such payment or agreement to pay shall be subject to approval by the authority.

4. The water board shall not be required to pay any taxes or other governmental fees or charges, whether imposed by the state or any municipality, including without limitation franchise taxes, sales taxes or other excise taxes, or any other tax or charge upon its property or activities or upon any of its revenues or other income.

§ 1048-l. Pledge effective without filing or recording. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues or other personal property made or created by the authority, the water board or the city pursuant to this title shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority, the water board or the city, as the case may be, irrespective of whether or not such parties have notice thereof. No instrument by which such pledge or security interest is created nor any financing statement need be recorded or filed.

§ 1048-m. Governmental capacity of the authority, the water board and the city. The authority, the water board and the city in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1048-n. Transfer of officers and employees to and from city and state agencies. Officers and employees of city and state agencies may be transferred to the authority and officers and employees of the authority may be transferred to appropriate city and state agencies without examination and without loss of any civil service or retirement status or rights. Transfers shall be in accordance with section seventy of the civil service law or the rules of the civil service commission of the city, as the case may be. No such transfer shall be made except with the approval of the head of the agency involved or the director of the state division of the budget or the director of the budget of the city, as the case may be, and the chairman of the authority and in compliance with the rules and regulations of the civil service commission of the city or the state, as the case may be.

§ 1048-o. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any water project or water projects, or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority shall be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the city, and the authority, the water board and the city, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or non-governmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the authority, or on any municipal obligations of governmental units purchased or held by the authority; and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the authority.

3. Whenever the authority shall determine that the issuance of its bonds is appropriate, the comptroller shall make a recommendation as to the arrangements necessary for the issuance and sale of such bonds including the underwriting of such bonds through negotiated agreement or public letting or the private sale of such bonds and such recommendation shall include compensation for services rendered as he deems appropriate. The comptroller shall recommend to the authority the price or prices, interest rate or rates, maturities and other terms and conditions for the issuance of the bonds, except that bonds and any

renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Following such recommendation, bonds shall be authorized by bond resolution of the authority which shall set forth the arrangements for the issuance of the bonds, the price or prices, the interest rate or rates, maturities, terms of redemption, form and other terms of the bonds. Such bond resolution and the minutes of the authority related thereto shall be transmitted to the comptroller for his approval or disapproval thereof. Approval of such bond resolution shall be indicated by the execution of the bond resolution by the comptroller whereupon such bond resolution shall come into full force and effect in accordance with its terms.

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

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

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

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

(d) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

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

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

(g) the creation of special funds into which any revenues or other moneys may be deposited;

(h) the terms and provisions of any trust, deed or indenture securing the bonds under which the bonds may be issued;

(i) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand forty-eight-p of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(k) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(l) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(m) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the directors of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (i) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date, or (ii) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption, plus accrued interest to the next interest payment date.

§ 1048-p. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (i) of subdivision four of section one thousand forty-eight-o of this title:

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

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their

rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of Erie.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§ 1048-q. State, city and water board not liable on authority bonds. Neither the state, nor the city, nor the water board nor any subdivision thereof shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the city or such water board.

§ 1048-r. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the chairman of the authority or of such other officer or officers as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States, or of the state or of the city of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1048-s. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 1048-t. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority or the water board to fulfill the terms of any agreement made with or for the benefit of the holders of bonds, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1048-u. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city and of the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The authority shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Notwithstanding any provision in this section to the contrary, the authority may pay, or may enter into agreements with any municipality to pay, a sum or sums, annually or otherwise, or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom shall be free from such taxation, as aforestated herein, and that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxes as aforestated herein.

§ 1048-v. Actions against authority and water board. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority or the water board for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or the board or of any member, officer, agent or employee thereof, unless (i) a notice of claim shall have been made and served upon the authority or the water board, as the case may be, within the time limit by and in compliance with section fifty-e of the general municipal law, (ii) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (iii) the action or proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority or water board for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the authority or the water board upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall not exceed the rate of interest on judgments and accrued claims against municipal corporations as provided in the general municipal law from time to time. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 1048-w. Interest in contracts prohibited. It shall be a misdemeanor for any member or any officer, agent, servant or employee of the authority or of the water board to be in any way or manner interested, directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority or the board, as the case may be, is empowered by this title to make.

§ 1048-x. Authority, water board and city to take affirmative action. 1. Each contracting agency which awards contracts for design, construction, services or materials for water projects authorized by this title shall require that such contracts and documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue programs of affirmative action to insure that minority group persons and women are afforded equal employment opportunity without discrimination. Such action shall be taken with reference, but not be limited to recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) At the request of the contracting agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which he has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, in performance of the contract that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of paragraphs (a) through (c) of this subdivision in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its working connection with a contract.

2. Each contracting agency shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action as required by this section. Such procedures may require, after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. Such procedures and guidelines shall be consistent with the guidelines promulgated by the office of federal contract compliance programs of the United States department of labor pursuant to presidential executive order eleven thousand two hundred forty-six, as amended, and any state statutory or regulatory requirements. A contracting agency shall, in the promulgation of procedures and guidelines pursuant to this section, cooperate with any federal, state or local agency established for the purpose of implementing affirmative action compliance programs.

3. Any contracting agency empowered to award contracts for design, construction, services or materials shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, American Indian or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to

limit the ability of any minority business enterprise to bid on any contract.

4. In the implementation of subdivisions two and three of this section, the contracting agency shall consider compliance by any contractor with the requirements of any federal, state or local law concerning minority business enterprises or equal employment opportunity, which may effectuate the requirements of this section. If the contracting agency determines that by virtue of the imposition of the requirements of any such law, in respect to contracts affected by this section, that the provisions thereof duplicate or conflict with such law, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. In order to implement the requirements and objectives of this section, contracting agencies shall be responsible for monitoring the contractors' compliance with the provisions hereof, for advising contractors on the availability of competing qualified minority business enterprises to perform contracts proposed to be awarded and for making recommendations to contractors to improve the access of minority business enterprises to such contracts.

§ 1048-y. Audit and annual report. The accounts of the authority and the water board shall be subject to the supervision of the city comptroller. The authority and the water board shall annually submit to the mayor, the comptroller and the director of the budget of the city a detailed report. In addition an annual audit of the authority shall be conducted by an independent certified public accountant. Such audited report shall be submitted to the mayor, the comptroller and the director of the budget of the city.

§ 1048-z. Limited liability. Neither the members of the authority nor of the water board, nor any officer or employee of the authority nor the water board acting in behalf thereof, while acting within the scope of his authority, shall be subject to any liability resulting from (i) the construction, ownership, maintenance or operation of any project financed with the assistance of the authority, (ii) the construction, ownership, maintenance or operation of any water system or facility owned by the water board, or (iii) carrying out any of the powers expressly given in this title. A director, officer or employee of the authority shall be deemed an "employee" for the purposes of chapter three of section seventy-nine of the Buffalo city ordinances, provided however that any director, either appointed by the governor or an employee of the state shall be deemed an "employee" for the purposes of section eighteen of the public officers law for any action relating to their activities as a director of the authority created by this title.

§ 1048-aa. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1048-bb. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local or of the city charter or any local law, ordinance or resolution of the city, the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the state department of environmental conservation or the state department of health.

§ 1049. Buffalo water board. For the benefit of the city of Buffalo and the inhabitants thereof, a water board, to be known as the BUFFALO WATER BOARD, is hereby established for the accomplishment of any or all of the purposes specified in title two-B of article five of this chapter. It shall have the powers and duties now or hereafter conferred by title two-B of article five of this chapter upon a water board. It shall be organized in a manner prescribed by and be subject to the provisions of title two-B of article five of this chapter. The board, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title two-B of article five of this chapter.

TITLE 3

ERIE COUNTY WATER AUTHORITY

§ 1050. Short title. This title may be cited as the "Erie County Water Authority Act."

§ 1051. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "district" shall mean the Erie county water authority district created by section one thousand fifty-two of this title;

2. The term "authority" shall mean the corporation created by section one thousand fifty-three of this title;

3. The term "county" shall mean the county of Erie;

4. The term "treasurer" shall mean the treasurer of the authority;

5. The term "comptroller" shall mean the comptroller of the state of New York;

6. The term "personnel officer" shall mean the personnel officer of the county of Erie;

7. The term "properties" shall mean the water supply and distribution system or systems of the authority, including the plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property, real, personal or mixed, incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated within the county of Erie and any source of supply or water supply system or any part thereof, situated without the county

of Erie;

8. The term "bonds" shall mean the bonds, notes and obligations, issued by the authority, pursuant to this act;

9. The term "revenues" shall mean all rents, charges and other income derived from the operation of the properties of the authority;

10. The term "municipality" shall mean a city, town, or village.

§ 1052. Erie county water authority district. There is hereby created a district to be known as the "Erie county water authority district" which shall embrace so much of the territory included within the territorial limits of the county of Erie, as may be outside the territorial limits of the city of Buffalo, except the township of Tonawanda, including the village of Kenmore, in the state of New York.

§ 1053. Erie county water authority. 1. A corporation known as "Erie county water authority" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall consist of three members, all of whom shall be residents of the county. Not more than two members of the said authority in office at any time shall belong to the same political party. The appointment, pursuant to the provisions of chapter eight hundred forty-five of the laws of nineteen hundred forty-nine, of the first members, Richard F. Ball, Jerome D. Van De Water, and John Horner, for the terms, respectively, of one year, two years and three years from the twenty-seventh day of April, nineteen hundred forty-nine, is hereby ratified and confirmed. Any subsequent appointment shall be made for a term of three years and shall be made by the chairman of the board of supervisors of the county of Erie, pursuant to nominations in writing by the majority, respectively, of the supervisors of each political party represented on such board of supervisors, subject to confirmation by a majority of such board of supervisors. All members shall continue to hold office until their successors are appointed and qualify. The appointment of the first chairman, John Horner, pursuant to the provisions of chapter eight hundred forty-five of the laws of nineteen hundred forty-nine, for a term of one year from the twenty-seventh day of April, nineteen hundred forty-nine, is hereby ratified and confirmed. Subsequent chairmen shall be elected annually by the members of the authority. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointments by the board of supervisors for the unexpired terms. Members of the authority may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive such compensation for their services as shall be fixed by the board of supervisors and be reimbursed for all expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the members at a meeting duly called and held and two members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least two members. The authority may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The authority and its corporate existence shall continue for a period of twelve years from the twenty-seventh day of April, nineteen hundred forty-nine, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged and thereupon all rights and properties of the authority shall pass to and be vested in the county of Erie.

3. The officers of the authority shall consist of a chairman, a vice-chairman and a treasurer who shall be members of the authority, and a secretary, who need not be a member of the authority. The vice-chairman, treasurer and secretary shall be appointed by the authority and shall serve at the pleasure of the authority. The authority may appoint an attorney and an engineer and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law of the

state of New York and such rules as the personnel officer of the county of Erie may adopt and make applicable to such authority. The authority may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the authority and the premium therefor shall be paid by the authority.

4. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the county of Erie and the state of New York, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

5. Upon the creation of the authority and thereafter, the board of supervisors may, by resolution, from time to time appropriate sums of money to defray the preliminary expenses of the authority incurred in the exercise of the powers conferred upon it by this title and shall include among other costs, the costs incurred by the authority for administrative, engineering, accounting and legal services. Upon the issuance of bonds for any of the purposes authorized by this title the authority shall repay to the county of Erie that portion of the moneys appropriated by the county and expended by the authority in connection with and attributed to the purpose or purposes for which the bonds were issued. Any such allocation shall be subject to the approval of the comptroller of the county of Erie.

§ 1054. Powers of the authority. The authority shall have power:

1. To sue and be sued;

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

3. To acquire, in the name of the authority, lease, hold and dispose

of personal property or any interest therein for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the exercise of the power of condemnation hereinafter granted;

4. To purchase, in the name of the authority, any water supply system, water distribution system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property, real, personal or mixed, incidental to and included in such system or part thereof, and any improvements, extensions, and betterments, situated within the county of Erie, provided however that the authority shall have the power to purchase any source of supply, or water supply system or any part thereof situated without the county of Erie; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform convenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, it shall be lawful to dissolve such corporation;

5. To condemn, in the name of the authority, any water supply system, water distribution system, including plants, works, instrumentalities, or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property, real, personal or mixed, incidental to and included in any such source of supply or any

such system or parts thereof, and any improvements, extensions and betterments, situated within the county of Erie, and to condemn any necessary source of supply or water supply system, or any parts thereof, situated without the county of Erie. The authority shall exercise the power of condemnation hereby granted in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the county of Erie. Upon the taking of the constitutional oath of office by the commissioners of appraisal and the filing of such oaths, title to the properties described in the condemnation proceedings shall become and be vested in the authority as hereinafter provided in this title and such authority shall be entitled to enter into possession of the property condemned and to operate the same for its corporate purposes. Upon the vesting of title in the authority, any person entitled to a final award shall have and retain a lien upon such property to secure the payment of such compensation with interest, as shall be directed to be paid by the final order in the condemnation proceeding. The lien shall be discharged and satisfied by payment of the compensation, with interest directed to be paid by the final order, less any sums, with interest paid in advance of the determination of the final award in condemnation as hereinafter provided. In the exercise of such power of condemnation, the property being condemned shall be deemed, when so determined by the authority, to be for a public use superior to the public use in the hands of any other person, association, or corporation, provided, however, that the authority shall have no power to condemn property the legal title to which is vested in a municipal corporation or political subdivision of the state unless such municipal corporation or political subdivision shall consent thereto;

6. To construct and develop any water supply system, water distribution system, including plants, works, instrumentalities, or parts thereof, and appurtenances thereto, dams, reservoirs, water mains, pipe lines, pumping stations and equipment, or any other property incidental to or included in such system or part thereof, and to acquire, by condemnation in the manner provided by this title, or by purchase, lands, easements, rights in land, and water rights and rights-of-way in connection therewith; and to own and operate, maintain,

repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its properties acquired hereunder, all of which, together with the acquisition of such properties are hereby declared to be public purposes;

6-a. To do all things necessary to construct and maintain water transmission and distribution mains and appurtenances thereto to provide wholesale or retail supplies of water to the town of Hanover, village of Silver Creek, and the Seneca Nation of Indians, Cattaraugus reservation upon the adoption of a resolution of the governing body of any such municipality or Indian tribe requesting that the authority sell water to their municipality or tribe and the adoption of a consenting resolution by the governing body of the water utility serving such municipality or tribe should such a water utility then exist;

7. To sell, lease, convey, or otherwise dispose of any distribution system or improvements thereto which the authority may acquire or construct to any municipal corporation or town water district or to the county;

8. To produce, develop, distribute and sell water, water services, facilities and commodities within or without the territorial limits of the district; and to purchase water from any municipal corporation, town water district, person, association or corporation; provided, however, that water may be sold at retail to individual consumers only within the county of Erie and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality or special improvement district unless the governing board of such municipality or district shall adopt a resolution requesting the authority to sell water in such served area;

9. To acquire, hold, use, lease, mortgage, sell, transfer and dispose of any property, real, personal or mixed, or interest therein, for its corporate purposes;

10. To make by-laws for the management and regulation of its affairs,

and subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. Such rules may provide for the discontinuance or disconnection of the supply of water for non payment of water rents, rates or charges. The authority shall not discontinue or disconnect the supply of water except in the manner and upon such notice as is required of a water-works corporation pursuant to subdivision three-a of section eighty-nine-b of the public service law. A copy of such rules and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of the county and thereafter published once in two newspapers having a general circulation in the county. Violation of such rules shall be a misdemeanor punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both. Exclusive jurisdiction is hereby conferred upon the local criminal courts of the county, outside the city of Buffalo, which have trial jurisdiction, to hear and determine, subject to the provisions of the criminal procedure law, any violation of this title;

11. With the consent of the county to use the officers, employees, facilities and equipment of the county, paying a proper portion of the compensation or cost;

12. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

13. To enter on any lands, waterways and premises for the purpose of making surveys, soundings and examinations;

14. To borrow money and to issue negotiable bonds, notes or other obligations and to fund or refund the same, and to provide for the rights of the holders of its obligations;

15. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the

authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for depreciation, maintenance, and contingencies and all other obligations and indebtedness of the authority;

16. To enter into cooperative agreements with other water authorities, municipalities, counties, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the inter-connection of facilities, the exchange or interchange of services and commodities or for any other lawful purposes necessary or desirable to effect the purposes of this title;

17. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the county, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

18. To do all things necessary or convenient to carry out the powers expressly given in this title.

19. To facilitate the determination of the economic practicability of any step contemplated by the authority or of any other fact or matter which the authority is now or may hereafter be authorized and empowered to decide or determine the authority may and in the case of any project involving an expenditure in excess of five hundred thousand dollars must conduct investigations, inquiries or hearings at such place or places as it shall appoint. Such investigations, inquiries or hearings may be held by or before one or more of any officers of the authority or by or before any person or persons appointed as its representative, and when ratified, approved or confirmed by the authority its action shall be and be determined to be the investigation, inquiry or hearing of the authority.

For the purpose of any such investigation, inquiry or hearing and for the purpose of such other action or powers as the authority may be authorized or empowered to take or exercise, it shall have jurisdiction of any and all persons, associations or corporations residing in or acting under and by virtue of the laws of or owning property within the state of New York and shall have the power to compel the attendance of witnesses and the production of any papers, books or other documents, and to administer oaths to all witnesses who may be called before it.

20. Upon the adoption of a resolution by the authority that it intends to acquire or to commence negotiations for the purpose of acquiring the property or any part thereof, of a public utility corporation, said public utility corporation shall give to the authority and its authorized representatives access to its books, records and accounts, or such portion thereof, as are descriptive of the property proposed to be acquired.

21. At any time after the entry of a judgment as provided in the condemnation law, the authority may make application to the court for an order directing that title to the property described in the proceeding shall vest in the authority in advance of the determination and payment of the final award in condemnation. Upon such application the court shall hear the proofs of the parties to the proceeding respecting the readiness and ability of the authority to pay to the person entitled such compensation with interest as the final order in the proceeding may direct to be paid. If the court shall be satisfied that the authority will be ready and able to pay said compensation with interest when ascertained, and that the person entitled thereto by such proofs and the provisions of this title, is reasonably assured of such payment, the court shall make an order vesting title to the property described in the authority, upon the taking and filing of the oath of office by the commissioners of appraisal, or at any stage of the proceeding thereafter.

Upon the entry of said order with proof of service upon the parties to the proceeding, the authority shall be entitled to enter into possession of the property and to operate the same for its corporate purposes. Such order shall be enforced to obtain delivery of possession of the property in the manner provided for in section seventeen of the condemnation law.

22. Upon the vesting of title in the authority of the property described in a condemnation proceeding, or at any time thereafter the authority on notice to the parties to the proceeding may pay to any party or person entitled to an award for the property acquired, in advance of the determination of the final award, a sum of money to be determined by the authority. Such payment shall be made to the parties as their interests shall be determined by the court.

If the authority shall decide to make a partial payment in advance to any party or person entitled to an award, the interest on any sum so decided to be paid in advance shall cease to run on and after a date five days after such party or person shall have been notified by mail or otherwise that the authority is ready to pay the same.

When any such payment in advance shall have been made, the authority upon paying the final award for the property acquired, shall deduct from the total amount allowed as compensation, any sum advanced plus interest thereon from the date of the payment of such advance to the date of the final award in the proceeding.

23. To enter into a contract or contracts with the board of supervisors of Erie county for the acquisition, construction and development of a water supply and distribution system, or any part or parts thereof, on behalf of a county water district, and to contract for the operation and management of such county water district, all as provided in article five-a of the county law and article five-b of the general municipal law. Such water authority shall be deemed the agent of Erie county under any such contract. If such contract shall authorize the water authority to purchase supplies or equipment or to construct public works, such authority shall be subject to all provisions of law to which Erie county would be subject in relation to advertising and awarding any such contracts for supplies, equipment or public works.

§ 1054-a. Deposit required where temporary possession is granted in condemnation proceeding. Whenever the authority, in any condemnation proceeding for the acquisition of any property, shall make application for temporary possession pursuant to the provisions of section twenty-four of the condemnation law, the sum to be fixed by the court for deposit, as a condition of granting such application, shall not exceed ten per centum of the assessed valuation of the real property sought to be acquired in such proceedings as such assessed valuation appears upon the last assessment rolls for county taxes prior to the commencement of such proceeding.

§ 1055. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state of New York designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer on requisition by the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York or of the county of a market value equal at all times to the amount of deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives, and the comptroller of the county of Erie, if he so elect, are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, security, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

§ 1056. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any of its corporate purposes, including incidental expenses in connection therewith, and to secure the payment of the same by lien of the pledge of the revenues. The authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Except as may be otherwise expressly provided by the authority, every issue of bonds by the authority shall be general obligations payable out of any moneys, earnings or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys, earnings or revenues.

2. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates per annum payable at such times, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. Such bonds of the authority may be sold at public or private sale for such price or prices as the authority shall determine provided, however, that any private sale shall be subject to the approval of the state comptroller. The foregoing provisions shall be applicable to bonds issued by the authority notwithstanding the provisions of any other general, special or local law to the contrary.

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

(a) pledging all or any part of the moneys, earnings, income and revenues derived from all or any part of the properties of the authority to secure the payment of the bonds or of any issue of the bonds subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

(d) limitations on the right of the authority to restrict and regulate the use of the properties in connection with which such bonds are issued;

(e) limitations in the purposes to which the proceeds of sale of any issue of bonds may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

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

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

(h) the creation of special funds into which any earnings or revenues of the authority may be deposited;

(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand sixty-six hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) limitations on the power of the authority to sell or otherwise dispose of its properties;

(l) any other matters, of like or different character which in any way affect the security or protection of the bonds;

(m) limitations on the amount of moneys derived from the properties to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds and revenues of the properties to a trustee or other depositary, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine.

4. It is the intention of the legislature that any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority shall cancel such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture (instead of a resolution) by and between the authority and a corporate trustee, which may be any trust company or bank having

the powers of a trust company in the state of New York. Such trust indenture may contain any of the provisions which a resolution authorizing bonds may contain.

Notwithstanding any other provisions of this title, any resolution or resolutions authorizing bonds or notes of the authority shall contain a covenant by the authority that it will at all times maintain rates, fees, rentals and other charges sufficient to pay, and that any contracts entered into by the authority for the sale or distribution of water shall contain rates, fees, rentals or other charges sufficient to pay, the cost of operation and maintenance of the properties, the principal of and interest on any obligations issued pursuant to such resolution or resolutions as the same severally become due and payable, and to maintain any reserves or other funds required by the terms of such resolution or resolutions.

§ 1057. Notes of the authority. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold, at public or private sale for such price or prices and shall bear interest at such rate or rates per annum as the authority shall determine provided, however, that any private sale shall be subject to the approval of the state comptroller. The foregoing provisions shall be applicable to notes issued by the authority notwithstanding the provisions of any other general, special or local law to the contrary. Such notes shall be as fully negotiable as the bonds of the authority.

The maturity of notes issued by the authority for payments to any party or person entitled to an award in condemnation in advance of the determination of the final award, may be extended beyond five years and until such time as the final award is ascertained and paid.

§ 1058. Duty of authority to maintain and operate. It shall be the duty of the authority, subject to any limitation on the amount of revenues to be expended for such purpose, to maintain and operate and where necessary to reconstruct its properties.

§ 1059. Transfer of officers and employees. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board or department by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority. But notwithstanding the provisions of this act, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund, system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers or employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the personnel officer of the county of Erie shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. It is hereby declared that in the interest of efficiency and insofar as may be practicable, all employees engaged in the operation of any property or properties, except in an executive capacity, at the time such property or properties shall have been acquired by the authority, pursuant to the provisions of this act, shall become the employees of the authority. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law (constituting chapter seven of the consolidated laws) and such rules as the personnel officer of the county of Erie may adopt and make applicable to such authority.

§ 1060. Agreements of the state. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, operate, reconstruct and improve the properties, to establish and collect the revenues, rates, rentals, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

§ 1061. State, county and municipalities not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the county or of any municipality in the county, and neither the state nor the county nor any municipality in the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1062. Bonds legal investments for fiduciaries. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1063. Exemption from taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county of Erie and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom shall be exempt from taxation, except for transfer and estate taxes. The revenues, monies and other properties and the activities of the authority shall be exempt from taxes and governmental fees or charges, whether imposed by the state or any municipality, including real estate taxes, franchise taxes or other excise taxes.

§ 1064. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

§ 1065. Control by other boards or commissions. No certificate of convenience and necessity, license, consent or other authorization shall be required to be obtained by the authority or by a water-works corporation from any board, commission or other agency of the state in order that the authority may acquire, lease, own and operate, maintain, improve, extend or enlarge any property or properties referred to in this title, or that any water-works corporation may sell, transfer, or lease its franchise, works or system, or any part thereof to the authority, except that nothing in this section contained shall be construed to deprive the state water power and control commission of any jurisdiction which that commission may now or hereafter have pursuant to the provisions of the conservation law (constituting chapter sixty-five of the consolidated laws), or of any jurisdiction which the state commissioner of health may now or hereafter have pursuant to the provisions of article five of the public health law (constituting chapter forty-five of the consolidated laws). Neither the state public service commission nor any other board or commission of like character shall, unless expressly authorized hereafter, have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of the rates fixed or charges collected by the authority.

§ 1066. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Erie and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues, rates, rentals, fees and other charges adequate to carry out any agreement as to, or pledge of such revenues, rates, rentals, fees and other charges and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders.

4. Before declaring the principal of all such bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee whether or not the issue of bonds represented by

such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the properties and subject to any pledge or agreement with bondholders shall take possession of all moneys and other property derived from such part or parts of the properties and proceed with any construction thereon or the acquisition of any property, real or personal in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1067. Actions. 1. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee, agent or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

2. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1068. Officers and employees not to be interested in transactions. It shall be a misdemeanor for any of the members of the authority, or any officer, agent, servant or employee thereof, employed or appointed by them to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this act to make.

§ 1069. Contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority or to contract with a public utility, for a term not to exceed five years, for the operation and maintenance of a water supply system acquired from said public utility.

§ 1070. Annual report. The authority shall submit to the board of supervisors of the county, and to the comptroller, within the first month of each fiscal year, a detailed report setting forth the operations and fiscal transactions of the authority during the preceding fiscal year, the financial condition of such authority and a statement of all receipts and expenditures during such year.

§ 1071. Limitation of liability. Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance or operation of the properties or any of the improvements or from carrying out any of the powers expressly given in this title.

§ 1072. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law, the provisions of this title shall be controlling.

§ 1073. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be held unconstitutional, or be ineffective in whole or in part, to the extent that it is not unconstitutional, or ineffective, it shall be valid and effective and no other section, clause or provision shall, on account thereof, be deemed invalid or ineffective.

TITLE 4

SUFFOLK COUNTY WATER AUTHORITY

§ 1074. Short title. This title may be cited as the "Suffolk County Water Authority Act."

§ 1075. Statement of purpose. Prior to the enactment of section five of article ten of the constitution (effective on January first, nineteen hundred thirty-nine) public benefit corporations could be created pursuant to general law and chapter eight hundred forty-seven of the laws of nineteen hundred thirty-four, as amended, authorized the creation of county water authorities. On the twenty-ninth day of March, nineteen hundred thirty-seven, the board of supervisors of Suffolk county pursuant to such chapter created the Suffolk county water authority, which since such date has been in continuous existence as a body corporate and politic, constituting a public benefit corporation. Thereafter the provisions of such chapter were reenacted and continued as article seven of the county law by chapter one hundred ninety-five of the laws of nineteen hundred forty. The Suffolk county water authority is the only county water authority created pursuant to such chapter eight hundred forty-seven of the laws of nineteen hundred thirty-four, as amended, or pursuant to such article seven of the county law. Since the enactment of section five of article ten of the constitution public benefit corporations may be created only by special act of the legislature and, to the extent that the provisions of article seven of the county law purport to authorize the creation of county water authorities pursuant to its provisions subsequent to January first, nineteen hundred thirty-nine, such provisions of the county law are obsolete. The purpose of this title is to continue the existence of the Suffolk county water authority, to place the statutory provisions of law applicable thereto in the public authorities law where they appropriately belong, to provide for the powers and duties of the authority, and to repeal the provisions of present article seven of the county law.

§ 1076. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "authority" shall mean the corporation heretofore created pursuant to the provisions of chapter eight hundred forty-seven of the laws of nineteen hundred thirty-four and thereafter continued pursuant to the provisions of article seven of the county law, and whose existence is continued by section one thousand seventy-seven of this title;

2. The term "municipality" shall mean any county, city, town, village, town water district, fire district, fire protection district, fire alarm district, school district, and any other political subdivision of the state;

3. The term "bonds" shall mean the bonds issued by the authority, pursuant to this title.

4. The designation board of supervisors shall mean the legislative body of the county of Suffolk.

§ 1077. Suffolk county water authority. 1. The corporate existence of the Suffolk county water authority, heretofore created pursuant to the provisions of chapter eight hundred forty-seven of the laws of nineteen hundred thirty-four and thereafter continued pursuant to the provisions of article seven of the county law, is hereby continued for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic, constituting a public benefit corporation. It shall consist of five members all of whom shall be residents of the county of Suffolk. The present members of the authority shall continue in office until the expiration of their several terms of office and the board of supervisors shall appoint two additional members whose terms of office shall in the first instance be fixed by such board of supervisors in such manner and for such periods of time that the office of one member of the authority shall expire each year. Their successors shall be appointed one member annually by the county board of supervisors for a term of five years. Vacancies in the membership of such authority, other than by expiration of term, shall be filled by the board of supervisors by appointment for the unexpired term. The chairman in office at the effective date of this title shall continue in such office until the expiration of his term of office. Thereafter the chairman of such authority shall be appointed by the county board of supervisors. The members of such authority shall receive such compensation for their services as shall be fixed by the board of supervisors and shall be reimbursed for all necessary and actual expenses incurred in connection with their duties as such members and in connection with the carrying out of the purposes of this title. The power of such authority shall be vested in and exercised by a majority of the members of the authority then in office. Said authority may delegate to one or more of its members, or its agents, or employees, such powers and duties as it may deem proper. The corporate existence of such authority shall continue until its liabilities have been met and its bonds have been paid in full. Upon ceasing to exist, all its rights and property shall pass to the county of Suffolk.

2. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority.

3. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the county of Suffolk and the state of New

York, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 1078. Powers. The powers and duties of the authority shall be as follows:

1. To sue and be sued.

2. To have a seal and alter the same.

3. To acquire, in the name of the authority, lease, hold and dispose of property or any interest therein for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the exercise of the power of condemnation hereinafter granted.

4. (a) To purchase, in the name of the authority, any water supply system, water distribution system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the county for the purpose of supplying water for domestic, commercial and public purposes at retail to individual consumers within the county of Suffolk or at wholesale in the manner provided by subdivision seven of this section as a means of so acquiring for such purposes, and subject to the approval of the public service commission, the authority may purchase all of the stock of any existing privately owned water corporation or company, and thereafter, within a reasonable time, such water corporation or company shall be dissolved.

(b) To condemn in the name of the authority, except where located in another county, any water supply system, water distribution system, including plants, works, instrumentalities, or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments for the purpose of supplying water for domestic, commercial and public purposes at retail to individual consumers within the county of Suffolk or at wholesale in the manner provided by subdivision seven of this section. The authority shall exercise the power of condemnation hereby granted in the manner provided either by the condemnation law or by the Suffolk county improvement act. In the exercise of such power of condemnation, the property being condemned shall be deemed, when so determined by the authority, to be for a public use superior to the public use in the hands of any other person, association, or corporation, provided, however, that the authority shall have no power to condemn property the legal title to which is vested in a municipality unless such municipality shall consent thereto.

(c) To construct, develop and operate any water supply system, water distribution system, including plants, works, instrumentalities, or parts thereof, and appurtenances thereto, dams, reservoirs, water mains, pipe lines, pumping stations and equipment, or any other property incidental to or included in such system or part thereof within the county of Suffolk, and to acquire, by condemnation in the manner provided by this title, or by purchase, lands, easements, rights in land and water rights and rights-of-way in connection therewith within such county; and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its properties acquired or constructed under this title, all of which, together with the acquisition of such properties are hereby declared to be public purposes.

(d) To acquire, hold, use, lease, sell, transfer and dispose of any property, real, personal or mixed, or interest therein, for its corporate purposes.

5. To purchase water in bulk from any person, private corporation or municipality when necessary or convenient for the operation of such

water supply and distribution system. To sell water in bulk to any not-for-profit corporation, public corporation, private corporation or person at its regular retail rates.

6. To fix, alter, charge and collect rates and other charges for the use of water by the inhabitants of the county or other consumers thereof, at reasonable rates to be determined by the authority for the purpose of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance and operation of the water supply and distribution system of the authority, the payment of the principal of and interest on the obligations of the authority, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations.

7. To sell water by volume to any or all municipalities or privately owned public water supply and distribution systems in such county. The fact that any municipality has procured or is about to procure an independent source of water supply shall not prevent such municipality from purchasing water from the authority. Subject to the approval of the board of supervisors of Suffolk county to sell any water not needed in such county to any municipality or privately owned public water supply and distribution system outside of the county in which created. Not only may the authority sell any surplus water it may have developed, but it may, with the consent of such board of supervisors, develop and provide a sufficient amount of water so as to supply water outside of the county to any municipality or privately owned public water supply and distribution system.

8. To make contracts and execute all instruments necessary or convenient.

9. To make by-laws for the management and regulation of its affairs and the regulation of and the charges made for water sold.

10. To appoint officers, agents and employees.

11. To enter upon any lands, waters and premises for the purpose of

making surveys, soundings, drillings and examinations.

12. To enter into cooperative agreements with other water authorities, municipalities, or utility companies, for the interconnection of facilities, the exchange or inter-change of services and commodities or for any other lawful purposes necessary or desirable to effect the purposes of this title, provided, however, that any such agreement with a municipality located in a county, other than Suffolk county, shall be subject to the approval of the board of supervisors of such county, if any.

12-a. To enter into a contract or contracts with the board of supervisors of Suffolk county for the acquisition, construction and development of a water supply and distribution system, or any part or parts thereof, on behalf of a county water district, and to contract for the operation and management of such county water district, all as provided in article five-a of the county law and article five-b of the general municipal law. Such water authority shall be deemed the agent of Suffolk county under any such contract. If such contract shall authorize the water authority to purchase supplies or equipment or to construct public works, such authority shall be subject to all provisions of law to which Suffolk county would be subject in relation to advertising and awarding any such contracts for supplies, equipment or public works.

13. To do all things necessary or convenient to carry out the powers expressly given or necessarily implied in this title.

In exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality unless the governing board of such municipality shall adopt a resolution requesting the authority to sell water in such area.

Notwithstanding any other provision of law, the authority may not approve by resolution or otherwise make a final determination regarding a construction project for any new structure which exceeds thirty feet in height unless it holds a public hearing in the municipality where the construction will take place not less than fifteen days after notice has been given as hereinafter provided. Notice of such public hearing shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area affected by the proposed construction project.

§ 1078-a. Sale of water. The authority shall not refuse to sell water service to residential tenants for the sole reason that the premises of such tenants receiving water service are rented.

§ 1078-b. Discontinuance procedures. No discontinuance or disconnection of any supply of water shall be carried out except in the manner and upon the notice as is required of a water-works corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law.

§ 1078-c. Water metering. The authority shall meter service to its customers within two years of the effective date of this section.

§ 1078-d. Additional powers of the county of Suffolk and towns and villages within Suffolk county. 1. a. In addition to any powers granted by any general or special law, the board of supervisors of the county of Suffolk, acting on behalf of the county, and any town board or village board of trustees of any town or village within the county of Suffolk, acting on behalf of such town or village, either separately or pursuant to agreements among themselves, may, from time to time, appropriate by resolution sums of money to defray costs and expenses of the authority associated with the extension of authority mains to areas in the county within which the county department of health services has documented that private wells providing water to home owners have become contaminated with pollutants in concentrations greater than recommended by any drinking water guidelines or standard established by the federal government or this state, and may enter into a contract or contracts with the authority to so extend authority mains.

b. In areas of documented groundwater contamination where potable water may be more economically supplied by a municipal water authority, special district or improvement area established to provide a water improvement, or by a village, than by the Suffolk county water authority, the county board of supervisors and any town board or village board of trustees within Suffolk county may appropriate sums of money to said municipal water authority, special district or improvement area or village, and enter into a contract or contracts, in accordance with this subdivision.

2. Persons wishing to connect to mains that have been extended to areas of documented groundwater contamination with financial assistance by the county, or any town or village as provided herein, shall be solely responsible for costs and expenses associated with connecting to said mains.

3. Appropriations of money by the county board of supervisors and any town board or village board of trustees in the county of Suffolk to the authority or to a municipal water authority, special district or improvement area or village within Suffolk county, and any contract or contracts entered into with said authority or municipal water authority, special district or improvement area or village prior to the effective date of this section that are consistent with the authorization in subdivision one of this section are hereby legalized, validated, ratified and confirmed.

§ 1078-e. Acquisition by eminent domain. Notwithstanding any provision of the eminent domain procedure law to the contrary, in any proceeding brought by the authority pursuant to such law, title shall vest in the authority and compensation shall be paid only (a) upon a decision by the supreme court that compensation for the real property so condemned shall be determined solely by the income capitalization method of valuation, based on the actual net income as allowed by the public service commission, and (b) upon such court's determination of the amount of such compensation, based upon the income capitalization method, entry of the final judgment, the filing of the final decree, and the conclusion of any appeal or expiration of the time to file an appeal related to the condemnation proceeding. If any court shall utilize any method of compensation other than the income capitalization method, or if the proposed compensation is more than the rate base of the assets taken in condemnation as utilized by the public service commission in setting rates and as certified by the public service commission, the authority may withdraw the condemnation proceeding without prejudice or costs to any party.

§ 1078-f. Charges by authority; method of collection. All rates, fees and other charges for the use or availability of the facilities or services or commodities provided or made available by the authority and billed directly by the authority to the user or service recipient pursuant to a classification of person adopted by the authority as herein provided shall be a lien upon the real property upon which, or in connection with which, services are provided or are made available, as and from the first date fixed for a payment of such rates, fees and other charges. Any such lien shall take precedence over all other liens, or encumbrances, except taxes or assessments. The chief financial officer of the authority shall prepare and transmit to the receiver of taxes and assessments, on or before the first day of November in each year, a list of those properties using such facilities or for which such facilities, services or commodities were provided or made available and from which the payment of rates, fees and other charges are in arrears for a period of ninety days or more after the last day fixed for payment of such rates, fees and other charges without penalty. The list shall contain a brief description of such properties, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interest, as applicable, computed to December thirty-first of that year. The receiver of taxes and assessments shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the county under the heading "water charge." Such amounts, excluding penalties and interest imposed by the county when collected by the county collector or receivers of taxes, shall be paid over to the chief financial officer of the authority. County imposed penalties and interest shall be retained by the county collector or receiver of taxes which shall become a part of the general funds of the county. All of the provisions of the tax law of the state governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

§ 1079. Survey of water resources. The board of supervisors of Suffolk county may, by resolution, appropriate a sum of money to defray the preliminary expenses of such authority so created and may thereafter appropriate such sums as may be required, for the purpose of making a survey of the water resources of the said county, and the preparation of a map or plan for the development thereof. The authority shall, as soon as possible, make a survey of the water resources of the county, and prepare a map and plan for the development of the same showing in detail the proposed sources of water to be developed, and the municipalities and areas which may be served thereby. Application for approval of the project shall then be made to the water power and control commission as provided by article eleven of the conservation law. If so approved, the authority shall enter into such contracts or agreements as may be necessary to carry out the plan of such development. The authority may, however, acquire by purchase or condemnation any existing water supply and distribution system without making such survey and except as to properties to be acquired under condemnation proceedings instituted prior to February first, nineteen hundred fifty-two after first obtaining the approval of the board of supervisors of the county, provided, however, that the authority shall not acquire any existing water supply and distribution system owned by a municipality unless the governing board thereof shall adopt a resolution requesting the authority to make such acquisition.

§ 1080. Bonds. 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code. Such bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times in not exceeding forty years from their respective date or dates, subject to such option or options of redemption, as may be provided in the resolution authorizing such bonds, at par or at a price not exceeding one hundred five per centum of their face value, together with accrued interest, bear interest at such rate or rates that the cost to maturity of the money for any issue of such bonds shall not exceed six per centum per annum, payable annually or semi-annually, be in such denominations, and in such form, either coupon or registered, and be executed in such manner, and be payable in such medium of payment, at such place or places, and be subject to such terms and conditions as such resolution or resolutions may provide.

2. All bonds of the authority shall be sold at public sale upon sealed bids to the bidder who shall offer the lowest interest cost to the authority to be determined by the authority. The notice of sale shall be published at least once not less than ten nor more than forty days before the date of sale in a newspaper designated by the authority and shall call for the receipt of sealed bids and shall fix the date, time and place of sale.

3. Notwithstanding the foregoing provisions requiring public sale, any bonds of the authority may be sold by the authority within two years of the effective date of this title at private sale at such price or prices as the authority shall determine not exceeding the interest cost herein provided, and the authority also may sell at private sale for such price or prices as the authority shall determine not exceeding the interest cost herein provided, any bonds authorized for the purpose of paying the cost of acquiring by condemnation a privately owned public water supply and distribution system provided such bonds are sold within one year of the date of completion of such condemnation and the proceedings for such condemnation were commenced prior to or not more than two years from the effective date of this title.

4. Any bonds of the authority, whether sold at public or private sale, shall be sold for a price not less than ninety-six per centum of the par

value thereof, plus accrued interest provided always that the interest cost to maturity of the money for any issue of such bonds shall not exceed six per centum per annum. Such bonds may be issued for any corporate purpose of the authority.

5. Any resolution or resolutions authorizing any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, as to (a) pledging the revenue or water rents charged by the authority to secure the payment of the bonds;

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

(c) limitations on the right of the authority to restrict and regulate the use of water and to alter or reduce rates or charges for the use of water;

(d) limitations on the issuance of additional bonds;

(e) the application of funds and the safeguarding of funds on hand or on deposit, including the requiring of the giving of security for deposit of such funds by depository banks or trust companies. Unless otherwise provided in said resolution, all deposits of funds of the authority shall be secured in the manner provided by law for securing deposits of county moneys. All banks and trust companies are authorized to give such security for such deposits;

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

6. The authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Refunding bonds may be delivered by the authority to the purchasers thereof at any time prior to the date of maturity or redemption date of the bonds proposed to be refunded, if the authority shall determine that such action shall be financially sound and

advantageous to the authority. The rate or rates of interest of the refunding bonds shall not be limited by the rate or rates of interest borne by any of the bonds to be refunded by such bonds, but all of the provisions of this section with reference to the sale of bonds of the authority, and the interest cost of the money raised by the sale thereof, shall apply to such refunding bonds.

7. Except as may be otherwise expressly provided by the authority, every issue of bonds by the authority shall be general obligations payable out of any moneys, earnings or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys, earnings or revenues.

8. Neither the members of the authority nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof. The authority shall have power, out of any funds available therefor, to purchase (as distinguished from the power of redemption hereinabove provided) any bonds issued by it at a price of not more than the principal amount thereof or the redemption price at which the bonds may be redeemed at the next ensuing redemption date and accrued interest. All bonds so purchased shall be cancelled.

9. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

§ 1080-a. Notes of the authority. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued, or, subject to the contractual rights of the holders of any bonds or notes then outstanding, from the proceeds of the sale of any other bonds of the authority. The notes shall be issued in the same manner as the bonds and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale at not less than par and shall bear interest at a rate not exceeding six percent per annum. The provisions of sections ten hundred eighty-one, ten hundred eighty-two, ten hundred eighty-three and ten hundred eighty-four of the public authorities law relating to bonds of the Suffolk county water authority shall apply with the same full force and effect to notes of the authority herein authorized to be issued.

§ 1081. Bonds as legal investments. The bonds herein authorized are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whomsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them, provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1082. Bonds and property of the authority exempt from taxation. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer taxes in relation to instruments filed, recorded or transferred by it or on its behalf. Any bonds or notes issued pursuant to this title, together with the income therefrom shall be exempt from taxation, except for transfer and estate taxes. The revenues, monies and other properties and the activities of the authority shall be exempt from taxes and governmental fees or charges, whether imposed by the state or any municipality, including real estate taxes, franchise taxes or other excise taxes. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds and notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds and notes that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds and notes, shall at all times be free from taxation except for transfer and estate taxes.

§ 1083. State, county and municipalities not liable on bonds. The bonds of the authority shall not be a debt of the state of New York or of the county or of any municipality in the county, and neither the state nor the county nor any municipality in the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1084. Agreements of the state. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, operate, reconstruct and improve the properties, to establish and collect the revenues, rates, rentals, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

§ 1085. Contracts for sale of water wholesale. Any municipality is hereby authorized to contract with the authority for the purchase of water from the authority at wholesale for a period not exceeding thirty years except that, in the case of a fire protection district or a fire alarm district such period shall not exceed five years, and in the case of a fire district, such period shall not exceed ten years. Such contract shall provide that the liability of such purchaser for the payment of any sums pursuant to such contract shall arise only at such time as such water has been actually delivered to such purchaser. Such contract shall state the rates, fees or charges to be paid for such water, shall provide for the adjustment thereof either by increase or decrease from time to time by mutual agreement of the parties thereto, subject however to any provisions contained in any resolution of the authority authorizing obligations relating to the imposition of rates, fees or charges and the revision or adjustment thereof. Prior to the execution of such contract the governing board of any such purchaser shall call a public hearing to consider the subject matter and the desirability of the execution of the proposed contract and shall publish notice thereof in a newspaper of general circulation in the territorial boundaries of such purchaser, at least once and not less than fifteen days before the date of such public hearing. Such notice shall briefly state the terms of the proposed contract, the date and place of the public hearing and further state that at such time and place the governing board will hear all persons interested. If after considering the evidence adduced at such hearing, such governing body shall conclude that the execution of such contract is in the public interest it may authorize the execution thereof by the adoption of a resolution to such effect.

§ 1086. Audit of authority; annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and such state comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and the books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall annually submit to the governor and to the legislature and also to the board of supervisors of Suffolk county a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter. Notwithstanding the ninety day period set forth in paragraph (a) of subdivision two of section twenty-eight hundred of this chapter, the authority shall submit such detailed report within one hundred and twenty days after the end of its fiscal year.

§ 1087. Interest in contracts prohibited. It shall be a misdemeanor for any of the members of the authority, or any officer, agent, servant or employee thereof, employed or appointed by them to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 1088. Contracts. All contracts, or orders, for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure of more than five thousand dollars shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed proposals shall be published at least once in a newspaper or trade paper selected by the authority for such purpose, such publication to be at least ten days before the date for the receipt of bids. If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest bidder, unless the authority shall determine that it is for the public interest that a bid other than the lowest bid should be accepted. In any contract for work, material or supplies, there shall be inserted in the discretion of the authority a provision that additional work may be done or material or supplies furnished for the purpose of completing such contract at an expense not exceeding fifteen per centum of the amount of such contract if such additional work, materials or supplies shall be ordered by the authority. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain for such period as shall be stipulated any construction done under the contract, all in the manner prescribed and required by the authority; and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the authority or its duly authorized agent. If the bidder whose bid has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security the authority shall have the right to declare his deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the authority may, if the best interest of the authority be thereby served, adopt on behalf of the authority any or all sub-contracts made by such contractor for such work and all such sub-contractors shall be bound by such adoption if made; and the authority shall in the manner provided herein readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the sub-contract or sub-contracts so adopted. No bid shall be accepted from or any contracts awarded to, any person or corporation who is in arrears to the authority, or the county of Suffolk upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation of the authority, or the county. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. Upon the adoption of a resolution by a vote of two-thirds of all the members of the authority stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, material or supplies of more than five thousand dollars may be awarded by the authority to the lowest responsible bidder furnishing the required security after advertisement for sealed bids therefor in the manner provided in this section. Such resolution shall contain a full explanation of the reasons for its adoption.

§ 1089. Actions. 1. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

2. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1090. Expenses of hearing. The expenses of any hearing, determination or other action which the provisions of this title require of the water power and control commission shall be paid by the applicant. Bills for such expenses shall be certified by said commission to the applicant and paid by the applicant directly to the claimant within thirty days of the date of such certification.

§ 1091. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1092. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of any city, the provisions of this title shall be controlling. Nothing contained in this title shall be held to alter or abridge the powers and duties of the state department of health or of the water power and control commission over water supply matters.

TITLE 5

MONROE COUNTY WATER AUTHORITY

§ 1093. Short title. This title may be cited as the "Monroe County Water Authority Act."

§ 1094. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "authority" shall mean the corporation created by section one thousand ninety-five of this title;

2. The term "county" shall mean the county of Monroe;

3. The term "treasurer" shall mean the treasurer of the authority;

4. The term "comptroller" shall mean the comptroller of the state of New York;

5. The term "civil service commission" shall mean the civil service commission of the county of Monroe;

6. The term "properties" shall mean the water supply and distribution system or systems of the authority, including the plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, and also including, without limitation, facilities and appurtenances thereto, some part of the capacity or use of which is used or to be used by or for the benefit of a municipality or municipalities or other corporation or corporations pursuant to contracts authorized by subdivision sixteen of section ten hundred ninety-six of this title, or any other property incidental to and included in such system or part thereof, and any improvements, extensions, and betterments, situated within the territorial limits of the county, or in Genesee county, or in the town or village of Victor and the towns of East Bloomfield and West Bloomfield in Ontario county, or in the village of Holley and the town of Clarendon in Orleans county;

7. The term "bonds" shall mean the bonds, notes and obligations, issued by the authority, pursuant to this act;

8. The term "revenues" shall mean all rents, charges and other income derived from the operation of the properties of the authority;

9. The term "municipality" shall mean any county, city, town, village, town water district, fire district, fire protection district, fire alarm district, school district, and any other political subdivision of the state.

10. The term "Genesee county project" shall mean the construction, installation, equipping and/or financing of such properties, as such term is defined in subdivision six of this section, as are necessary for the authority to provide service to Genesee county or any municipality therein on the terms set forth in this title.

§ 1095. Monroe county water authority. 1. A corporation known as

"Monroe County Water Authority" is hereby created and continued for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. It shall consist of seven members, no more than five of whom shall belong to one political party and all of whom shall be residents of the county, who shall be appointed by the president of the county legislature of Monroe county subject to confirmation by a majority of the county legislature of Monroe county. The five persons serving as members of the authority on and immediately prior to the effective date of this act, or any person appointed to fill a vacancy for the unexpired term of such a member, shall continue as members of the authority for their present terms of office, or the term of his predecessor in the case of the filling of a vacancy, or until their successor is appointed and qualified and, thereafter, subsequent appointments to such membership positions shall be for terms of five years. After the effective date of this act the two additional members of the authority, in addition to the five memberships existing on and immediately prior to the effective date of this act, shall be appointed by the president of the county legislature of Monroe county subject to confirmation by a majority of the county legislature of Monroe county, one such appointment to be for a term of office expiring on April first, nineteen hundred eighty-one and one such appointment to be for a term of office expiring April first, nineteen hundred eighty-two; upon the expiration of the initial terms of office of such two additional members, subsequent appointments to fill such memberships shall be for terms of five years. In addition, such additional two appointments shall be made in such manner so as to provide that the membership of the authority be composed of seven members, of whom not more than five shall belong to the same political party.

Subsequent appointments shall be made in the same manner and for terms of five years. All members shall continue to hold office until their successors are appointed and qualify. The chairman shall be elected annually by the members of the authority. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointments by the county legislature for the unexpired terms. Members of the authority may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive such compensation for their services as shall be fixed by the county legislature and shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the members at a meeting duly called and held and four members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least four members. The authority may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper. The president of the Monroe county legislature shall further appoint two persons from such legislature for the term of their offices, one from the majority party and one from the minority party, to serve as legislative liaisons to the authority on behalf of such legislature.

2. The authority and its corporate existence shall continue until all its liabilities have been met, other than its liabilities to the county pursuant to any agreements entered into pursuant to subdivision sixteen-b of section one thousand ninety-six, and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged and thereupon all rights and properties of the authority, including its water properties as defined in subdivision sixteen-b of section one thousand ninety-six, shall pass to and be vested in the county; provided, however, that if at the time all such rights and properties of the authority shall pass to and be vested in the county, the authority and such county are parties to any agreement and any supplemental agreements thereto entered into pursuant to subdivision sixteen-b of section one thousand ninety-six, then the authority and its corporate existence and the powers herein provided for shall continue so long as is necessary to enable the authority to exercise the rights and duties and fulfill the obligations imposed upon the authority by the provisions of any such agreement and any supplemental agreements thereto.

3. The officers of the authority shall consist of a chairman, a

vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. The vice-chairman, treasurer and secretary shall be appointed by the authority and shall serve at the pleasure of the authority. The authority may appoint and at pleasure remove an attorney and an engineer, which positions, in addition to the position of secretary, shall be in the exempt class of the civil service and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law of the state of New York and such rules as the civil service commission of the county of Monroe may adopt and make applicable to such authority. The authority may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the authority and the premium therefor shall be paid by the authority.

4. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the county of Monroe and the state of New York, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

5. Upon creation of the authority, from time to time the board of supervisors, may, by resolution, appropriate sums of money to defray the expenses of the authority. The moneys so appropriated shall be repaid by the authority to the county out of the proceeds of the first bond issue of the authority. The provisions of this subdivision shall not be applicable to payments made by the county for the financing of any water facilities in accordance with the provisions of subdivision sixteen-b of section one thousand ninety-six of this title.

6. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority

in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority.

§ 1096. Powers of the authority. The authority shall have power:

1. To sue and be sued;

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

3. To acquire, in the name of the authority, lease, hold and dispose of personal property or any interest therein for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the exercise of the power of condemnation hereinafter granted;

4. To purchase or lease, in the name of the authority, any water supply system, water distribution system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions, and betterments, situated within the county, or in Genesee county, or in the town or village of Victor, the village of Bloomfield and the towns of East Bloomfield, Canadice, Richmond and West Bloomfield in Ontario county, or in the village of Holley and the towns of Clarendon and Kendall in Orleans county for the purpose of supplying water for domestic, commercial, and public purposes at retail to individual consumers within the county of Monroe or in the manner provided by subdivision seven of this section; and as a means of so acquiring for such purposes, and subject to the approval of the public service commission, the authority may purchase all of the stock of any existing privately owned water corporation or company, and thereafter, within a reasonable time, such water corporation or company shall be dissolved;

5. To condemn in the name of the authority in the counties of Monroe and Genesee, or in any other county or municipality specifically enumerated in the first sentence of subdivision six of this section, or in the name of the county in the case of any water facilities to be owned and financed by the county pursuant to subdivision sixteen-b of this section, except where located in any other county or municipality, any water supply system, water distribution system, including plants, works, instrumentalities, or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions, and betterments for the purpose of supplying water for domestic, commercial, and public purposes at retail to individual consumers within the counties of Monroe and Genesee or in any other county or municipality specifically enumerated in the first sentence of subdivision six of this section, or at wholesale in the manner provided by subdivision seven of this section. The authority shall exercise the power of condemnation hereby granted in the manner provided by the eminent domain procedure law or any such proceeding to condemn may be instituted by the authority before a justice of the supreme court or an official referee thereof. In the exercise of such power of condemnation, the property being condemned shall be deemed, when so determined by the authority, to be for a public use superior to the public use in the hands of any other person, association, or corporation; provided, however, that the authority shall have no power to condemn property the legal title to which is vested in a municipality or in a private corporation owning such property primarily for its own use, unless such municipality or private corporation shall consent thereto;

6. To construct and develop any water supply system, water distribution system, including plants, works, instrumentalities, or parts thereof, and appurtenances thereto, dams, reservoirs, water mains, pipe lines, pumping stations and equipment, or any other property incidental to or included in such system or part thereof within the

county of Monroe, or in Genesee county, or in the town or village of Victor, the village of Bloomfield and the towns of East Bloomfield, Canadice, Richmond and West Bloomfield in Ontario county, or in the village of Holley and the towns of Clarendon and Kendall in Orleans county. To acquire, by condemnation, in the name of the authority in the counties of Monroe and Genesee, or in any other county or municipality specifically enumerated in the first sentence of this subdivision, or in the name of the county of Monroe in the case of any water facilities to be owned and financed by such county pursuant to subdivision sixteen-b of this section, lands, easements, rights in land and water rights, and rights-of-way within the counties of Monroe and Genesee, or in any other county or municipality specifically enumerated in the first sentence of this subdivision, in the manner provided by this title; or to purchase or lease lands, easements, rights in land and water rights, and rights-of-way in connection therewith within the county of Monroe or within Genesee county, or in any other county or municipality specifically enumerated in the first sentence of this subdivision; and to own and operate, maintain, repair, improve, reconstruct, enlarge, and extend, subject to the provisions of this title, any of its properties acquired or constructed under this title, all of which, together with the acquisition of such properties, are hereby declared to be public purposes;

6-a. The authority shall not exercise any of the powers granted in subdivisions four and six of this section with respect to the acquisition, purchase, leasing, construction, or development of property outside of the county without first having obtained the prior approval of such purchase, leasing, acquisition, construction, or development of such property outside of the county by resolution of the legislative body of the municipality wherein the affected property outside of the county is located. Notwithstanding any inconsistent provision of any general, special, or local law, ordinance, resolution, or charter, any public corporation or improvement district thereof may, by a majority vote of its governing body, give, grant, sell, convey, lend, license the use of, or lease to the authority any property or facilities, including any water supply system, water distribution system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions, and betterments for the purpose of supplying water for domestic, commercial, industrial and public purposes, which property or facilities are useful in connection with the exercise by the authority of its powers under this title. Any such gift, grant, sale, conveyance, loan, license, or lease shall be upon such terms and conditions, and for such term or terms of years, subject to the rights of the holders of any bonds, as the authority and such public corporation or improvement district thereof may agree. Any such gift, grant, sale, conveyance, loan, license, or lease shall not be subject to referendum, permissive or mandatory. In the event that any public corporation or improvement district thereof gives, grants, sells, conveys, lends, licenses the use of, or leases any water supply system, water distribution system, or other improvements, extension or betterments for the purpose of supplying water, to the authority, such public corporation or improvement district thereof may contract with the authority to lease, borrow, license, operate, maintain, manage, and provide services for such facilities upon such terms and conditions, and for such term or terms of years, subject to the rights of holders of bonds, as the authority and such public corporation or improvement district thereof may agree. The authority, in furtherance of any purchase, conveyance, or lease of any property or facility from any public corporation or improvement district thereof, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by such public corporation or improvement district thereof for such property or facility. For purposes of section 136.00 of the local finance law, any agreement by the authority to assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by any such public corporation or improvement district thereof shall, so long as such agreement shall continue to be honored by the authority, cause such bonds or notes to be deemed to have been refunded, and any such public corporation or improvement district thereof may deduct from its gross indebtedness any outstanding indebtedness contracted for such property or facility to be acquired by the authority. The net proceeds of any purchase, conveyance, or lease of any property or facility from a public corporation or improvement district thereof may be used by such public corporation or improvement district thereof for any general or specific public use;

7. To sell water, however acquired, by volume and at retail to individual consumers within the county of Monroe for domestic, commercial, industrial, and public purposes, or by volume or in bulk and at wholesale to any or all municipalities or privately owned public water supply and distribution systems in such county. The fact that any municipality has procured or is about to procure an independent source of water supply shall not prevent such municipality from purchasing water from the authority. To sell any water not needed in such county by volume and at retail to individual consumers within the county of Genesee, or in the town or village of Victor, the village of Bloomfield and the towns of East Bloomfield, Canadice, Richmond and West Bloomfield in Ontario county, or in the village of Holley and the towns of Clarendon and Kendall in Orleans county, for domestic, commercial, industrial, and public purposes, or by volume or in bulk and at wholesale to any municipality or privately owned public water supply and distribution system outside of the county; provided that any costs incurred by the authority related to the Genesee county project shall be recovered by the authority solely from Genesee county or from rates and charges collected from customers within Genesee county; and further provided that the authority shall not sell water in any area outside of the county unless the governing board of the municipality wherein such area is located shall enter into an agreement with the authority for service or sale of water by it in such area or shall by resolution request the authority to sell water within such area. Any agreement between a municipality outside of the county and the authority for the sale of water to or within such municipality shall be subject to the approval of the legislative body of the contiguous county wherein such municipality is located. Not only may the authority sell any surplus water it may have developed, but it may develop and provide a sufficient amount of water so as to supply water outside of the county to individual consumers, any municipality, or privately owned public water supply and distribution system;

8. To purchase water in bulk or by volume from any person, private corporation or municipality when necessary or convenient for the operation of any water supply and distribution system developed by it, or when necessary or convenient for resale under the authority and provisions of subdivision seven of this section;

9. To acquire, hold, use, lease, sell, transfer and dispose of any property, real, personal or mixed, or interest therein, for its corporate purposes;

10. To make by-laws for the management and regulation of its affairs, and subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of the county and thereafter published once in two newspapers having a general circulation in the county. Violation of such rules shall be a misdemeanor, punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both. Exclusive jurisdiction is hereby conferred upon the local criminal courts of the county, which have trial jurisdiction, to hear and determine, subject to the provisions of the criminal procedure law, any violation of this title;

11. To use the officers, employees, facilities and equipment of the county with the consent of the county, paying a proper portion of the compensation or cost;

12. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

13. To enter on any lands, waterways and premises for the purpose of making surveys, soundings and examinations;

14. To borrow money and to issue negotiable bonds or notes and to fund

or refund the same, and to provide for the rights of the holders of its obligations;

15. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds or notes of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for depreciation, maintenance, and contingencies and all other obligations and indebtedness of the authority;

16. To enter into cooperative agreements with other water authorities, municipalities, or utility companies, for the inter-connection of facilities, the exchange or inter-change of services and commodities, and to enter into contracts for the construction of water supply and distribution systems by the authority for any municipality which possesses express reciprocal powers and having power to construct and develop a water supply and distribution system, or contracts for the construction of a water supply and distributions systems for the authority by a municipality which possesses express reciprocal powers and having power to construct and develop a water supply and distribution system, upon such terms and conditions as shall be determined to be reasonable including, but not limited to, the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title, provided, however, that any such agreement with a municipality located in a county, other than Monroe county, shall be subject to the approval of the legislative body of such county. The authority shall also have the power to enter into contracts or agreements with other corporations, public or private, (i) for or with respect to the financing, construction, development, expansion or improvement of properties, facilities, and appurtenances owned by the authority, with a part of the capacity or use of such properties, facilities and appurtenances utilized or to be utilized by or for the benefit of any such corporation and (ii) for or with respect to the use, operation, management, repair

and maintenance of such properties, facilities, and appurtenances of the authority, upon such terms and conditions as shall be determined to be reasonable, which may include, without limitation, collection by the authority of rents, rates or other charges to pay for the cost of construction, including debt service on obligations of the authority issued to finance construction, operation, management, maintenance, repair and use of such facilities; and municipalities having power to construct and develop water supply and distribution systems shall have the power to enter into contracts or agreements contemplated herein with the authority, including any such contract to which another corporation is a party;

16-a. To enter into a contract or contracts with the board of supervisors of Monroe county for the acquisition, construction and development of a water supply and distribution system, or any part or parts thereof, on behalf of a county water district, and to contract for the operation and management of such county water district, all as provided in article five-a of the county law and article five-b of the general municipal law. Such water authority shall be deemed the agent of Monroe county under any such contract. If such contract shall authorize the water authority to purchase supplies or equipment or to construct public works, such authority shall be subject to all provisions of law to which Monroe county would be subject in relation to advertising and awarding any such contracts for supplies, equipment or public works.

16-b. (1) It is the purpose of this subdivision to provide a means whereby: (i) the authority shall plan, construct, operate and manage both the water properties owned by the authority and additional water facilities to be hereafter constructed by the authority but financed and owned by the county so that such water properties and such water facilities may be operated as an integrated water system; and (ii) the county shall finance the construction of and own additional water facilities and lease the same to or otherwise make the same available for use by the authority in order to assist the authority in providing such necessary improvements required for the operation of the water properties of the authority (the title to which water properties will, as provided by law, become vested in the county).

(2) For the purposes of this subdivision sixteen-b the term "water facilities" shall mean the acquisition, construction or reconstruction of or addition to a water supply or distribution system, whether or not including buildings, land or rights in land, original furnishings, equipment, machinery or apparatus, or the replacement of such equipment, machinery or apparatus, which water facilities are to be financed and owned by the county. For the purpose of this subdivision sixteen-b the term "water properties" means the source of water supply and the water supply and distribution system of the authority, including the plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights of way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, and any other property, real, personal or mixed, incidental to and included in such source of supply and such system or parts thereof, and any improvements, extensions and betterments, now or hereafter constructed, acquired or made by the authority, other than the water facilities constructed by the authority but financed and owned by the county in accordance with the provisions of this subdivision.

(3) The county may, by resolution of the legislative body of such county, enter into an agreement or agreements with the authority providing: (i) that water facilities shall be constructed by the authority, which water facilities shall be financed and owned by the county and leased or otherwise made available for the use of the authority; and (ii) for the transfer to the authority for use in the execution of its corporate purposes of such water facilities hereafter financed and owned by the county in accordance with the provisions of this subdivision; provided, however, that title to such facilities shall remain in the county.

Such agreement shall constitute a contract for the passing to and vesting in the county of all rights and properties, including water properties, of the authority when all liabilities of the authority, other than its liabilities to the county pursuant to any agreements entered into pursuant to this subdivision, and the bonds of the authority have been paid in full or such liabilities or bonds have otherwise been discharged.

Such agreement or agreements may be amended, modified, changed or extended by supplemental agreements authorized and executed in the same manner as the original agreement provided that the provisions of any such supplemental agreement shall not be inconsistent with the provisions of this subdivision sixteen-b.

(4) Such agreement shall provide that until the rights and properties, including the water properties, of the authority shall pass to and be vested in the county as provided by law, the authority shall act as the agent of the county: (i) to provide water facilities deemed necessary by the authority (a) to provide a supply of water sufficient to serve all customers of the water properties of the authority and of the water facilities of the county operated and managed by the authority, or (b) water facilities for the distribution of water deemed necessary by the authority to serve the territory of the authority within the county; and (ii) to operate, manage, replace, maintain and repair such water facilities in conjunction with the water properties of the authority so that both the water properties of the authority and the water facilities owned and financed by the county shall be planned, operated and managed as an integrated water system.

(5) Such agreement shall provide for the transfer to and use by the authority of such water facilities by lease, license or other arrangement until such time as all rights and properties, including water properties, of the authority shall pass to and be vested in the county as provided by law and shall authorize the authority to take jurisdiction, control, possession and supervision of such water facilities and operate, manage, replace, maintain and repair the same together with the water properties of the authority as an integrated water system.

(6) Such agreement shall provide that the county shall pay an amount not to exceed twenty-seven million dollars to provide certain water facilities to be owned by the county and leased to or otherwise made available for use by the authority in accordance with the provisions of such agreement, which water facilities shall be described in terms sufficient for identification in the first agreement so executed by and between the county and the authority. The county may issue obligations pursuant to the local finance law in an amount not to exceed

twenty-seven million dollars to pay the cost of such water facilities. The provisions of section four hundred of the county charter prohibiting the financing of permanent improvements by the issuance of obligations pursuant to the local finance law unless such permanent improvements are included in a budget of permanent improvements adopted and approved as provided by such section four hundred shall not be applicable to the financing of such water facilities by the issuance of such obligations of the county authority by this paragraph.

(7) Such agreement shall provide that the authority shall pay to the county for each fiscal year of the county an annual rental for the use of the water facilities financed and owned by the county which shall be an operating expense of the authority, and shall be equal to the sum of the following: (i) the principal of any bonds of the county becoming due in such fiscal year issued in accordance with any agreement entered into pursuant to this subdivision; and (ii) the interest on any obligations of the county, including bonds and notes, issued in accordance with any such agreement and becoming due in such fiscal year. Such agreement shall provide such further details as the parties deem necessary with respect to the time and manner of the payment of such annual rentals in order to assure that such annual rentals shall be available to the the county at the times and in the amounts required for the payment of such principal of bonds of the county and such interest on obligations of the county. Notwithstanding that the payment of such annual rentals shall be an operating expense of the authority, such agreement may provide that payment thereof shall be subordinate to all or any of certain payments hereinafter described required to be made by a certain trust indenture between the authority and a trustee dated as of February first, nineteen hundred fifty-nine. Such payments are the payments required to be made by said trust indenture to the debt service fund and the debt service reserve fund both created by such indenture.

(8) Such agreement shall provide that to facilitate the further acquisition, construction, reconstruction, extension or betterment of water facilities by the authority to be owned and financed by the county, other than and in addition to the water facilities to be financed by the county pursuant to the provisions of paragraph (6) of this subdivision, the authority, on or before September first in each year or on or before such earlier date in each year as such agreement

may provide, may submit to the county manager a capital budget for the calendar year beginning on the succeeding January first of such proposed water facilities and the estimated cost thereof. Such capital budget shall be accompanied by a report of the consulting engineers retained by the authority pursuant to a certain trust indenture of the authority dated as of February one, nineteen hundred fifty-nine. Such report of the consulting engineers shall explain the need for or desirability of such proposed water facilities and shall state that the consulting engineers have approved the estimated cost thereof. Such capital budget of the authority and report of such consulting engineers shall describe such proposed water facilities in terms sufficient for identification. When received by the county manager, such capital budget of the authority and the report of the consulting engineers shall be used in the preparation of the budget of permanent public improvements of the county required to be prepared by section four hundred of the Monroe county charter in the same manner as if the providing of such additional water facilities originally were proposed by the county. The county shall pay the cost of any water facilities contained in a budget of permanent improvements after such budget has been adopted. At any time after the adoption of such budget of permanent improvements the county may finance any water facilities contained therein pursuant to the provisions of and in the manner provided by the local finance law. Notwithstanding any other provisions of this subdivision, in the event that any item for the providing of water facilities contained in the capital budget and report of the consulting engineers as submitted to the county manager shall not be made a part of the budget of permanent improvements of the county, the authority may, nevertheless, proceed to construct such proposed water facility as an addition to the water properties of the authority and finance the same by the issuance of obligations of the authority, subject, however, to: (i) the provisions of any resolutions or trust indentures heretofore or hereafter adopted or executed by the authority, as the case may be, with respect to the construction of water properties and the financing thereof by the authority; and (ii) the limitations, if any, on the issuance of bonds or obligations by the authority contained in any agreement executed pursuant to this subdivision sixteen-b.

(9) Such agreement may contain further provisions concerning the

following, provided, however, that no provisions in any agreement or any supplemental agreement thereto shall require the authority to in any way impair the rights and remedies of the holders of obligations of the authority pursuant to any resolution or trust indenture of the authority heretofore adopted or executed authorizing or securing obligations of the authority: (i) further provisions relating to the annual rentals due by the authority to the county as provided in this subdivision; (ii) provisions that the rates, fees, rentals and other charges for the sale or distribution of water or for other services rendered by the water properties of the authority shall be in an amount sufficient to fully comply with any covenants with holders of obligations of the authority and in addition sufficient to pay the annual rentals payable by the authority to the county as provided in this subdivision and in any agreements or supplemental agreements executed in accordance with the provisions of this subdivision; (iii) provisions limiting the issuance of bonds or obligations by the authority; (iv) provisions limiting the power of the authority to sell or otherwise dispose of its water properties without the consent of the county; (v) providing that when the rights and properties of the authority shall pass to and be vested in the county as provided by law the authority shall act as the agent of the county to plan, construct, operate and manage the water properties and water facilities then vested in and owned by the county for such term and extensions of such term as may be provided by any such agreements; and (vi) such other provisions not inconsistent with the provisions of this subdivision sixteen-b as the parties shall deem necessary or desirable to implement the purpose and provisions of this subdivision sixteen-b.

(10) The proceeds of sale of obligations of the county issued pursuant to any agreement entered into pursuant to this subdivision shall be subject to the provisions of section one hundred sixty-five of the local finance law and shall be paid and disbursed by the director of finance of the county on requisition by the authority or such person or persons as the authority may authorize to make such requisitions without further audit; provided, however, that the director of finance of the county may require that such requisitions shall be accompanied by properly itemized and verified or certified bills for materials, supplies or services.

(11) All contracts for the purchase of supplies or equipment or the

construction of water facilities entered into with respect to the providing of water facilities to be financed and owned by the county and constructed by the authority shall be subject to all provisions of law which the county of Monroe would be subject to in relation to advertising and awarding any such contracts for supplies, equipment or the construction of water facilities

(12) The provisions of this subdivision sixteen-b shall be independent and cumulative power for the authority and the county to enter into the agreements authorized hereby and shall not be construed with or be limited by any of the provisions of article five-a of the county law and of this article of the public authorities law.

17. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the county, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

18. To do all things necessary or convenient to carry out the powers expressly given in this title.

19. To contract for the purposes of subdivision twenty-four of section ten of article two of the highway law.

In exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality unless the governing board of such municipality shall adopt a resolution requesting the authority to sell water in such area.

§ 1096-a. Additional duties of the authority. 1. The authority shall submit to the president of the Monroe county legislature a copy of the authority's preliminary budget, annual budget or amended budget, certified by the treasurer of the authority, not later than thirty days prior to the date on which the annual budget is adopted or approved by the authority. The authority shall give notice in writing to the president of the Monroe county legislature not later than thirty days prior to anticipated final approval of any construction projects to be undertaken by the authority involving water mains in excess of twelve inches in size, construction of mains in geographical areas theretofore undeveloped or not supplied with a public water supply, storage facilities, pumping stations or water treatment facilities utilizing funds of either the authority or funds of the county of Monroe under subdivision sixteen-b of section one thousand ninety-six of this title provided, however, that the foregoing shall not in any event be deemed to include: modernization, renewal and replacement, repair, maintenance of or improvement in properties or facilities; preliminary undertakings such as studies, tests, evaluations, reports, preparation of engineering plans and specifications, obtaining property rights and obtaining of necessary governmental approvals; construction activities deemed necessary by the authority in an emergency to protect life, property, health or the public safety; changes during construction which do not materially change the essential service area affected by a project; and construction activities within the terms of the last sentence of this subdivision. In the event the Monroe county legislature, by its resolution adopted at any time within sixty days after receipt by the president of the county legislature of the notice from the authority herein provided for, requests any change in such project, the authority shall conduct a public informational meeting upon ten days' notice to be published twice consecutively in a newspaper of general circulation in the county of Monroe prior to the authority granting final approval or prior to the commencement of construction of such project. The authority shall give written notice to the president of the Monroe county legislature not less than thirty days prior to the date of any final action of the authority with respect to any change in the rates of the authority. The authority shall conduct a public informational meeting upon ten days' notice to be published twice consecutively in a newspaper of general circulation in the county of Monroe relative to any change in such rates prior to the effective date of such change. The foregoing provisions of this subdivision shall not be construed to or require the authority to in any way violate or impair the rights and remedies of or covenants with the holders of obligations of the authority pursuant to any resolution or trust indenture of or binding upon the authority adopted or executed authorizing or securing obligations of the authority or abrogate the rights and powers of the authority to fulfill its duties and obligations to comply with all the terms, covenants or requirements required or provided by any existing contractual agreement or provided or required by statute or the order or direction or approval of a federal, state or local governmental entity having appropriate jurisdiction or authority.

2. The authority shall be empowered to develop and adopt an administrative code, subject to amendment from time to time, concerning such cooperative interrelationships between the authority and the county of Monroe, including the duties of the authority under subdivision one of this section. Any such code, or any amendment thereto, shall be submitted to the president of the county legislature not less than ninety days prior to its adoption by the authority for approval by such legislature.

§ 1097. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state of New York designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer on requisition by the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York or of the county of a market value equal at all times to the amount of deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives, and the director of finance of the county of Monroe, if he so elect, are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, security, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

§ 1098. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any of its corporate purposes, including incidental expenses in connection therewith, and to secure the payment of the same by a lien or pledge covering all or part of its contracts, earnings or revenues except that no resolution or other action of the authority providing for the issuance of bonds may be adopted or otherwise made effective without the prior approval of the Monroe county legislature. The powers conferred by this section on such Monroe county legislature shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict or alter the obligation or powers of the authority or any member, director, officer or representative of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection, or security of the holders thereof. The authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Except as may be otherwise expressly provided by the authority, every issue of bonds by the authority shall be general obligations payable out of any moneys, earnings or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys, earnings or revenues.

2. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rates per annum not exceeding six per centum per annum payable at such times within the limitations as to interest cost hereinafter provided, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places and be subject to such terms of redemption, at par or at a price not exceeding one hundred five per centum of their face value, as such resolution or resolutions may provide.

All bonds of the authority may be sold at public or private sale. Such bonds shall be sold for a price not less than ninety-six per centum of the par value thereof, plus accrued interest, provided always that the interest cost to maturity of the monies realized from the sale of such bonds shall not exceed six per centum per annum.

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

(a) pledging all or any part of the moneys, earnings, income and revenues derived from all or any part of the properties of the authority to secure the payment of the bonds or of any issue of the bonds subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

(d) limitations on the right of the authority to restrict and regulate the use of the properties in connection with which such bonds are issued;

(e) limitations on the purposes to which and the manner in which the proceeds of sale of any issue of bonds may be applied;

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

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

(h) the creation of special funds into which any earnings or revenues of the authority may be deposited;

(i) the terms and provisions of any trust deed or indenture securing the bonds or under which bonds may be issued;

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

(k) limitations on the power of the authority to sell or otherwise dispose of its properties;

(l) any other matters, of like or different character which in any way affect the security or protection of the bonds;

(m) limitations on the amount of moneys derived from the properties to be expended for operating, administrative or other expenses of the authority.

4. It is the intention of the legislature that any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any

personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase (as distinguished from the power of redemption hereinabove provided) any bonds issued by it at a price of not more than the principal amount thereof and accrued interest, and all such bonds shall be cancelled.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the properties, and the custody, safeguarding and application of all moneys, and may provide that the properties shall be constructed and paid for under the supervision and approval of consulting engineers. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the properties to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the properties. If the bonds shall be secured by a trust indenture the bondholders shall have no authority to appoint a separate trustee to represent them.

Notwithstanding any other provisions of this title, any resolution or resolutions authorizing bonds or notes of the authority shall contain a covenant by the authority that it will at all times maintain rates, fees, rentals or other charges sufficient to pay, and that any contracts entered into by the authority for the sale or distribution of water shall contain rates, fees, rentals or other charges sufficient to pay, the cost of operation and maintenance of the properties, the principal of and interest on any obligation issued pursuant to such resolution or resolutions as the same severally become due and payable, and to maintain any reserves or other funds required by the terms of such resolution or resolutions.

§ 1099. Notes of the authority. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale at not less than par and shall bear interest at a rate not exceeding five per centum per annum. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1100. Duty of authority to maintain and operate. It shall be the duty of the authority, subject to any limitation on the amount of revenues to be expended for such purpose, to maintain and operate and where necessary to reconstruct its properties.

§ 1101. Transfer of officers and employees. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board or department by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority. But notwithstanding the provisions of this act, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund, system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers or employee, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission of the county of Monroe shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. It is hereby declared that in the interest of efficiency and insofar as may be practicable, all employees engaged in the operation of any property or properties, except in an executive capacity, at the time such property or properties shall have been acquired by the authority, pursuant to the provisions of this act, shall become the employees of the authority. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law (constituting chapter seven of the consolidated laws) and such rules as the civil service commission of the county of Monroe may adopt and make applicable to such authority.

§ 1102. Agreements of the state. The state of New York does pledge to and agree with the holders of the bonds or notes that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, operate, reconstruct and improve the properties, to establish and collect the revenues, rates, rentals, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or notes, or in any way impair the rights and remedies of the bondholders or noteholders, until the bonds or notes, together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders, are fully met and discharged.

§ 1103. State, county and municipalities not liable on bonds or notes. The bonds or notes of the authority shall not be a debt of the state of New York or of the county or of any municipality in the county, and neither the state nor the county nor any municipality in the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1104. Bonds and notes legal investments for fiduciaries. The bonds or notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds or notes shall not be eligible for the investment of funds including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds or notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1105. Exemption from taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county of Monroe and its environments, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom shall be exempt from taxation, except for transfer and estate taxes. The revenues, monies and other properties and the activities of the authority shall be exempt from taxes and governmental fees or charges, whether imposed by the state or any municipality, including real estate taxes, franchise taxes or other excise taxes.

3. Notwithstanding any other provisions of this chapter, the authority may make payments in lieu of taxes to municipalities and school districts on any property of the authority located within the jurisdiction of such municipality or school district. The amounts of such payments in lieu of taxes shall be as determined by the authority, provided, however, that the sum paid by the authority for any year shall in no case exceed the sum last levied by the municipality or school district as an annual tax upon the property prior to its acquisition by the authority.

§ 1106. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation except for transfer and estate taxes.

§ 1107. Officers and employees not to be interested in transactions. It shall be a misdemeanor for any of the members of the authority, or any officer, agent, servant or employee thereof, employed or appointed by them to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 1108. Contracts. 1. All contracts, or orders, for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure of more than five thousand dollars shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed proposals shall be published at least once in a newspaper or trade paper selected by the authority for such purpose, such publication to be at least ten days before the date for the receipt of bids. If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest bidder, unless the authority shall determine that it is for the public interest that a bid other than the lowest bid should be accepted. In any contract for work, material or supplies, there shall be inserted in the discretion of the authority a provision that additional work may be done or material or supplies furnished for the purpose of completing such contract at an expense not exceeding fifteen percentum of the amount of such contract if such additional work, materials or supplies shall be ordered by the authority. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain for such period as shall be stipulated any construction done under the contract, all in the manner prescribed and required by the authority; and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the authority or its duly authorized agent. If the bidder whose bid has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security the authority shall have the right to declare his deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the authority may, if the best interests of the authority be thereby served, adopt on behalf of the authority any or all sub-contracts made by such contractor for such work and all such sub-contractors shall be bound by such adoption if made; and the authority shall in the manner provided herein readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the sub-contract or sub-contracts so adopted. No bid shall be accepted from or any contracts awarded to, any person or corporation who is in arrears to the authority, or the county of Monroe upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation of the authority, or the county. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. Upon the adoption of a resolution by a vote of two-thirds of all the members of the authority stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, material or supplies of more than five thousand dollars may be awarded by the authority to the lowest responsible bidder furnishing the required security after advertisement for sealed bids therefor in the manner provided in this section. Such resolution shall contain a full explanation of the reasons for its adoption.

2. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 1109. Actions. 1. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

2. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1110. Audit of authority; annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and such state comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and the books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall annually submit to the governor and to the legislature a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter.

§ 1111. Limitation of liability. Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance or operation of the properties or any of the improvements or from carrying out any of the powers expressly given in this title.

§ 1112. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be held unconstitutional, or be ineffective in whole or in part, to the extent that it is not unconstitutional, or ineffective, it shall be valid and effective and no other section, clause or provision shall, on account thereof, be deemed invalid or ineffective.

§ 1113. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of any city, the provisions of this title shall be controlling. Nothing contained in this title shall be held to alter or abridge the powers and duties of the state department of health or of the water power and control commission over water supply matters.

* TITLE 5-A

SOUTH NASSAU WATER AUTHORITY

* NB There are 2 A5T5-A's

* **§ 1114-a. Short title.** This title shall be known and may be cited as the "South Nassau water authority act".

* NB There are 2 § 1114-a's

* **§ 1114-b. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section eleven hundred fourteen-d of this title.

2. "Board of directors" shall mean the governing board of the authority.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title.

4. "Calendar year" shall mean the twelve month period from January first through December thirty-first.

5. "Chief executive officer" when referring to a municipality shall mean the chief elected official of such municipality and, when referring to the authority, shall mean the chairperson of the authority.

6. "Civil service commission" shall mean the civil service commission of the county of Nassau.

7. "Comptroller" shall mean the comptroller of the state of New York.

8. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water facility as defined in this section; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services

and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

9. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges and bond discount, interest to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, bond insurance, bond credit enhancement arrangements, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the cost of legal and financial advices and credit arrangements with banks or other financial institutions, the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures made by them that would be costs of the project hereunder, notwithstanding the fact that such expenditures may have been incurred prior to the effective date of this title.

10. "County" shall mean the county of Nassau.

11. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

12. "District" shall mean the water authority of South Nassau water district created by section eleven hundred fourteen-c of this title.

13. "Governing body" shall mean:

(a) in the case of a city, county, town or village or district corporation, the finance board as such term is defined in the local finance law; or

(b) in the case of a public benefit corporation, the members thereof.

14. "Members" shall mean the members of the board of directors.

15. "Municipality" shall mean any city, county, town, village or county or town acting on behalf of an improvement district.

16."Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, groundwater riparian rights and air rights and any and all things and rights customarily included within the term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "State" shall mean the state of New York.

19. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

20. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

21. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived from users of the authority without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other

dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

22. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

23. "Treasurer" shall mean the treasurer of the authority.

24. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated or constructed for the purpose of supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

25. "Water project" shall mean any water facility, including the planning, development, financing or construction thereof.

26. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

* NB There are 2 § 1114-b's

*** § 1114-c. South Nassau water authority district.** 1. There is hereby created a district to be known as the "South Nassau water authority district" which shall be defined as all that portion of Nassau county being serviced by the New York American water service corporation as its Long Island Water operations district as of the effective date of this title, and lying south of the area serviced by the Town of Hempstead Department of Water.

* NB There are 2 § 1114-c's

*** § 1114-d. South Nassau water authority.** 1. A corporation known as "South Nassau water authority" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine of the public service law. The authority shall be governed by a board of directors consisting of five members. The governing board of the town of Hempstead shall appoint three members, and the Nassau county legislature shall appoint two members who are residents serviced by the water authority of South Nassau. Each member shall serve for a period of two years. Each chief executive officer shall file with the secretary of state a certificate of appointment or reappointment of any member appointed or reappointed by such chief executive officer within thirty days of the appointment or reappointment. Members shall receive no compensation for their services but shall be entitled to reimbursement of their necessary expenses, including traveling expenses, incurred in the discharge of their duties. Nothing in this section shall be construed as preventing a chief executive officer of a municipality from appointing himself or herself to be a member of the board of directors.

2. If the authority decides to enter into a contract to purchase or otherwise acquire an interest in the New York American water service corporation or to initiate a condemnation proceeding pursuant to the eminent domain procedure law for the area it services within the South Nassau water authority district, prior to entering into any contract to purchase or otherwise acquire an interest in the New York American water service corporation or the initiation of any condemnation proceeding by the authority pursuant to the eminent domain procedure law for the area it services within the South Nassau water authority district, the authority shall provide ratepayers within the area serviced by the New York American water service corporation and the public with public

forums for the expression and discussion of views regarding such purchase, acquisition or condemnation of the New York American water service corporation. The authority shall hold at least one forum in the town of Hempstead.

3. If the authority decides to enter into a contract to purchase or otherwise acquire an interest in the New York American water service corporation or to initiate a condemnation proceeding pursuant to the eminent domain procedure law for the area it services within the South Nassau water authority district, the authority is authorized to provide registered voters within the area serviced by the New York American water service corporation within the South Nassau water authority district prior to entering into such contract to purchase or otherwise acquire an interest in the New York American water service corporation or the initiation of any condemnation proceeding by the authority pursuant to the eminent domain procedure law for the area the New York American water service corporation services within the South Nassau water authority district, with a nonbinding referendum, regarding whether the authority should enter into a contract to purchase or otherwise acquire an interest in the New York American water service corporation or initiate condemnation proceedings pursuant to the eminent domain procedure law for the area it services within the South Nassau water authority district. The proposition shall be placed on the ballot and voted upon at a special election on a date to be determined by the Nassau county board of elections.

4. Any one or more of the members of the board of directors may be an official or an employee of a municipality situated within the district. In the event that an official or an employee of such municipality shall be elected as a member of the board of directors, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her municipal office or employment, or incompatible therewith or affect his or her tenure or compensation in any way.

5. No action shall be taken by the authority except pursuant to the favorable vote of a simple majority of the board of directors.

6. The powers of the authority shall be vested in and shall be exercised by the board of directors at a meeting duly called and held. Three members of the board of directors, who together are authorized to cast a majority of the vote, shall constitute a quorum. The board of directors may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

7. The officers of the authority shall consist of a chairperson, vice chairperson, deputy chairperson, treasurer, and secretary, who shall not be members of the board of directors. The officers of the authority shall be appointed by the board of directors. The board of directors may appoint and at its pleasure remove an attorney and an engineer, which positions, in addition to the officers above named, shall be in the exempt class of the civil service and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties, compensations and terms of office or tenure, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The duties of the officers shall be as follows:

(a) Chairperson. The chairperson shall be the chief executive officer of the authority and it shall be the responsibility of the chairperson to:

(i) preside at all meetings of the board of directors and of the officers;

(ii) manage the water facility, the transmission facility and the distribution system and to effectuate the decisions of the board of directors;

(iii) exercise supervision over the conduct of the officers and employees of the authority;

(iv) report annually to each customer, either by mail or by publication once in a newspaper having general circulation within the district; such report shall include but not be limited to the following information:

(1) a brief financial account on operations of the water system

including, but not limited to, water rates, total revenues, operating and maintenance expenses, and interest on bonds and notes;

(2) the population served by the authority;

(3) the number of wells, towers and other storage facilities operated by the authority;

(4) the total pumpage of groundwater including the amount received through interdistrict interconnections and the estimated amount lost from the system;

(5) the single highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which exceeds the applicable county water quality standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found, and the date on which each reported constituent was analyzed;

(6) the highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which does not exceed the applicable county water standard or guideline, but which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found and the date on which each reported constituent was analyzed;

(7) once every five years, the highest level of any constituent discovered within the distribution system which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, and the resulting action taken by the authority;

(8) any well restricted, removed from service or otherwise limited in its use and the cause for such action;

(9) any actions taken to secure new supplies or replace lost capacity;

(10) the types of treatment which the water receives before entering the distribution system;

(11) any compliance activities required by regulations of the department of environmental conservation or the department of health or any local health department and any instances of noncompliance;

(12) the present condition of the distribution system and any significant actions, as determined by the authority, to improve or

maintain the system;

(13) any special public services the authority provides during the year; and

(14) information on water conservation measures customers can implement, such as, but not limited to, retrofitting plumbing fixtures, altering irrigation timing, using irrigation sensors, leak detection, proper use of water-consuming appliances, daily conscientious use of water and estimated savings of water, energy, and money, from use of these measures;

(v) execute all contracts in the name of the authority;

(vi) institute, at the direction of the board of directors, all civil actions in the name of the authority;

(vii) provide for the enforcement of all of the rules and regulations of the authority and cause all violations thereof to be prosecuted;

(viii) sign orders to pay claims when authorized by the board of directors;

(ix) sign checks in the absence or inability of the treasurer or deputy treasurer, if any, when authorized by the board of directors; and a certified copy of a resolution of the board of directors to that effect shall be notice to the depository of such authorization;

(x) appoint, subject to the approval of the board of directors, nonelected officers, counsel, accountants, and other financial advisors, engineers and other technical advisors;

(xi) employ, promote and discharge managers, supervisors and employees; and

(xii) take all other reasonable and necessary actions to carry out his or her office as the chief executive of the authority. If the chairperson has not been appointed as a member of the board of directors of the authority pursuant to this section, such chairperson shall be deemed an ex officio member of the board of directors. Such status shall not carry with it the right to vote on matters coming before the board of directors nor shall the presence of such chairperson be counted for the purpose of determining a quorum.

(b) Vice chairperson. The vice chairperson shall perform all duties delegated to him or her by the chairperson and, in the absence or during the disability of the chairperson, the vice chairperson shall act as chairperson.

(c) Deputy chairperson. The deputy chairperson shall perform all duties delegated to him or her by the chairperson or the vice chairperson.

(d) Secretary. (i) The secretary shall be the recording and corresponding officer of the authority and the custodian of the records of the authority.

(ii) The secretary shall prepare and send required notices of all meetings when directed to do so by the chairperson or by the written request of four members who have specified the issues to be discussed at the meeting.

(iii) In the absence or disability of the secretary, the chairperson may appoint a temporary secretary.

(e) Treasurer. (i) The treasurer shall have custody of all moneys belonging to the authority and keep accounts of all receipts and expenditures in conformance with a uniform system of accounts formulated and prescribed by the comptroller pursuant to section thirty-six of the general municipal law.

(ii) The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board of directors and the premium therefor shall be paid by the authority.

(iii) The treasurer shall deposit, within ten days after receipt thereof, in the name of the authority, in one or more banks, and/or trust companies, designated by the board of directors, all moneys received by him or her.

(iv) The treasurer may sign checks with the facsimile signature of the treasurer, as reproduced by a machine or device commonly known as a checksigner, when authorized by the board of directors.

(v) The treasurer shall pay out moneys from the authority treasury only as authorized by the board of directors and by law. All such payments, except as may be authorized by the board of directors for a petty cash account, shall be by check.

(vi) The treasurer shall issue a report on the finances of the authority at each regular meeting of the board of directors.

(vii) The treasurer shall file in the office of the authority, within sixty days after the end of the fiscal year, a statement showing in detail all revenues and expenditures during the previous fiscal year and the outstanding indebtedness of the authority as of the end of the fiscal year. The members shall, within ten days, cause to be published once in a newspaper having general circulation within the district, a notice that the annual financial statement has been filed and is available for inspection or a summary of such statement in a form approved by the comptroller, with an endorsement thereon that details thereof are on file in the office of the authority. The members shall cause to be audited by a certified public accountant engaged for that purpose, such report and supporting records.

8. The terms of the chairperson, vice chairperson and deputy chairperson first appointed shall be staggered, the chairperson first appointed shall serve for a period of four years, the vice chairperson first appointed shall serve for a period of three years and the deputy chairperson first appointed shall serve for a period of two years; thereafter their successors shall serve for terms of four years. The remaining officers shall each serve terms of one year. The board of directors shall have the right, at any time, to extend any such term, for a period of months, to provide that such term terminates contemporaneously with the end of the fiscal year of the authority.

9. The officers of the authority shall receive such compensation for their services as shall be fixed by the board of directors and shall be reimbursed for all necessary and actual expenses incurred in connection with their duties as such officers and in connection with the carrying out of the purposes of this title.

10. The authority and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the municipalities within the district. Such property shall be apportioned and distributed among the municipalities within the district in direct proportion to their voting on the date of the termination of the authority.

11. In addition to any powers granted to it by law, the governing body of each of the municipalities within the district, from time to time, may appropriate sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each governing body may determine if the moneys so appropriated shall be subject to repayment by the authority to the municipalities, and in such event, the manner and time or times for such repayment.

12. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority.

13. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the municipalities within the district and state, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

* NB There are 2 § 1114-d's

*** § 1114-e. Powers of the authority.** Except as otherwise limited by this title, the authority shall have the power to:

1. sue and be sued;

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

3. borrow money and issue negotiable or non-negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. enter into contracts and execute all instruments necessary or

convenient or desirable for the purposes of the authority to carry out any powers expressly given to it in this title;

5. acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, but within the territorial limits of the town of Hempstead, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. purchase, in the name of the authority, any water supply system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district, provided, however, that the authority shall have the power to purchase any source of supply, or water supply system or any part thereof situated wholly or partly without the territorial limits of the district, provided same shall be necessary in order to supply water within the district and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, as a means of so acquiring for such purpose,

the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. construct, improve or rehabilitate water supply facilities required for the maintenance, development or expansion of water supply sources;

8. operate and manage and to contract for the operation and management of facilities of the authority;

9. enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed and operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

11. take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

12. retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

14. prepare a water supply emergency plan which shall include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) a specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) a public notification program coordinated with the phased implementation schedule; such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

15. enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized

by this title, the authority being liable only for actual damage done;

16. apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

17. obtain, store, treat, distribute, supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district;

18. purchase water from any municipal corporation, town water district, person, association or corporation;

19. produce, develop, distribute and sell water or water services within or without the territorial limits of the district; provided, however, that water may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water in such served areas;

20. make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the municipalities within the district and thereafter published once in a newspaper having general circulation within the district. Violations of such rules and

regulations shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

21. fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority; however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district;

22. enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution system, upon such terms and conditions as shall be determined to be reasonable including, but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

23. provide for the discontinuance or disconnection of the supply of water for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection

of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

24. contract for, provide and maintain such insurance as it deems necessary or reasonable to:

(a) secure and protect its real and personal property from fire, theft or other calamity or loss;

(b) secure and protect it against liability imposed by law for damages for injuries to persons or property;

(c) secure and protect it against any liability which may be imposed pursuant to section eighteen of the public officers law; and

(d) secure and protect it against any other liability, casualty or loss as it deems necessary or reasonable; and

25. do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

* NB There are 2 § 1114-e's

*** § 1114-f. Transfer of officers and employees.** Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board, department or municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority, but notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers and employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

* NB There are 2 § 1114-f's

*** § 1114-g. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, or any other credit enhancement arrangement with any bank or other financial institution to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill

the terms of any agreement made with the holders of the bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public sale or at private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by:

(a) the comptroller, where such sale is not to the comptroller; or

(b) the director of the division of the budget of the state, where such sale is to the comptroller.

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

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

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and the refunding of outstanding or other bonds;

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust, deed or indenture securing the bonds under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of any system or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor

any financing statement need be recorded or filed.

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

8. Neither the members of the board of directors nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date; or

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or bond resolution of the authority may contain. Such notes may be sold at public sale or, upon the approval of the comptroller of the

terms thereof, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

* NB There are 2 § 1114-g's

*** § 1114-h. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the applicable county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess

all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

* NB There are 2 § 1114-h's

*** § 1114-i. State and municipalities not liable on authority bonds.** Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality.

* NB There are 2 § 1114-i's

*** § 1114-j. Moneys of the authority.** All moneys of the authority from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the chairperson of the authority or of such other officer or officers as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States of America or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

* NB There are 2 § 1114-j's

*** § 1114-k. Bonds; legal investments for fiduciaries.** The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

* NB There are 2 § 1114-k's

*** § 1114-l. Agreement with the state.** The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or in any way impair the rights and remedies of bondholders until the bonds together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

* NB There are 2 § 1114-l's

*** § 1114-m. Exemption from taxes, assessments and certain fees; payments in lieu of taxes.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. The authority may pay, or may enter into agreements with any municipality to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of its water system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, income taxes, franchise taxes, sales taxes or other excise taxes.

4. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom shall be exempt from such taxation, as stated in subdivision three of this section, and that all

revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxes as stated in such subdivision.

5. Notwithstanding the provisions of subdivisions one, two, three and four of this section, nothing herein shall prevent the state from assessing a tax or surcharge against the water customers based on their water consumption, provided, however, that all such taxes and surcharges and the authority's obligation to collect and pay such taxes and surcharges shall be subordinate to the rights of holders of all of the authority's bonds and notes and to the payment of principal, premiums if any, and interest thereon.

* NB There are 2 § 1114-m's

*** § 1114-n. Actions against the authority.** 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused;

(c) the action or proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based; and

(d) An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the

occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

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

4. The rate of interest to be paid by the authority or water board upon any judgment for which it is liable, other than a judgment against the authority on its bonds, shall not exceed the rate of interest on judgments and accrued claims against municipal corporations as provided in the general municipal law from time to time. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the date thereof until paid or otherwise satisfied.

* NB There are 2 § 1114-n's

*** § 1114-o. Conflicts of interest of members of the board of directors and officers and employees of the authority.** No member of the board of directors or officer or employee of the authority shall have any interest in any contract, or take any action or otherwise involve himself or herself in any activity which, pursuant to article eighteen of the general municipal law, would be deemed a conflict of interest for a municipal officer or employee holding a position with a municipality similar to the position held by the member, officer or employee with the authority.

* NB There are 2 § 1114-o's

*** § 1114-p. Construction and purchase contracts.** The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority or to contract with a public utility, for a term not to exceed five years, for the operation and maintenance of a water supply system acquired from said public utility.

* NB There are 2 § 1114-p's

*** § 1114-q. Separability clause.** If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB There are 2 § 1114-q's

*** § 1114-r. Effect of inconsistent provisions.** Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, or of any charter or any local ordinance or resolution of any municipality, the provisions of this title shall be controlling, provided that nothing contained in this title shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

* NB There are 2 § 1114-r's

*** § 1114-s. Acquisition by eminent domain.** Notwithstanding any provision of the eminent domain procedure law to the contrary, in any proceeding brought by the authority pursuant to said law, title shall vest in the authority and compensation shall be paid only:

1. upon a decision by the supreme court that compensation for the

property so condemned shall be determined solely by the income capitalization method of valuation, based on the actual net income as allowed by the public service commission; and

2. upon such court's determination of the amount of such compensation, based upon the income capitalization method, entry of the final judgment, the filing of the final decree, and the conclusion of any appeal or expiration of the time to file an appeal related to the condemnation proceeding. Should any court determine that a method of compensation other than the income capitalization method be utilized, or if the proposed award is more than the rate base of the assets taken in condemnation as utilized by the public service commission in setting rates and as certified by the public service commission, the authority may withdraw the condemnation proceeding without prejudice or costs to any party.

* NB There are 2 § 1114-s's

* TITLE 5-A

NORTH SHORE WATER AUTHORITY

* NB There are 2 A5T5-A's

*** § 1114-a. Short title.** This title may be cited as the "Water Authority of North Shore Act".
* NB There are 2 § 1114-a's

*** § 1114-b. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section eleven hundred fourteen-d of this title.

2. "Board of directors" shall mean the governing board of the authority.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title.

4. "Calendar year" shall mean the twelve month period from January first through December thirty-first.

5. "Chief executive officer" when referring to a municipality shall mean the chief elected official of such municipality and, when referring to the authority, shall mean the chairperson of the authority.

6. "Civil service commission" shall mean the civil service commission of the county of Nassau.

7. "Comptroller" shall mean the comptroller of the state of New York.

8. "Construction" shall mean the negotiation, acquisition, erection,

building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water facility as defined in this section; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

9. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges and bond discount, interest to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, bond insurance, bond credit enhancement arrangements, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the cost of legal and financial advices and credit arrangements with banks or other financial institutions, the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures made by them that would be costs of the project hereunder, notwithstanding the fact that such expenditures may have been incurred prior to the effective date of this title.

10. "County" shall mean the county of Nassau.

11. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

12. "District" shall mean the water authority of North Shore water district created by section eleven hundred fourteen-c of this title.

13. "Governing body" shall mean:

(a) in the case of a city, county, town or village or district corporation, the finance board as such term is defined in the local finance law; or

(b) in the case of a public benefit corporation, the members thereof.

14. "Members" shall mean the members of the board of directors.

15. "Municipality" shall mean any city, county, town, village or county or town acting on behalf of an improvement district.

16."Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, groundwater riparian rights and air rights and any and all things and rights customarily included within the term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "State" shall mean state of New York.

19. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

20. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

21. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived from users of the authority without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

22. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

23. "Treasurer" shall mean the treasurer of the authority.

24. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated or constructed for the purpose of supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

25. "Water project" shall mean any water facility, including the planning, development, financing or construction thereof.

26. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

* NB There are 2 § 1114-b's

*** § 1114-c. Water authority of North Shore district.** There is hereby created a district to be known as the "water authority of North Shore district" which shall be defined as all that portion of Nassau county being serviced by the New York American water service corporation as its sea cliff operations district as of January first, two thousand eighteen and lying north of the area serviced by Jericho water district.

* NB There are 2 § 1114-c's

*** § 1114-d. Water authority of North Shore.** 1. A corporation known as "water authority of North Shore" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine of the public service law. The authority shall be governed by a board of directors consisting of six members. The governing boards of the villages of Old Brookville, Sea Cliff, Roslyn Harbor, and the City of Glen Cove shall each appoint one member. The governing board of the Town of Oyster Bay shall appoint two members representing the residents of the unincorporated hamlets of Glen Head and Glenwood Landing who are serviced by the water authority of North Shore. Each member shall serve for a period of two years. Each chief executive officer shall file with the secretary of state a certificate of appointment or reappointment of any member appointed or reappointed by such chief executive within thirty days of the appointment or reappointment. Members shall receive no compensation for their services but shall be entitled to reimbursement of their necessary expenses, including traveling expenses, incurred in the discharge of their duties. Nothing in this section shall be construed as preventing a chief executive officer of a municipality from appointing himself or herself to be a member of the board of directors.

2. If the authority decides to enter into a contract to purchase or otherwise acquire an interest in the New York American water service corporation or to initiate a condemnation proceeding pursuant to the eminent domain procedure law for the area it services within the water authority of North Shore district, prior to entering into any contract

to purchase or otherwise acquire an interest in the New York American water service corporation or the initiation of any condemnation proceeding by the authority pursuant to the eminent domain procedure law for the area it services within the water authority of North Shore district, the authority shall provide ratepayers within the area serviced by the New York American water service corporation and the public with public forums for the expression and discussion of views regarding such purchase, acquisition or condemnation of the New York American water service corporation. The authority shall hold at least one forum in each of the towns of North Hempstead, Oyster Bay, and city of Glen Cove within the portions of the towns of North Hempstead and Oyster Bay and the city of Glen Cove serviced by the New York American water service corporation.

3. If the authority decides to enter into a contract to purchase or otherwise acquire an interest in the New York American water service corporation or to initiate a condemnation proceeding pursuant to the eminent domain procedure law for the area it services within the water authority of North Shore district, the authority is authorized to provide registered voters within the area serviced by the New York American water service corporation within the water authority of North Shore district prior to entering into such contract to purchase or otherwise acquire an interest in the New York American water service corporation or the initiation of any condemnation proceeding by the authority pursuant to the eminent domain procedure law for the area the New York American water service corporation services within the water authority of North Shore district, with a nonbinding referendum, regarding whether the authority should enter into a contract to purchase or otherwise acquire an interest in the New York American water service corporation or initiate condemnation proceedings pursuant to the eminent domain procedure law for the area it services within the water authority of North Shore district. The proposition shall be placed on the ballot and voted upon at a special election or a date to be determined by the Nassau county board of elections.

4. Any one or more of the members of the board of directors may be an official or an employee of a municipality situated within the district.

In the event that an official or an employee of such municipality shall be elected as a member of the board of directors, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her municipal office or employment, or incompatible therewith or affect his or her tenure or compensation in any way.

5. No action shall be taken by the authority except pursuant to the favorable vote of fifty-one percent of the total authorized voting strength of the board of directors. The total authorized voting strength of the board of directors shall be:

(a) The number of weighted votes possessed by each member of the board of directors shall be determined in accordance with paragraphs (b), (c) and (d) of this subdivision, except each member shall possess equal weighted votes prior to the adjustment pursuant to paragraph (d) of this subdivision;

(b) No action shall be taken by the authority except pursuant to the favorable vote of at least: (i) fifty-one percent of the total authorized voting strength of the board of directors; and (ii) three members of the board of directors, at least two of whom shall be from among the four members of the board of directors possessing the greatest number of weighted votes;

(c) The vote of each member shall be equal to one hundred multiplied by a fraction, the numerator of which shall be equal to the quantity of water supplied by the authority to the owners, tenants, occupants and other water users in the municipality from which such member was appointed and the denominator of which shall be equal to the quantity of water supplied by the authority to the owners, tenants, occupants and other water users in all of the municipalities within the district; and

(d) Commencing on the first day of January, two thousand twenty-three, and every four years thereafter, the authorized number of votes of each member shall be adjusted in accordance with the formula set forth in paragraph (c) of this subdivision to reflect the total quantity of water supplied by the authority to owners, tenants, occupants and other water users in each municipality within the district during the two calendar years immediately preceding the date on which the adjustment is being made.

6. The powers of the authority shall be vested in and shall be exercised by the board of directors at a meeting duly called and held. Four members of the board of directors, who together are authorized to cast a majority of the weighted vote, shall constitute a quorum. The board of directors may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

7. The officers of the authority shall consist of a chairperson, vice chairperson, deputy chairperson, treasurer, and secretary, who shall not be members of the board of directors. The officers of the authority shall be appointed by the board of directors. The board of directors may appoint and at its pleasure remove an attorney and an engineer, which positions, in addition to the officers above named, shall be in the exempt class of the civil service and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties, compensations and terms of office or tenure, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The duties of the officers shall be as follows:

(a) Chairperson. The chairperson shall be the chief executive officer of the authority and it shall be the responsibility of the chairperson to:

(i) preside at all meetings of the board of directors and of the officers;

(ii) manage the water facility, the transmission facility and the distribution system and to effectuate the decisions of the board of directors;

(iii) exercise supervision over the conduct of the officers and employees of the authority;

(iv) report annually to each customer, either by mail or by publication once in a newspaper having general circulation within the district; such report shall include but not be limited to the following information:

(1) a brief financial account on operations of the water system

including, but not limited to, water rates, total revenues, operating and maintenance expenses, and interest on bonds and notes;

(2) the population served by the authority;

(3) the number of wells, towers and other storage facilities operated by the authority;

(4) the total pumpage of groundwater including the amount received through interdistrict interconnections and the estimated amount lost from the system;

(5) the single highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which exceeds the applicable county water quality standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found, and the date on which each reported constituent was analyzed;

(6) the highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which does not exceed the applicable county water standard or guideline, but which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found and the date on which each reported constituent was analyzed;

(7) once every five years, the highest level of any constituent discovered within the distribution system which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, and the resulting action taken by the authority;

(8) any well restricted, removed from service or otherwise limited in its use and the cause for such action;

(9) any actions taken to secure new supplies or replace lost capacity;

(10) the types of treatment which the water receives before entering the distribution system;

(11) any compliance activities required by regulations of the department of environmental conservation or the department of health or any local health department and any instances of noncompliance;

(12) the present condition of the distribution system and any significant actions, as determined by the authority, to improve or

maintain the system;

(13) any special public services the authority provides during the year; and

(14) information on water conservation measures customers can implement, such as, but not limited to, retrofitting plumbing fixtures, altering irrigation timing, using irrigation sensors, leak detection, proper use of water-consuming appliances, daily conscientious use of water and estimated savings of water, energy, and money, from use of these measures;

(v) execute all contracts in the name of the authority;

(vi) institute, at the direction of the board of directors, all civil actions in the name of the authority;

(vii) provide for the enforcement of all of the rules and regulations of the authority and cause all violations thereof to be prosecuted;

(viii) sign orders to pay claims when authorized by the board of directors;

(ix) sign checks in the absence or inability of the treasurer or deputy treasurer, if any, when authorized by the board of directors; and a certified copy of a resolution of the board of directors to that effect shall be notice to the depository of such authorization;

(x) appoint, subject to the approval of the board of directors, nonelected officers, counsel, accountants, and other financial advisors, engineers and other technical advisors;

(xi) employ, promote and discharge managers, supervisors and employees; and

(xii) take all other reasonable and necessary actions to carry out his or her office as the chief executive of the authority. If the chairperson has not been appointed as a member of the board of directors of the authority pursuant to this section, such chairperson shall be deemed an ex officio member of the board of directors. Such status shall not carry with it the right to vote on matters coming before the board of directors nor shall the presence of such chairperson be counted for the purpose of determining a quorum.

(b) Vice chairperson. The vice chairperson shall perform all duties delegated to him or her by the chairperson and, in the absence or during the disability of the chairperson, the vice chairperson shall act as chairperson.

(c) Deputy chairperson. The deputy chairperson shall perform all duties delegated to him or her by the chairperson or the vice chairperson.

(d) Secretary. (i) The secretary shall be the recording and corresponding officer of the authority and the custodian of the records of the authority.

(ii) The secretary shall prepare and send required notices of all meetings when directed to do so by the chairperson or by the written request of four members who have specified the issues to be discussed at the meeting.

(iii) In the absence or disability of the secretary, the chairperson may appoint a temporary secretary.

(e) Treasurer. (i) The treasurer shall have custody of all moneys belonging to the authority and keep accounts of all receipts and expenditures in conformance with a uniform system of accounts formulated and prescribed by the comptroller pursuant to section thirty-six of the general municipal law.

(ii) The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board of directors and the premium therefor shall be paid by the authority.

(iii) The treasurer shall deposit, within ten days after receipt thereof, in the name of the authority, in one or more banks, and/or trust companies, designated by the board of directors, all moneys received by him or her.

(iv) The treasurer may sign checks with the facsimile signature of the treasurer, as reproduced by a machine or device commonly known as a checksigner, when authorized by the board of directors.

(v) The treasurer shall pay out moneys from the authority treasury only as authorized by the board of directors and by law. All such payments, except as may be authorized by the board of directors for a petty cash account, shall be by check.

(vi) The treasurer shall issue a report on the finances of the authority at each regular meeting of the board of directors.

(vii) The treasurer shall file in the office of the authority, within sixty days after the end of the fiscal year, a statement showing in detail all revenues and expenditures during the previous fiscal year and the outstanding indebtedness of the authority as of the end of the fiscal year. The members shall, within ten days, cause to be published once in a newspaper having general circulation within the district, a notice that the annual financial statement has been filed and is available for inspection or a summary of such statement in a form approved by the comptroller, with an endorsement thereon that details thereof are on file in the office of the authority. The members shall cause to be audited by a certified public accountant engaged for that purpose, such report and supporting records.

8. The terms of the chairperson, vice chairperson and deputy chairperson first appointed shall be staggered, the chairperson first appointed shall serve for a period of four years, the vice chairperson first appointed shall serve for a period of three years and the deputy chairperson first appointed shall serve for a period of two years; thereafter their successors shall serve for terms of four years. The remaining officers shall each serve terms of one year. The board of directors shall have the right, at any time, to extend any such term, for a period of months, to provide that such term terminates contemporaneously with the end of the fiscal year of the authority.

9. The officers of the authority shall receive such compensation for their services as shall be fixed by the board of directors and shall be reimbursed for all necessary and actual expenses incurred in connection with their duties as such officers and in connection with the carrying out of the purposes of this title.

10. The authority and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the municipalities within the district. Such property shall be apportioned and distributed among the municipalities within the district in direct proportion to their weighted voting on the date of the termination of the authority.

11. In addition to any powers granted to it by law, the governing body of each of the municipalities within the district, from time to time, may appropriate sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each governing body may determine if the moneys so appropriated shall be subject to repayment by the authority to the municipalities, and in such event, the manner and time or times for such repayment.

12. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority.

13. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the municipalities within the district and state, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

* NB There are 2 § 1114-d's

*** § 1114-e. Powers of the authority.** Except as otherwise limited by this title, the authority shall have the power to:

1. sue and be sued;

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

3. borrow money and issue negotiable or non-negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. enter into contracts and execute all instruments necessary or

convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, but within the territorial limits of the town of Oyster Bay or North Hempstead, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. purchase, in the name of the authority, any water supply system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district, provided, however, that the authority shall have the power to purchase any source of supply, or water supply system or any part thereof situated wholly or partly without the territorial limits of the district, provided same shall be necessary in order to supply water within the district and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from

the performance thereof, as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. construct, improve or rehabilitate water supply facilities required for the maintenance, development or expansion of water supply sources;

8. operate and manage and to contract for the operation and management of facilities of the authority;

9. enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed and operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

11. take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

12. retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

14. prepare a water supply emergency plan which shall include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) a specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) a public notification program coordinated with the phased implementation schedule; such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

15. enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys,

soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

16. apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

17. obtain, store, treat, distribute, supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district;

18. purchase water from any municipal corporation, town water district, person, association or corporation;

19. produce, develop, distribute and sell water or water services within or without the territorial limits of the district; provided, however, that water may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water in such served areas;

20. make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the municipalities within the district and thereafter published once in a newspaper having general

circulation within the district. Violation of such rules and regulations shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

21. fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority; however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district;

22. enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution system, upon such terms and conditions as shall be determined to be reasonable including, but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

23. provide for the discontinuance or disconnection of the supply of water for nonpayment of fees, rates, rents or other charges therefor

imposed by the authority, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

24. contract for, provide and maintain such insurance as it deems necessary or reasonable to:

(a) secure and protect its real and personal property from fire, theft or other calamity or loss;

(b) secure and protect it against liability imposed by law for damages for injuries to persons or property;

(c) secure and protect it against any liability which may be imposed pursuant to section eighteen of the public officers law; and

(d) secure and protect it against any other liability, casualty or loss as it deems necessary or reasonable; and

25. do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

* NB There are 2 § 1114-e's

*** § 1114-f. Transfer of officers and employees.** Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board, department or municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority, but notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers and employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

* NB There are 2 § 1114-f's

*** § 1114-g. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, or any other credit enhancement arrangement with any bank or other financial institution to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair

or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public sale or at private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by:

(a) the comptroller, where such sale is not to the comptroller; or

(b) the director of the division of the budget of the state, where such sale is to the comptroller.

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

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

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and the refunding of outstanding or other bonds;

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust, deed or indenture securing the bonds under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of any system or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No

instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the board of directors nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date; or

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or bond resolution of the authority may contain. Such notes may be

sold at public sale or, upon the approval of the comptroller of the terms thereof, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

* NB There are 2 § 1114-g's

*** § 1114-h. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the applicable county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

* NB There are 2 § 1114-h's

*** § 1114-i. State and municipalities not liable on authority bonds.** Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality.

* NB There are 2 § 1114-i's

*** § 1114-j. Moneys of the authority.** All moneys of the authority from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the chairperson of the authority or of such other officer or officers as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States of America or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

* NB There are 2 § 1114-j's

*** § 1114-k. Bonds; legal investments for fiduciaries.** The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

* NB There are 2 § 1114-k's

*** § 1114-l. Agreement with the state.** The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or in any way impair the rights and remedies of bondholders until the bonds together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

* NB There are 2 § 1114-l's

*** § 1114-m. Exemption from taxes, assessments and certain fees; payments in lieu of taxes.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. The authority may pay, or may enter into agreements with any municipality to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of its water system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, income taxes, franchise taxes, sales taxes or other excise taxes.

4. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom shall be exempt from such

taxation, as stated in subdivision three of this section, and that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxes as stated in such subdivision.

5. Notwithstanding the provisions of subdivisions one through four of this section, nothing herein shall prevent the state from assessing a tax or surcharge against the water customers based on their water consumption, provided, however, that all such taxes and surcharges and the authority's obligation to collect and pay such taxes and surcharges shall be subordinate to the rights of holders of all of the authority's bonds and notes and to the payment of principal, premiums if any, and interest thereon.

* NB There are 2 § 1114-m's

*** § 1114-n. Actions against the authority.** 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused;

(c) the action or proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based; and

(d) An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, it shall

have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

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

4. The rate of interest to be paid by the authority or the water board upon any judgment for which it is liable, other than a judgment against the authority on its bonds, shall not exceed the rate of interest on judgments and accrued claims against municipal corporations as provided in the general municipal law from time to time. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

* NB There are 2 § 1114-n's

*** § 1114-o. Conflicts of interest of members of the board of directors and officers and employees of the authority.** No member of the board of directors or officer or employee of the authority shall have any interest in any contract, or take any action or otherwise involve himself or herself in any activity which, pursuant to article eighteen of the general municipal law, would be deemed a conflict of interest for a municipal officer or employee holding a position with a municipality similar to the position held by the member, officer or employee with the authority.

* NB There are 2 § 1114-o's

*** § 1114-p. Construction and purchase contracts.** The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority or to contract with a public utility, for a term not to exceed five years, for the operation and maintenance of a water supply system acquired from said public utility.

* NB There are 2 § 1114-p's

*** § 1114-q. Separability clause.** If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB There are 2 § 1114-q's

*** § 1114-r. Effect of inconsistent provisions.** Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, or of any charter or any local ordinance or resolution of any municipality, the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

* NB There are 2 § 1114-r's

*** § 1114-s. Acquisition by eminent domain.** Notwithstanding any provision of the eminent domain procedure law to the contrary, in any proceeding brought by the authority pursuant to said law, title shall vest in the authority and compensation shall be paid only:

1. upon a decision by the supreme court that compensation for the property so condemned shall be determined solely by the income capitalization method of valuation, based on the actual net income as allowed by the public service commission, and

2. upon such court's determination of the amount of such compensation, based upon the income capitalization method, entry of the final judgment, the filing of the final decree, and the conclusion of any appeal or expiration of the time to file an appeal related to the condemnation proceeding. Should any court determine that a method of compensation other than the income capitalization method be utilized, or if the proposed award is more than the rate base of the assets taken in condemnation as utilized by the public service commission in setting rates and as certified by the public service commission, the authority may withdraw the condemnation proceeding without prejudice or costs to any party.

* NB There are 2 § 1114-s's

TITLE 6

ALBANY MUNICIPAL WATER FINANCE AUTHORITY

§ 1115. Short title. This title shall be known and may be cited as the "Albany municipal water finance authority act".

§ 1115-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Agreement" shall mean any agreement entered into by the city pursuant to section one thousand one hundred fifteen-g or section one thousand one hundred fifteen-h of this title.

2. "Authority" shall mean the corporation created by section one thousand one hundred fifteen-b of this title.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "City" shall mean the city of Albany.

5. "Common council" or "council" shall mean the common council of the city.

6. "Civil service commission" shall mean the civil service commission of the city.

7. "Comptroller" shall mean the comptroller of the state.

8. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a water, sewerage or water, and sewerage system or project, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto and claims arising therefrom.

9. "Contracting agency" shall mean the authority or the water board, as the case may be.

10. "Cost", as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for

from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the city, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder.

11. "Governing body" shall mean the members of the authority or the water board, as the case may be, constituting and acting as the governing body of the authority or the water board, as the case may be.

12. "Mayor" shall mean the mayor of the city.

13. "Municipality" shall mean any county, city, town, village, improvement district under the town law, any other such instrumentality, including any agency, or public corporation of the state, or any of the foregoing or any combination thereof.

14. "Person" shall mean any natural person or any firm, partnership, association, joint venture or corporation, exclusive of public corporations as defined pursuant to article two-A of the general construction law.

15. "Project" shall mean any water facility, sewerage facility or water and sewerage facility, including the planning, development, financing or construction thereof.

16. "Properties" shall mean the water supply and distribution system or systems of the water board, and sewerage system or systems of the water board, whether situated within or without the territorial limits of the city, including the plants, works, structures, instrumentalities

or part thereof and appurtenances thereto, real property, water facilities, sewerage facilities or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments.

17. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands underwater, ground water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

18. "Revenues" shall mean rates, rents, fees, charges, payments and other income and receipts derived from users of a water system or sewerage system of the city or the water board including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sale or other disposition of any part thereof, together with all federal, state or municipal aid therefor.

19. "Sewage" shall mean the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also shall be considered "sewage" within the meaning of this title.

20. "Sewerage facility" or "sewerage facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, treating and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, groundwater recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment, and other plants, structures, equipment, vehicles,

conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, neutralizing, storing and disposing of sewage.

21. "Sewerage system" shall mean the sewage collection, pumping, treatment, neutralizing, storage and disposal system or systems owned by, in the possession of, or under the jurisdiction and control of the city or the water board, including all additions, increases, enlargements, extensions or improvements thereto.

22. "State" shall mean the state of New York.

23. "State agency" shall mean any state office, department, board, commission, bureau or division, or other agency or instrumentality of the state.

24. "Water board" shall mean the corporation created by a special act of the state legislature at the request of the city as provided in section one thousand one hundred fifteen-e of this title.

25. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated, constructed or planned for the purpose of accumulating, supplying, transmitting, treating or distributing water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

26. "Water system" shall mean the water supply and distribution system or systems owned by, in the possession of, or under the jurisdiction,

control and regulation of the city or the water board, including all additions, increases, enlargements, extensions or improvements thereto.

§ 1115-b. Albany municipal water finance authority. 1. A public corporation, to be known as the "Albany municipal water finance authority," is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation.

2. The authority shall consist of seven members, five of whom shall be residents of the city and be appointed by the mayor and two of whom shall be appointed by the governor from a list of names submitted by the mayor. Of the appointments made by the governor, one shall be a public member for a term ending on the thirty-first day of December of the third year in which this title shall have become a law and one shall be a public member for a term ending on the thirty-first day of December of the fourth year in which this title shall have become a law. The first members appointed by the mayor shall be appointed for the following terms of office: one for a term ending on December thirty-first of the second year following the year in which this title shall have become a law, two for a term ending on December thirty-first of the third year following the year in which this title shall have become a law, and two for a term ending on December thirty-first of the fourth year following the year in which this title shall have become a law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. Any member appointed by the mayor or the governor who is not an employee of the city of Albany shall be deemed a public member. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointments. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the city. Each public member shall be entitled to a salary of five thousand

dollars per annum. No member shall receive any reimbursement for the ordinary expenses of attending meetings, but may by resolution of the authority be allowed their expenses of a special or extraordinary nature. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of four members are present. No action shall be taken except pursuant to the favorable vote of at least three members. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

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

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

5. (a) The mayor shall file on or before March thirty-first of the

year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the mayor setting forth: (1) the name of the authority; (2) the names of the members appointed by the mayor and their terms of office; and (3) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the city unless otherwise provided in an agreement between the city and the authority, and except as otherwise may be specified in such law.

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

7. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

§ 1115-c. General powers of the authority. The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue bonds or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To enter into agreements with the water board and the city for the financing by the authority of projects as herein provided;

6. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title, provided, however, the authority may not condemn real property of the city, or of any municipal corporation or district corporation, as such terms are defined in section sixty-six of the general construction law, without the consent of the city, or any such municipal corporation or district corporation, as the case may be; and, provided, further however, that the authority may not exercise the power of eminent domain with respect to real property outside the city which is owned by any individual, partnership, corporation (other than a municipal corporation or district corporation), association, trust, or legal entity without the consent of: (a) the governing body of a city, other than the city of Albany, if such real property is wholly located within such city, or (b) the town board if such real property is wholly located within such town, or (c) the governing body of a city, other than the city of Albany, and the town board if such real property is partly located within such city and partly located within such town; and to sell, lease as lessor, transfer and dispose of any property or interest therein at any time required by it in the exercise of its powers;

7. To make and amend by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title. A copy of

such rules, regulations and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of the city;

8. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

9. To appoint such officers and employees as are required for the performance of its duties, and to fix and determine their qualifications, duties and compensation subject to provisions of the civil service law and the rules of the civil service commission of the city, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

10. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

11. To make use of existing studies, surveys, plans, data and other material in the possession of any state agency, any municipality or the water board in order to avoid duplication of effort;

12. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

13. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply,

subject to the provisions of this title, with the terms and conditions thereof; and

14. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title; provided that the authority shall not have power, within the city, to collect rentals, charges, rates or fees from the owners of real property, or the occupants of real property (other than the occupants of premises owned or controlled by the authority), for services or facilities furnished or supplied in connection with such real property, if such services or facilities are of a character or nature then or formerly furnished or supplied by the city.

§ 1115-d. Approval of projects. The authority shall not enter into any contract or agreement with the city or the water board with respect to the financing of any project pursuant to section one thousand one hundred fifteen-h of this title, unless the state commissioner of environmental conservation and the state commissioner of health shall have completed all statutory reviews and approvals with respect to such project which, as of the date of such contract or agreement, are required by law. Nothing herein shall be construed to diminish the full authority and responsibility of each department of the state for statutory reviews and approvals.

§ 1115-e. Water board. 1. A city water board may be created by a special act of the state legislature at the request of the city as a body corporate and politic, constituting a corporate municipal instrumentality of the state and having the powers and duties as provided in this title.

2. The water board shall consist of five members, who shall be residents of the city and appointed by the mayor. The first members appointed by the mayor shall be appointed for the following terms of office: one for a term ending on December thirty-first of the second year following the year in which the special act of the state

legislature creating the water board shall have become law, two for a term ending on December thirty-first of the third year following the year in which such special act shall have become law, and two for a term ending on December thirty-first of the fourth year following the year in which such special act shall have become law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. No member shall be a member of the governing body of the authority. Any member appointed by the mayor who is not an employee of the city of Albany shall be deemed a public member. All members shall continue to hold office until their successors are appointed and qualified. Vacancies shall be filled in the manner provided for original appointments. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the city. Each public member shall be entitled to a salary of five thousand dollars per annum. All members shall receive no reimbursement for the ordinary expenses of attending meetings, but may by resolution of the water board be allowed their expenses of a special or extraordinary nature. A public member may receive additional compensation to be fixed by the members, if appointed an officer of the water board. The powers of the water board shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of three members is present. No action shall be taken except pursuant to the favorable vote of at least three members. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

3. The officers of the water board shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the water board, and a secretary, who need not be a member of the water board. Such officers shall be appointed by the governing body and shall serve in such capacities at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority, and fix and

determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the water board.

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

5. (a) The mayor shall file on or before March thirty-first of the year following the year in which the special act of the state legislature creating the water board shall have become law, in the office of the secretary of state, a certificate signed by the mayor setting forth: (1) the name of the water board; (2) the names of the members appointed by the mayor and their terms of office; and (3) the effective date of the special act of the state legislature creating the water board. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the water board shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) The water board and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the water board shall have contractual duties or obligations outstanding unless adequate provision has been made for the satisfaction thereof. Upon termination of the existence of the water board, all of the rights and properties of the water board then remaining shall pass to and vest in the city.

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

§ 1115-f. General powers of the water board. Except as otherwise limited by this title, the water board shall have power:

1. To sue and be sued;

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

3. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the water board to carry out any powers expressly given it in this title, provided nothing herein contained shall authorize the water board to borrow money or otherwise contract indebtedness;

4. To enter into agreements pursuant to sections one thousand one hundred fifteen-g and one thousand one hundred fifteen-h of this title with the authority and the city to provide a means whereby the authority shall finance the cost of constructing projects, as described in the agreement, and the water board may agree to assume title to the water or sewerage system, or both, and to raise revenues from users through fees, rates, rents or other service charges necessary or appropriate to secure such financing and to pay the cost of the operation, management and repair of such water or sewerage system;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use any property, real, personal or mixed or any interest therein, as the water board may deem necessary, convenient or desirable to carry out the purposes of this title; provided, however,

that the water board may not condemn real property of the city, or of any municipal corporation or district corporation, as such terms are defined in section sixty-six of the general construction law, without the consent of the city, or any such municipal corporation or district corporation, as the case may be and, provided, further however, that the water board may not exercise the power of eminent domain with respect to real property outside the city which is owned by any individual, partnership, corporation (other than a municipal corporation or district corporation), association, trust, or legal entity without the consent of: (a) the governing body of a city, other than the city of Albany, if such real property is wholly located within such city, or (b) the town board if such real property is wholly located within such town, or (c) the governing body of a city, other than the city of Albany, and the town board if such real property is partly located within such city and partly located within such town; and, subject to any limitations in any agreement with the city entered into pursuant to section one thousand one hundred fifteen-g or section one thousand one hundred fifteen-h of this title, to sell, lease as lessor, transfer or otherwise dispose of any such property or interest therein;

6. To acquire from the city title to the sewerage system, water system, or both the sewerage and water systems, as the case may be, of such city;

7. To make and amend by-laws for its organization and internal management, and rules and regulations for the sale of water or collection of sewage and the collection of rents and charges therefor and otherwise governing the exercise of its powers and duties and the fulfillment of its purposes under this title. A copy of such rules, regulations and by-laws, and all amendments thereto, duly certified by the secretary of the water board shall be filed in the office of the clerk of the city. In addition to the civil penalties described in section one thousand one hundred fifteen-g of this title, the common council, upon the written request of the water board, shall have power to prescribe that violation of specific by-laws, rules or regulations of the water board, published once in a newspaper having a general circulation in the city, shall be punishable by a fine, not exceeding

fifty dollars, or by imprisonment for not longer than thirty days, or both;

8. To establish, fix, revise, charge and collect and enforce the payment of all fees, rates, rents and other service charges for the use of, or services rendered by, or any commodities furnished by the water system or the sewerage system, so as to provide revenues which, together with other revenues available to the water board, if any, shall be at least sufficient at all times so that such system or systems shall be placed on a self-sustaining basis in accordance with section one thousand one hundred fifteen-i of this title;

9. To pledge its revenues and mortgage any or all of its properties to secure the obligations of the authority;

10. To construct, improve, maintain, develop, expand or rehabilitate water facilities or sewerage facilities;

11. To operate and manage and to contract for the operation and management of properties of the water board;

12. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed and operated by the water board, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

13. To enter into contracts with municipalities for the collection, treatment and disposal of sewage;

14. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

15. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the city, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

16. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the water board and to prepare recommendations in regard thereto;

17. To make use of existing studies, surveys, plans, data and other material in the possession of any state agency, any municipality or the authority in order to avoid duplication of effort;

18. To enter upon such lands, waters or premises as in the judgment of the water board shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the water board being liable only for actual damage done;

19. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

20. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the city and to collect, treat and discharge sewage produced for such purposes by such generators;

21. To purchase water in bulk from any person, private corporation or municipality when necessary or convenient for the operation of the water system;

22. To produce, develop, distribute and sell water or sewerage services within or without the territorial limits of the city; and to purchase water from any municipal corporation, town water district, person, association or corporation; provided, however, that water and sewerage services may be sold at retail to individual consumers only within the city and further provided that in exercising the powers granted by this title, the water board shall not sell water or sewerage services in any area which is served by a water system or sewerage system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the water board to sell water or sewerage services, as the case may be, in such served areas;

23. To enter into cooperative agreements with the authority, other authorities, the city, other municipalities, counties, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the city, for the interconnection of facilities, the exchange or interchange of services and commodities, and within the territorial limits of the city to enter into a contract for the construction and operation and maintenance of a water or sewerage system by the water board for any municipality having power to construct and develop a water or sewerage system, upon such terms and conditions as shall be determined to be reasonable including but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

24. To enter into agreements with the authority and the city, as herein provided;

25. To invest moneys not required for immediate use or disbursement, subject to such restrictions as may be imposed by any agreement with the authority, in such obligations or deposits with such banks or trust companies as it may determine and designate, provided that any such deposit with a bank or trust company shall be continuously and fully secured by direct obligations of the city, the state or the United

States of America, or obligations, the principal of and interest on which are guaranteed by the state or the United States of America, of a market value equal at all times to the amount of the deposit;

26. To establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by any agreement with the authority and the city; and

27. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1115-g. Transfer of sewerage or water systems by the city to the water board. 1. The city may, by resolution of the common council of the city, enter into an agreement with the water board for the transfer to the water board, for use in the exercise of its corporate powers and purposes, of the sewerage system or water system, or both, of the city as the same then shall be owned by the city. Any such agreement may provide for the transfer of title of such system or systems by deed, lease or other arrangement to the water board. To the extent not inconsistent with this title, any such agreement may impose such limitations or conditions as may be agreed upon by and between the city and the water board with respect to the power of the water board to sell or otherwise dispose of any property acquired by the water board pursuant to such agreement, and may provide for or authorize the water board to surrender to the city property no longer required by the water board for its public purposes. Notwithstanding the provisions of any general, special or local law or charter to the contrary, any action taken by the city pursuant to this subdivision shall not be subject to a permissive or mandatory referendum.

2. Any such agreement shall set forth the liabilities of the city which it is contemplated are to be paid by the water board from moneys available to it; provided, however, that such agreement does not require the water board to assume the liabilities of the city; provided further, notwithstanding the foregoing, any real property owned by the city outside its municipal boundaries for the purposes of the water system

including all water facilities which are subject to real property taxation under city ownership shall remain subject to real property taxation as provided in section one thousand one hundred fifteen-j of this title upon transfer and conveyance to the water board as if the city remained the record owner of such water system and water facilities.

3. Any such agreement may provide for the payment by the city to the water board from any funds of the city, of such amount as may be determined appropriate for use by the water board.

4. The city and the water board are hereby authorized and empowered to make or enter into any contracts, agreements, deeds, leases, conveyances or other instruments as may be necessary or appropriate to effectuate the purposes of this title, and they shall have power and authority to do so and to authorize the doing of all things incidental, desirable or necessary to implement the provisions of this title.

5. Notwithstanding the foregoing provisions of this section, no agreement comtemplated by this section shall become effective for any purpose unless and until the same shall have been approved in writing by resolution of the authority.

6. Upon the filing by the water board with the clerk of the city and the secretary of state of a copy of the instruments or documents effectuating the transfer authorized by this section, the water board shall take possession of the sewerage system or water system, or both, of the city thereby transferred.

7. Any application filed or proceeding heretofore commenced in relation to the sewerage system or water system, or both, transferred to the water board pending with the state departments of environmental conservation or health or any other state agency or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the water board and be binding upon the water board to the same extent and in the same manner as if the water board had been a party to such application or

proceeding from its inception, and the water board shall be deemed a party thereto to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the water board and shall be assigned and transferred by the city to the water board unless such assignment and transfer is prohibited by federal law.

8. The rules and regulations of the water board may provide for the discontinuance or disconnection of the supply of water or the provision of sewerage service, or both, as the case may be, by the city or the water board for non-payment of fees, rates, rents or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water or the provision of sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law. A copy of all by-laws, rules and regulations and amendments thereto, duly certified by the secretary of the water board, shall be filed in the offices of the clerk of the city and the secretary of state within ninety days and thereafter published once in the official newspaper of the city. Violation of such rules and regulations shall subject the offending party to a civil penalty in an action brought by the water board, not exceeding one hundred dollars for each day the violation continues. Jurisdiction is hereby conferred upon the city court of the city to hear and determine, subject to the provisions of the civil practice law and rules, any violation of such rules and regulations.

§ 1115-h. Agreement among the water board, the city and the authority for the provision of projects. 1. The authority, the water board and the city, acting by resolution of the common council of the city, may enter into agreements for the purpose of providing for the construction and financing of a project.

2. Any such agreements (i) shall describe in sufficient detail for reasonable identification the particular project to be financed in whole or in part by the authority, (ii) shall describe the plan for the financing of the cost of the construction of such project, including the amount, if any, to be provided by the water board and the source or sources thereof, (iii) shall set forth the method by which and by whom and the terms and conditions upon which moneys provided by the authority shall be disbursed, (iv) may require, in the discretion of the authority, the payment to the authority of the proceeds of any state and federal grants available to the water board, (v) shall provide for the establishment of user fees, rates, rents and other charges and the charging and collection thereof by the water board for the use of, or services furnished, rendered or made available by such system such as to provide that the water board receive revenues at least sufficient, together with other revenues of the water board, if any, to meet the requirements of subdivision one of section one thousand one hundred fifteen-i of this title, provided that revenues received by the water board shall be deposited in a special fund established pursuant to this title and disbursed to, and upon certification of, the authority, (vi) may provide for the transfer by the city to the water board pursuant to section one thousand one hundred fifteen-g of this title of ownership of the water system or sewerage system, or both as the case may be, of which such project will form a part, (vii) may provide for the construction and completion of such project by the city or the water board and for the operation, maintenance and repair thereof as an integrated part of the system of which such project forms a part, subject to such terms and conditions, not inconsistent with this title, which may be in the public interest and necessary or desirable properly and adequately to secure the holders of bonds of the authority, (viii) shall provide for the discontinuance or disconnection of the supply of water or the provision of sewerage service, or both, as the case may be, for non-payment of fees, rates, rents or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water or the provision of sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and

section one hundred sixteen of the public service law, and (ix) in the discretion of the authority, require reports concerning the project from the water board to the authority and the city.

3. If the city executes an agreement pursuant to this section, relating to the financing of projects by revenue bonds, it shall have and shall be deemed to have annulled its power to levy user fees, rents and other charges on participating properties or customers for the cost of financing, operating and maintaining such projects under its jurisdiction until all bonds of the authority shall have been paid or discharged in accordance with the agreement and the resolution of the authority authorizing such bonds. If the city has outstanding general obligation bonds issued for acquiring or constructing water or sewerage facilities, whether the bonds are payable from revenues, special assessments, or taxes, it may authorize the authority pursuant to the agreement to issue its revenue bonds under this title for the purpose of retiring the outstanding bonds.

4. No such agreement shall be executed until the city and water board shall have held a public hearing at which users of the water system or sewerage system, or both, as the case may be, shall have had opportunity to be heard concerning the proposed provisions thereof. Notice of such hearing shall be published at least thirty days in advance in the official newspaper or newspapers of the city.

5. Such agreement shall be effective upon the issuance by the authority of bonds to finance the cost of constructing projects of the city or the water board.

6. Any such agreement may be amended, revised or extended by supplemental agreements authorized and executed in the same manner as the original agreement, provided that any such supplemental agreement shall not be inconsistent with the provisions of this title.

7. (a) Following the execution of the agreement by and between the authority, the water board and the city pursuant to this section, the clerk of the city shall publish a notice in substantially the following

form: "Notice is hereby given that the city of Albany has on the day of   entered into an agreement with the Albany municipal water finance authority in relation to the construction and financing of (here insert a brief description of the sewerage or water facility or facilities to which such agreement relates) pursuant to the Albany municipal water finance authority act for the purpose of placing its sewerage or water system or water and sewerage system, as the case may be, on an independent basis, imposing fees and rents on sewerage or water system users, or both, which, together with other revenues available for such purposes, if any, are sufficient to pay to the authority debt service on bonds issued by the authority pursuant to the agreement and for operation and maintenance of the facility (title to which is transferred to the water board pursuant to the agreement). Such agreement in general terms provides (here insert a brief summary of the substantive provisions of such agreement). A copy of the complete agreement is on file for public inspection in the office of the clerk of the city where the same may be examined by any interested person during regular business hours. The validity of this agreement may be hereafter contested only upon the ground or grounds that (i) such agreement violates, or the performance of any provision thereof by any party thereto would violate, the provisions of any law or the state constitution or (ii) the provisions of law which should have been complied with in relation to the authorization and execution thereof were not substantially complied with, and in any event an action, suit or proceeding is commenced within sixty days after the date of this notice.

clerk of the
city of Albany

(b) The publication authorized by this subdivision shall be in the official newspaper or newspapers of the city.

(c) After the expiration of the sixty day period set forth in such notice, the validity of such agreement shall be conclusively presumed and the validity thereof shall not thereafter be questioned by either a party plaintiff or a party defendant and no court shall have jurisdiction in any action, suit or proceeding contesting such validity.

(d) Neither any error or omission in the notice of publication provided for in this subdivision shall affect or impair the validity of an agreement executed pursuant to this section so long as the notice substantially conforms to the provisions of this section.

§ 1115-i. Imposition and disposition of fees, rates, rents or charges. 1. The water board shall establish, fix and revise, from time to time, fees, rates, rents or other charges for the use of, or services furnished, rendered or made available by, the water system or sewerage system, or both, as the case may be, owned by the water board pursuant to this title in such amount at least sufficient at all times so as to provide funds in an amount sufficient, together with other revenues available to the board, if any, (i) to pay to the authority, in accordance with any agreement with the authority, an amount sufficient for the purpose of paying the principal of and the interest on the outstanding bonds of the authority as the same shall become due and payable and maintaining or funding a capital or debt service reserve fund therefor and, to the extent requested by the city in, or annually pursuant to, any agreement, to pay to the city, in accordance with any agreement, an amount sufficient for the purpose of paying the principal of and interest on general obligation bonds of the city issued for or allocable to the water system or sewerage system, or both, as the case may be, as the same shall become due and payable, and to maintain or fund reserves therefor, (ii) to pay to the city, in accordance with any agreement, an amount sufficient for the purpose of paying the costs of administering, maintaining, repairing and operating and the cost of constructing capital improvements to the water system or sewerage system, or both, as the case may be, (iii) to pay to the city in accordance with any agreement entered into pursuant to section eleven hundred fifteen-h of this title an amount sufficient for the purpose of paying liabilities issued for or allocable to the water system or sewerage system, or both, as the same shall become due and payable, (iv) to meet any requirements of any agreement including requirements relating to the establishment of reserves for renewal and replacement and for uncollected charges and covenants respecting rates, (v) to pay all other reasonable and necessary expenses of the authority and the water board in relation thereto, and (vi) to the extent requested by the city in or pursuant to any agreement to pay or provide for such other purposes or projects as such city considers appropriate and in the public interest. Any surplus of funds remaining in the water board after such payments have been made shall be returned to the city for deposit in the general fund.

2. There is hereby established in the custody of the water board a special fund to be known as the local water fund. Such fund shall consist of the revenues derived from the fees, rates, rents and service charges established, charged and collected pursuant to this title and any other income earned or moneys received by the water board. Revenues in the local water fund shall be kept separate and shall not be commingled with any other moneys in the custody of the water board. All moneys, properties and assets acquired by the water board, whether as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and reused in accordance with the purposes and provisions of this article.

3. The water board shall deposit promptly, to the credit of the local water fund, revenues collected under this article in a bank, banking house or trust company as may be designated in or pursuant to the agreements.

4. No such fee, rate, rent or other charge shall be established, fixed or revised unless and until the water board has held a public hearing at which the users of the water system or sewerage system, or both, as the case may be, the owners of property served or to be served and other interested persons, have had an opportunity to be heard concerning the same. Notice of such public hearing shall be published by the water board at least twenty days before the date set therefor in at least one newspaper of general circulation in the city. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such hearing. A copy of the notice shall be filed in the office of the clerk of the city and shall be available for inspection by the public. At all such hearings, any users of the water system or sewerage system, or both, as the case may be, owners of property served or to be served and any other interested persons shall have an opportunity to be heard concerning the

matters under consideration. Any decision of the water board on matters considered at such public hearing shall be in writing and be made available in the office of the water board for public inspection during regular office hours. Such decision shall be published in at least one newspaper of general circulation in the city within thirty days after such decision is made. The fees, rates, rents or other charges so established for any class of users of property served shall be extended to cover any additional premises thereafter served which are within the same class, without the necessity of a hearing thereon.

5. The fees, rates, rents or other charges established, fixed and revised from time to time by the water board shall be collected by the water board at such times and in such manner as may be determined by the rules and regulations adopted by the water board consistent with the provisions of this title.

6. Such fees, rates, rents or other charges, if not paid when due, shall constitute a lien upon the premises served and a charge against the owners thereof, which lien and charge shall bear interest at the same rate as would unpaid taxes of the city. Such lien shall take precedence over all other liens or encumbrances, except taxes, and may be foreclosed against the lot or building served in the same manner as a lien for such taxes. The amount which remains due and unpaid for sixty days may, with interest thereon at the same rate as unpaid city taxes and with reasonable attorneys' fees, be recovered by the water board in a civil action in the name of the water board against such owners. The city and any state agency shall be subject to the same fees, rates, rents or other charges under the same conditions as other users of such water system or sewerage system, or both, as the case may be. Any agreement for the supply of water services or sewerage services between the city or an agency thereof and any other municipality or water supply system, or any administrative determination by a state agency, or any other arrangement in this regard, in effect at the time the water board shall be established, shall remain in full force and effect and be binding upon the water board as if it were a party to such agreement, determination or other arrangement. All rights, powers, duties, obligations and functions provided by law with respect to the fixing of

charges or rates for the supply of water or sewerage services to users outside the city, including but not limited to those set forth in the environmental conservation law, shall be deemed to apply, as appropriate, to the water board established pursuant to this title. In addition to any other lawful enforcement methods and pursuant to rules and regulations of the water board promulgated pursuant to this title, the payment of fees, rates, rents or other charges for water service or sewerage service to any premises may be enforced by discontinuing the water service or sewerage service to such premises provided that such discontinuance or disconnection of any supply of water or the provision of sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a water-works corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law.

7. The water board shall pay to the authority such amounts at such times and in such manner as may be provided in the agreement by and among the authority, the water board and the city consistent with the priorities set forth in such agreement. There is hereby created a lien, by this title made a statutory lien within the meaning of the uniform commercial code and any other state or federal law, upon the gross revenues of the water board, in favor of the payment of all amounts due pursuant to such agreement and in the order and priority set forth therein and which lien shall be a first lien upon such gross revenues. The gross revenues so subject to such statutory lien shall be and remain subject to such statutory lien until the payment in full of each such item in accordance with such priority. Said statutory lien shall not be construed to give any holder or owner of any bond of the authority power to compel the sale of any water system or sewerage system, as the case may be.

8. If there be any default by the water board, in the making of the payments to the authority required under this section, as a result of the failure by the water board to impose sufficient fees, rates, rents or other charges, the authority may petition for the appointment by any court having jurisdiction in any proper action of a receiver to

administer on behalf of the water board, under the direction of said court, the affairs of the water board in order to achieve system revenues at least sufficient to make such payments; and by and with the approval of said court, to establish, fix and revise, from time to time, fees, rates, rents or other charges at least sufficient therefor in conformity with this title, and the resolution or trust indenture of the authority providing for the issuance of its bonds and in accordance with such orders as the court shall make.

9. The water board shall prepare and transmit to the city on or before the first day of December in each year a list of those persons or property owners within such city who are in arrears in the payment of fees, rates, rents or other charges for a period of sixty days or more after the last day fixed for payment thereof without penalty. The list shall contain a brief description of the properties for which the services were provided, the names of the persons liable to pay for the same and the amounts chargeable to each, including penalties and interest computed to the next succeeding December thirty-first. The city shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of such city under the name of "delinquent water charges" or "delinquent sewerage charges" or "delinquent water and sewerage charges" as may be appropriate and as may be directed by the water board. Such amounts, as and when collected by the city, shall be paid over to the water board. All of the provisions of the tax laws of the state covering the enforcement and collection of unpaid taxes of the city shall apply to the collection of such unpaid fees, rates, rents or other charges.

10. Neither the public service commission, nor any city or state agency, shall have any jurisdiction over the water board or the authority or any power over the regulation of the fees, rates, rents or other charges established, fixed or revised by the water board except as provided by law with respect to the supply of water or sewerage services to users outside the city.

§ 1115-j. Tax exemption of the water board property and activities. 1.

It is hereby determined that the creation of a water board and the carrying out of its corporate purposes is in all respects for the benefit of the city and is a public purpose and the water board shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The water board shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Notwithstanding the provisions of subdivisions one and four of this section, any real property of the water board located outside the boundaries of the city, shall be exempt from the payment of taxes, special ad valorem levies and special assessments only if and to the extent that such real property would have been exempt if owned by the city.

3. Notwithstanding any provision in this section to the contrary, the water board may pay, or may enter into agreements with any municipality to pay, a sum or sums, annually or otherwise, or to provide other considerations to such municipality, with respect to real property of the water board located within such municipality and provided that any such payment or agreement to pay shall be subject to approval by the authority.

4. The water board shall not be required to pay any taxes or other governmental fees or charges, whether imposed by the state or any municipality, including without limitation franchise taxes, sales taxes or other excise taxes, or any other tax or charge upon its property or activities or upon any of its revenues or other income.

§ 1115-k. Pledge effective without filing or recording. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues or other personal property made or created by the authority, the water board or the city pursuant to this title shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority, the water board or the city, as the case may be, irrespective of whether or not such parties have notice thereof. No instrument by which such pledge or security interest is created nor any financing statement need be recorded or filed.

§ 1115-l. Governmental capacity of the authority, the water board and the city. The authority, the water board and the city in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1115-m. Transfer of officers and employees. Any officer or employee of the city under civil service who is selected by the authority or the water board may, with the consent of the mayor, be transferred to the authority or the water board, as the case may be, and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority or the water board, as the case may be. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority or the water board, as the case may be. Any such officers or employees so transferred to the authority or the water board, as the case may be, pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority or the water board, as the case may be, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority or the water board, as the case may be. All such officers or employees so transferred to the authority or the water board, as the case may be, who have been appointed to positions under the rules and classifications of the personnel officer of the city shall have the same status with respect thereto after transfer to the authority or the water board, as the case may be, as they had under their original appointment.

§ 1115-n. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in conformance with applicable provisions of the uniform commercial code in such principal amounts as it may determine to be necessary to pay the cost of any project or projects, or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority shall be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the city, and the authority, the water board and the city, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or any non-governmental insurer or financial institution any insurance, guaranty or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of bonds or notes of the authority as may then exist.

3. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals

thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine provided that no issue of bonds may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by (i) the comptroller, where such sale is not to such comptroller, or (ii) by the state director of the budget, where such sale is to be to the comptroller.

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

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

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

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

(d) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(g) the creation of special funds into which any revenues or moneys may be deposited;

(h) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

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

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

(k) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(l) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(m) any other matters of like or different character which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or properties and the doing of any act (including refraining from doing any act) which the authority would have the right to do in the absence of such

agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled at a price not exceeding (i) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (ii) if the bonds are not redeemable then redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption, plus accrued interest to interest payment

date.

§ 1115-o. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (i) of subdivision four of section one thousand one hundred fifteen-n of this title:

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

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action shall be laid in the county of Albany.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 1115-p. State, city and water board not liable on authority bonds. Neither the state, nor the city, nor the water board nor any subdivision thereof shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the city, or such water board.

§ 1115-q. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States or of the state or of the city of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1115-r. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 1115-s. Agreement of the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority or the water board to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1115-t. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city and of the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The authority shall be deemed a public authority for purposes of section four hundred twelve of the real property tax law.

2. Notwithstanding any provision in this section to the contrary, the authority may pay, or may enter into agreements with any municipality to pay, a sum or sums, annually or otherwise, or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality.

3. Any bonds issued pursuant to this title together with the income

therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

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

§ 1115-u. Actions against authority and water board. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority or the water board for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or the water board or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority or the water board, as the case may be, within the time limit by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority or water board for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the authority or the water board upon any judgment for which it is liable, other than a judgment against the authority on its bonds, shall not exceed the rate of interest on judgements and accrued claims against municipal corporations as provided in the general municipal law from time to time. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 1115-v. Contracts. 1. All contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by the contracting agency pursuant to resolution of its governing body. Such awards shall be made in compliance with section one hundred three of the general municipal law. In any construction contract, the contracting agency may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of section one hundred three of the general municipal law and the term "political subdivision" as defined in section one hundred of the general municipal law shall be deemed to include the contracting agency for the purposes of such section one hundred three.

2. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the contracting agency may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the contracting agency, and the sufficiency of such security shall, in addition to the justification and acknowledgement, be approved by the contracting agency. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal, or if he accepts but does not execute the contract and give proper security, the contracting agency shall have the right to declare his deposit forfeited. In case any work shall be abandoned by any contractor, the contracting agency may, if it determines that the public interest is thereby served, adopt on its own behalf any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from, or any contract awarded to, any person or corporation who is in arrears to the contracting agency or the city upon any obligation of the contracting agency or of the city. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The contracting agency may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the city with respect to any proposed project, and the contracting agency may adopt, utilize, accept and confirm any bids or proposals submitted to the city and heretofore or hereafter received and publicly opened by the city. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, any other general, special or local law, or the charter of the city.

§ 1115-w. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority or the water board to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority or the water board, as the case may be, is empowered by this title to make.

§ 1115-x. Authority, water board and city to take affirmative action. 1. Each contracting agency which awards contracts for design, construction, services or materials for projects authorized by this title shall require that such contracts and documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue programs of affirmative action to insure that minority group persons and women are afforded equal employment opportunity without discrimination. Such action shall be taken with reference, but not be limited to recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) At the request of the contracting agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which he has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, in performance of the contract that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of paragraphs (a) through (c) of this subdivision in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its working connection with a contract.

2. Each contracting agency shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action as required by this section. Such procedures may require, after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. Such procedures and guidelines shall be consistent with the guidelines promulgated by the office of federal contract compliance programs of the United States department of labor pursuant to presidential executive order eleven thousand two hundred forty-six, as amended, and any state statutory or regulatory requirements. A contracting agency shall, in the promulgation of procedures and guidelines pursuant to this section, cooperate with any federal, state or local agency established for the purpose of implementing affirmative action compliance programs.

3. Any contracting agency empowered to award contracts for design, construction, services or materials shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or

permanent resident noncitizens who are Black, Hispanic, Asian, American Indian or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

4. In the implementation of subdivisions two and three of this section, the contracting agency shall consider compliance by any contractor with the requirements of any federal, state or local law concerning minority business enterprises or equal employment opportunity, which may effectuate the requirements of this section. If the contracting agency determines that by virtue of the imposition of the requirements of any such law, in respect to contracts affected by this section, that the provisions thereof duplicate or conflict with such law, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. In order to implement the requirements and objectives of this section, contracting agencies shall be responsible for monitoring the contractors' compliance with the provisions hereof, for advising contractors on the availability of competing qualified minority business enterprises to perform contracts proposed to be awarded and for making recommendations to contractors to improve the access of minority business enterprises to such contracts.

§ 1115-y. Audit and annual report. The accounts of the authority and the water board shall be subject to the supervision of the city comptroller. The authority shall annually submit to the governor and comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the mayor. The authority shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two, and two thousand five hundred three of title one of article nine of this chapter.

§ 1115-z. Limited liability. Neither the members of the authority or the water board, nor any officer or employee of the authority or the water board acting in behalf thereof, while acting within the scope of his authority, shall be subject to any liability resulting from (i) the construction, ownership, maintenance or operation of any project financed with the assistance of the authority, (ii) the construction, ownership, maintenance or operation of any sewerage system or facility or water system or facility owned by the water board, or (iii) carrying out any of the powers expressly given in this title. Any member of the authority, either appointed by the governor or an employee of the state shall be deemed an "employee" for purposes of section eighteen of the public officers law for any actions relating to their activities as a member of the authority created by this state.

§ 1115-aa. Separability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1115-bb. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the city charter, or any local law, ordinance or resolution of the city, the provisions of this title shall be controlling, provided that, nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the state department of environmental conservation or the state department of health.

TITLE 6-A

ALBANY WATER BOARD

§ 1116. Short title. This title shall be known and may be cited as the "Albany water board act".

§ 1118. Albany water board. For the benefit of the city of Albany and the inhabitants thereof, a water board to be known as the Albany water board is hereby established for the accomplishment of any or all of the purposes specified in title six of article five of this chapter. It shall have the powers and duties now or hereafter conferred by title six of article five of this chapter upon a water board. It shall be organized in a manner prescribed by and be subject to the provisions of title six of article five of this chapter. The water board, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title six of article five of this chapter.

TITLE 6-B

CLIFTON PARK WATER AUTHORITY

§ 1120. Short title. This title shall be known and may be cited as the "Clifton Park water authority act".

§ 1120-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section eleven hundred twenty-c of this title.

2. "Board" means the members of the authority constituting and acting as the governing board of the authority.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Civil service commission" shall mean the civil service commission of the county of Saratoga.

5. "Comptroller" means the comptroller of the state of New York.

6. "Construction" means the negotiation, acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation, interconnection, or rehabilitation of a water system; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services, studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

7. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, real, personal and mixed, and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to the town, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

8. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is not a transmission facility, from a supply facility, to the ultimate consumers of water.

9. "District" means the Clifton Park water district created by section eleven hundred twenty-b of this title.

9-a. "Sewer district" means a sewer district created by the town of Clifton Park.

10. "Governing body" means:
(a) In the case of a city, county, town or village or district corporation, the finance board as such term is defined in the local finance law; or
(b) In the case of a public benefit corporation, the members thereof.

11. "Municipality" means any county, city, town, village, improvement district under the town law, any other such instrumentality, including any agency or public corporation of the state, or any of the foregoing or any combination thereof.

12. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

13. "Project" means any water facility.

14. "Properties" means the water system or systems of the authority, whether situated within or without the territorial limits of the district, including the plants, works, structures, instrumentalities or part thereof and appurtenances thereto, real property, water facilities or any other property incidental to and included in such system or systems or part thereof, and any improvements, extensions and betterments.

15. "Real property" means lands, structures, franchises, rights and interests in lands, waters, lands underwater, riparian rights and air

rights and any and all things and rights included within said term and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

16. "Revenues" means all rates, rents, fees, charges, payments and other income and receipts derived from the operation of the properties of the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sales or other dispositions of assets, together with all federal, state or municipal aid.

17. "State" shall mean the state of New York.

18. "State agency" means any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

19. "State sanitary code" means the regulations adopted pursuant to section two hundred twenty-five of the public health law.

20. "Supply facility" means a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

21. "Town" means the town of Clifton Park.

22. "Town board" means the town board of the town.

23. "Town supervisor" means the town supervisor of the town.

24. "Transmission facility" means a water facility used to carry water from a supply facility to a distribution system.

25. "Treasurer" means the treasurer of the authority.

26. "Water facility" or "water facilities" means any plants, works, instrumentalities, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, heating or distributing water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

27. "Watershed rules" means the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

§ 1120-b. Clifton Park water district. There is hereby defined and established an area to be known as the "Clifton Park water district" which shall embrace all the territory located within the town of Clifton Park, provided that the authority shall only be empowered to exercise its corporate powers under this article within the Rexford Water District No. 1 with respect to sewer districts located therein.

§ 1120-c. Clifton Park water authority. 1. A public corporation to be known as the Clifton Park water authority, is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. The authority shall be governed by a board of five members, who shall be residents of the town of Clifton Park and be appointed by the Clifton Park town board. The first members shall be appointed for the following terms of office: the two most junior council members on the town board shall each appoint one member for a term ending on December thirty-first of the third year following the year in which this title shall have become law; the other two council members on the town board shall each appoint one member for a term ending on December thirty-first of the fourth year following the year in which this title shall have become law; and the town supervisor shall appoint a member for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. No elected officials shall be members of the water authority. Subsequent appointments of members shall be made by a vote of the majority of the members of the town board for a term of five years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. In no event shall more than three members belong to the same political party. Vacancies shall be filled in the manner provided for subsequent appointments. Vacancies, occurring otherwise than by expiration of term of office, shall be filled for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the town. They shall receive no reimbursement for the ordinary expenses of attending meetings, but may by resolution of the authority be allowed their expenses of a special or extraordinary nature.

2. The powers of the authority shall be vested in and be exercised by the board at a meeting duly called and held where a quorum of three members are present. No action shall be taken except pursuant to the favorable vote of at least three members. The board may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

3. The officers of the authority shall consist of a chairman, vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. The chairman shall be appointed by the town supervisor for a one year term coinciding

with the calendar year and the remaining officers shall be appointed by the chairman and shall act in such capacities at the pleasure of the chairman. The chairman may be appointed to subsequent terms without limitations. In addition to the secretary, the board may appoint and at pleasure remove such additional officers and employees as it may determine necessary or desirable for the performance of the powers and duties of the authority which positions shall be in exempt class of civil service, and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The board may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board and the premium therefor shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance or appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment; provided, however, that no elected official shall be a member of the authority.

5. (a) The town supervisor shall file on or before March thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the town supervisor setting forth:

(1) the name of the authority;

(2) the names of the members appointed by the town board and their terms of office; and

(3) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be

deemed to be and shall be dissolved. The town supervisor may file in the office of the secretary of state an amended certificate signed by him or her setting forth any change in the name of the authority. The failure of the town supervisor to file an amended certificate shall not in any way affect the corporate existence of the authority.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the town.

6. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulations of rates fixed or charges collected by the authority.

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

8. In carrying out its functions the authority shall take into consideration the local zoning and planning regulations as well as local comprehensive land use plans.

§ 1120-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue bonds or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. To purchase, in the name of the authority, any water facility, and any improvements, extensions and betterments, situated wholly within the district, provided, however, that the authority shall have the power to purchase any source of supply, supply facility, water supply system or transmission facility or any part thereof situated wholly or partly without the territorial limits of the district, provided the same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties, the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore, the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall have become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall have become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or

company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. To construct, improve, maintain, develop, expand or rehabilitate water facilities and to pay the costs thereof;

8. To operate and manage and to contract for the operation and management of properties of the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed, owned or operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

9-a. To enter into cooperative agreements and contracts with the town of Clifton Park pursuant to article five-G of the general municipal law to render maintenance and repair services to sewer districts located in the town of Clifton Park.

10. To take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

11. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in

its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

12. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

14. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purposes authorized by this title, the authority being liable only for actual damage done;

15. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

16. To obtain, store, treat, distribute, supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district;

17. To purchase water in bulk from any person, private corporation, public corporation or municipality when necessary or convenient for the operation of such water system;

18. To produce, develop, distribute and sell water or water services within or without the territorial limits of the district; and to

purchase water from any public corporation, town water district, municipality, person, association or corporation; provided, however, that water services may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water services in any area outside of the town (a) without town board approval and (b) in any area which is served by a water system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water services in such served area;

19. To make and amend from time to time by-laws for the management and regulation of its affairs and rules and regulations for the construction, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules, regulations and by-laws, and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of the town. In addition, the town board by local law shall have power to prescribe that violation of specific by-laws, rules and regulations of the authority, published once in a newspaper having a general circulation in the town, shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

20. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves and all other obligations and indebtedness of the authority;

21. To enter into cooperative agreements with other authorities, municipalities, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district, for the interconnection of facilities, the exchange or interchange of services and commodities, and within the territorial limits of the district to enter into a contract for the construction and operation and maintenance of a water system by the authority for any municipality, public corporation or water district having power to construct and develop a water system, upon such terms and conditions as shall be determined to be reasonable including but not limited to the reimbursement of all costs of such construction, or for any other lawful purpose necessary or desirable to effect the purposes of this title;

22. To provide for the discontinuance or disconnection of water service, for non-payment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any water service, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

23. With the consent of the governing body of a municipality, to use officers and employees of such municipality and to pay a proper proportion of the compensation or costs for the services for such officers or employees; and

24. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1120-e. Advances on behalf of the authority; transfer of property to authority; acquisition of property by town for authority. 1. In addition to any powers granted to it by law, the town, from time to time, may appropriate sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the town may determine if the moneys so appropriated shall be subject to repayment by the authority to the town and, in such event, the manner and time or times for such repayment.

2. The town or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the town or other municipality may agree.

3. The town may acquire by purchase or by exercise of the power of eminent domain real property in the name of the town for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the town from the state may be used for any corporate purpose of the authority.

§ 1120-f. Governmental capacity of the authority and municipalities. The authority, the town and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1120-g. Transfer of officers and employees. Any public officer or employee in the public service who is selected by the authority may, with the consent of the commission, board, or chief executive officer of the municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such fund or system to be paid by the employer on account of such officers and employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 1120-h. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject only to any agreements with the holders of outstanding bonds pledging any particular revenues, earnings, or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or any nongovernmental insurer or financial institution any insurance, guarantee or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal or premium, or any of the foregoing, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to

any such insurance or guarantee, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years from the date of original issuance of any such bonds. Obligations with a maturity of five years or less from the date of their original issuance may be designated as notes. Bonds shall be subject to such terms of redemption, bear interest at such rate or rates per annum payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority, other than obligations designated as notes, may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to be to such comptroller, or by the state director of the division of the budget, where such sale is to be to the comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

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

(a) pledging all or any part of the authority, together with any other moneys or property of the authority to secure the payment of the bonds, including, but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source;

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

(c) limitations on the purpose to which the proceeds from the sale of

bonds may be applied;
(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby, and the use and disposition of revenues;
(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;
(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;
(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
(h) the creation of special funds into which any revenues or moneys may be deposited;
(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;
(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section eleven hundred twenty-i of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;
(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;
(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;
(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

7. Whether or not the bonds are of such form and character as to be

negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

8. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date;

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 1120-i. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision four of section one thousand one hundred twenty-h of this title:

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

2. Such trustee may and, upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding, shall in his, her or its own name:

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of Saratoga, New York.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part

or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 1120-j. State and town not liable on authority bonds. Neither the state nor the town shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, or the town, and such bonds shall contain, on the face thereof, a statement to such effect.

§ 1120-k. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the board. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the board or of such other person or persons as the board may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the town of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1120-l. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

§ 1120-m. Agreement of the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to negotiate, purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the bondholders.

§ 1120-n. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the town and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf; provided, however, that any real property owned or under the jurisdiction, supervision or control of the authority outside of the district shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which said real property is located. The construction, use, occupation or possession of any property owned by the authority or the town, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title, together with the income therefrom, shall be exempt from taxation. For purposes of this subdivision, the phrase "exempt from taxation" means exempt from direct taxation in conformity with established judicial interpretation of the tax exempt status of the obligations of the state and its agencies,

entities, authorities and political subdivisions and thus, the meaning of such phrase is in conformity with the legislative intent expressed by section twenty-two of chapter one hundred sixty-six of the laws of nineteen hundred ninety-one regarding the tax exempt status of obligations of the state and its agencies. The revenues, moneys and other properties and activities of the authority shall be exempt from taxes and governmental fees or charges, whether imposed by the state or any municipality, including real estate taxes, franchise taxes, sales taxes or other excise taxes except as otherwise provided in subdivision one of this section with respect to real property located outside the district.

3. The state hereby covenants with the purchaser and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title that the interest thereon shall be exempt from taxation. The state further covenants with the holders of such bonds that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxation. For purposes of this subdivision, the phrase "exempt from taxation" means exempt from direct taxation in conformity with established judicial interpretation of the tax exempt status of the obligations of the state and its agencies, entities, authorities and political subdivisions and thus, the meaning of such phrase is in conformity with the legislative intent expressed by section twenty-two of chapter one hundred sixty-six of the laws of nineteen hundred ninety-one regarding the tax exempt status of obligations of the state and its agencies.

§ 1120-o. Actions against the authority. 1. No action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and

(c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

§ 1120-p. Contracts. 1. All contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the authority.

2. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the authority, and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal, or if he accepts but does not execute the contract and give proper security, the authority shall have the right to declare his deposit forfeited. In case any work shall be abandoned by any contractor, the authority may, if it determines that the public interest is thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption, if made. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the town with respect to any proposed project, and the authority may adopt, utilize, ratify, accept and confirm any bids or proposals submitted to the town and heretofore or hereafter received and publicly opened by the town. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, and other general, special or local law, or the charter of the town;

provided, however, the provisions of the ethics law of the town shall apply to the authority and its members. The authority shall be deemed to be an authority for purposes of section twenty-eight hundred seventy-eight of this chapter.

§ 1120-q. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, in any contract therefor which the authority is empowered by this title to make.

§ 1120-r. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the town supervisor. The authority shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two, and two thousand five hundred three of title one of article nine of this chapter.

§ 1120-s. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 1120-t. Environmental applications, proceedings, approvals and

permits. 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the town with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the town to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

§ 1120-u. Town may levy tax within district. Should it appear to the town board at any time that the revenue of the authority is or will be insufficient to provide for the payment of any bonds issued under this title and to reimburse the town for any moneys that it may have advanced to the authority, the town board shall determine the amount of money necessary to be raised for such purpose, and shall levy a tax on the territory of the district located within the town and upon the several parcels of real estate in the district located within the town in an amount sufficient to produce the amount necessary to be raised as aforesaid; provided that such tax shall not be levied to pay any bonds of the authority unless the authority with the consent of the town board has pledged such tax prior to the issuance of such bonds. Such tax shall be levied and apportioned upon such territory located within the town and collected from the several parcels of real estate in the district located within the town in like manner as other town taxes. It is hereby determined that the liability imposed upon the territory included in the district located within the town is based upon the special benefit to such territory accruing under this title and that the tax to be levied because of such liability and in proportion to the taxable value of real estate in such territory will be in proportion to such benefits.

§ 1120-v. Contracts for design, construction, service and materials. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 1120-w. Separability. If any section, clause or provisions of this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1120-x. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of the town, or other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

* TITLE 6-C

DUTCHESS COUNTY WATER AND WASTEWATER AUTHORITY

Section 1121*2. Short title.

* NB There are 2 Title 6-C's

*** § 1121. Short title.** This title shall be known and may be cited as the "Dutchess county water and wastewater authority act".
* NB There are 2 § 1121's

*** § 1122. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section eleven hundred twenty-three of this title.

2. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Civil service commission" means the civil service commission of the county of Dutchess.

4. "Comptroller" means the comptroller of the state.

5. "Construct", "construction" or "constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a water, sewerage or water and sewerage facility, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedure and other actions preliminary or incidental thereto.

6. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real, personal and mixed and improved and unimproved, the cost of the demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all water facilities, sewerage facilities, water and sewerage facilities, machines, apparatus and equipment, financing charges and bond discount, interest prior to, during and after construction to the extent not paid or provided for

from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of bond or lease guarantee, bond insurance or any other credit support device and the cost of other expenses necessary or incidental to the construction of any project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special funds from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

7. "County" means the county of Dutchess.

8. "County executive" means the county executive of the county, being the chief executive officer of the county.

9. "County legislature" means the county legislature of the county.

10. "Distribution system" means the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

11. "Governing body" means the members of the authority constituting and acting as the governing body of the authority.

12. "Municipality" means any county, city, town, village, or improvement district under the town law, any other such instrumentality, including any agency, or public corporation of the state, or any of the foregoing or any combination thereof.

13. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

14. "Project" means any water, sewerage or water and sewerage facility, as the case may be.

15. "Properties" means water, sewerage or water and sewerage facility or facilities, including the plants, works, structures, instrumentalities or part thereof and appurtenances thereto, real property, or any other property incidental to and included in such facility or facilities or part thereof, and any improvements, extensions and betterments.

16. "Real property" means lands, structures, franchise, rights and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "Revenues" means all rates, fees, charges, payments and other income and receipts derived from the operation of the properties of the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sale or other disposition of assets, together with all federal, state or municipal aid, if any.

18. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also shall be considered "sewage" within the meaning of this title.

19. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, treating and disposing of sewage, including main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfall, pumping stations, treatment

and disposal plants, groundwater recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment, and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

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

21. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

22. "Supply facility" means a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

23. "Transmission facility" means a water facility used to carry water from a supply facility to a distribution system.

24. "Water facility" or "water facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, treating or distributing water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, aqueduct taps, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

* NB There are 2 § 1122's

*** § 1123. Dutchess county water and wastewater authority.** 1. A public corporation, to be known as the "Dutchess county water and wastewater authority" is hereby created for the public purpose and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation and shall be a "public district" for purposes of section eighty-nine-l of the public service law, the objects of which in the judgment of the legislature cannot be attained under general laws. The governing body of the authority shall consist of a total of five voting members, two of whom shall be appointed by the county executive, without confirmation of the county legislature, two of whom shall be appointed by the chairman of the county legislature, without confirmation of the county legislature and without county executive right to veto, and one of whom shall be appointed jointly by the county executive and the chairman of the county legislature, subject to confirmation by the county legislature, and of three non-voting ex officio members, one of whom shall be the manager of the county soil and water conservation district, one of whom shall be the executive director of the environmental management council and one of whom shall be the county commissioner of planning, or their designated representatives. No voting member shall, either at the time of his or her appointment or at any time during which he or she shall serve as a voting member, be a member of the county legislature, a town board, village board of trustees, city council, common council, board of estimate and apportionment, board of estimate and contract, or member of a body serving a similar function in a city, or a member of a body serving a similar function of a sewer or water district which, as of December thirty-first, nineteen hundred thirty-eight, possessed both the power to contract indebtedness in its own name and to levy taxes or benefit assessments upon real property or require the levy of such taxes or benefit assessments. The election or appointment of a voting member to any such office or membership shall result in a vacancy in the position of such voting member effective the date of the assumption of such office or membership. The first members appointed by the county executive shall be appointed for the following terms of office: one for a term ending on December thirty-first of the second year following the year in which this title shall have become law and one for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. The first members appointed by the county legislature shall have the following terms: one for a term ending on December thirty-first of the first year following the year in which this title shall have become law and one for a term ending on December thirty-first of the fourth year following the year in which this title shall have become law. The first member jointly appointed by the county executive and the county legislature shall have a term of office ending on December thirty-first of the third year following the year in which this title shall have become law. Subsequent appointments of voting members shall be made for a term of five years ending in each case on December thirty-first of the last year of such term. No person who has served as a voting member for two consecutive terms shall be eligible for reappointment as a member for a third term, except after an interval of at least two years. Any initial term or unexpired term greater than two years shall be considered to be a five year term. All voting members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filed in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Voting members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of three voting members are present. No action shall be taken except pursuant to the favorable vote of at least three voting members. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the authority shall consist of a chairman, who shall be a voting member of the authority, and a vice-chairman and a treasurer, who shall be voting members of the authority, and a secretary, who need not be either a voting member or a non-voting member

of the authority. Such officers shall be appointed by the voting member of the governing body and shall serve in such capacities at the pleasure of the voting members of the governing body. In addition to the secretary, the voting members of the governing body may appoint and at pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The voting members of the governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the authority.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment and any such officer, member or employee may accept such appointment and serve as a member, officer, agent or employee of the authority without forfeiture of any other office or position of public employment by reason thereof.

4. (a) The county executive shall file on or before December thirty-first of the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the authority; (2) the names of the voting members initially appointed, and their terms of office; (3) the names of the ex officio members, and (4) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

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

* NB There are 2 § 1123's

*** § 1124. Powers of the authority.** The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue bonds or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title. In connection with the acquisition of such properties, the authority may assume any obligations of the

owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner or any properties which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water or sewage corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time, and in the case of an acquisition of properties from a municipality pursuant to this provision, it may assume the primary responsibility for the payment of any bonds or notes issued by such municipality for such properties;

6. To develop, construct or maintain a project; provided, however, that the authority shall not enter into any contract for the construction of a project without having first submitted such project, following completion of compliance with the requirements of the state environmental quality review act and the regulations promulgated in connection therewith in connection with such project, to the county legislature for county legislative review, as herein described. For purposes of such county legislative review, construction shall not include such engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, procedures and other actions necessary or reasonably required to develop a project or to present a project to the county legislature for county legislative review. County legislative review shall encompass a process by which the county legislature shall have the opportunity to review and deny a project proposed to be constructed by the authority. County legislative review shall commence with the authority's delivering, by mail or personally, to the clerk of the county legislature a notification that

the authority proposes to construct a project. Such notification shall include a description of the project, the proposed cost and the proposed plan for the financing of such cost and such engineering, architectural, fiscal and economic investigations and studies, surveys, designs and plans prepared by the authority in connection with the project. Following receipt of such notification, the county legislature shall take such action as it may determine in its discretion to be appropriate in connection with its review of the project, which action may include adoption of a resolution, by the affirmative vote of at least two-thirds of the entire voting strength of the county legislature, to deny to the authority the right to construct the project, which vote, to be effective, shall be cast at a meeting held no later than the second consecutive regular meeting of the county legislature following delivery to the clerk of the county legislature of the notification herein described. The date of delivery of notification shall be the date on which such notification shall be actually received by the clerk of the county legislature. If the then current rules and regulations of the county legislature require the filing of a resolution with the clerk of the county legislature to be a specified number of days prior to a meeting of the county legislature for introduction of such resolution at such meeting, such notification shall be deemed to be a resolution and shall be subject to such filing requirement. If the county legislature shall so vote to deny to the authority the right to construct a project, the resolution to so deny shall be submitted to the county executive in such manner and at such time as is provided in the county charter for resolutions subject to approval or disapproval by the county executive. If the county executive shall, within the time permitted for such action, disapprove such resolution, such resolution shall be of no force and effect unless the county legislature shall override such disapproval in such manner and at such time as is provided in the county charter for such action. Nothing in this section shall prohibit the resubmission by the authority to the county legislature at any time of a proposed project which has been previously disapproved;

7. To operate and manage and to contract for the operation and management of properties of the authority;

8. To lease properties of the authority to the county or any other municipality in the county, or any instrumentality thereof, upon such terms and conditions as shall be determined by the authority, the county, the municipality or such instrumentality, as the case may be;

9. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

10. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

11. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

12. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

13. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

14. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the county or

wholesale to municipalities, water districts or district corporations within the county and to collect, treat and discharge sewage produced for such purposes by such generators; provided, however, that the authority shall not sell water at retail to individual consumers or contract with individual consumers for the collection or treatment of sewage where such individual consumers are located in a municipality, water district, sewer district or district corporation which is empowered to provide water or sewer services, as the case may be, unless the authority shall have first notified, in writing, by certified mail, such municipality, water district, sewer district or district corporation that it intends to sell water at retail to individual consumers located therein or collect or treat sewage from individual consumers located therein, as the case may be, identified either by name or location or by the area to be served, and such municipality, water district, sewer district or district corporation does not notify the authority, within sixty days of receipt of such notice, that it objects to the authority selling water or collecting or treating sewage, as the case may be, to such individual consumers;

15. To purchase water in bulk from any person, private corporation or municipality when necessary or convenient for the operation of any water facility;

16. To enter into cooperative agreements with other authorities, municipalities, water districts, sewer districts, district corporations, utility companies, individuals, or corporations, within or without the county, for any lawful purposes necessary or desirable to effect the purposes of this title upon such terms and conditions as shall be determined to be reasonable;

17. To make by-laws for the management and regulation of its affairs and subject to agreements with bondholders, rules for the sale of water or the collection of sewage and the collection of rates, rents and charges therefor. A copy of such rules and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county and shall be published thereafter once in each of two newspapers having a general circulation

in the county. Violations of such rules shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

18. To fix rates and collect charges for the use of the facilities of, any services rendered by or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority; provided, however, that nothing contained in this subdivision, or in this title, shall empower the authority to collect rentals, charges, rates or fees from the owners of real estate, or the occupants of real estate (other than the occupants of premises owned or occupied by the authority or by the state or any civil division thereof) located in any city unless the electors of such city shall approve the granting to the authority of such powers by a majority vote at a general or special election in such city;

19. To utilize the service of officers and employees of the county and to pay a proper portion of compensation or costs for the services of such officers or employees with the consent of the county executive, and upon notice to the chair of the county legislature;

20. To provide for the discontinuance or disconnection of the supply of water or the provision of sewerage service, or both, as the case may be, for non-payment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any supply of water or the provision of sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law; and

21. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.
* NB There are 2 § 1124's

*** § 1125. Appropriations for purposes of the authority; transfer of property to authority; acquisition of property by county or other municipality** within the county for authority; contracts with county or other municipality. 1. In addition to any powers granted to it by law, the county legislature, or the finance board, as such term is defined in the local finance law, of any other municipality in the county, may, from time to time, appropriate by resolution sums of money for purposes of the authority to defray project costs or any other costs and expenses of the authority or to pay amounts payable or anticipated to be payable to the authority pursuant to any contract or lease authorized by this title. Subject to the rights of bondholders, such county legislature or finance board may determine if the moneys so appropriated shall be subject to repayment by the authority to the appropriate municipality and, in such event, the manner and time or times for such repayment. In the event there shall remain at the end of any fiscal year of the county or any such municipality an unexpended balance of any such appropriation, such unexpended balance shall remain on deposit in the fund or account and such appropriation shall not lapse.

2. The county or any other municipality with the county, may give, grant, sell, convey, loan, license the use of or lease to the authority any properties which are useful to the authority in order to carry out its powers under this title. Any such transfer of properties shall be for such term and upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or such other municipality may agree, including provision for the authority to assume the primary responsibility for the payment of any bonds or notes issued by the county or such other municipality for such properties.

3. The county or any other municipality within the county may acquire by purchase or by exercise of the power of eminent domain real property in the name of the county or such other municipality for any corporate

purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority, the county or any other municipality within the county from the state may be used for any corporate purpose of the authority.

5. The county, one or more of the municipalities within the county, and the authority shall have the power to contract, from time to time, between or among themselves, in relation to the purchase, sale, production, accumulation, supply, transmission or treatment of water, the collection, transmission or treatment or disposal of sewage or both of the aforesaid, or the construction, use, sale and/or leasing, of any water, sewerage or water and sewerage facility of the authority, which contracts may include any or all of the following provisions: (i) requiring the purchase by the county or any such municipality of specified amounts of water; (ii) requiring the transmission by the county or any such municipality of specified amounts of sewage to the authority and the payment for the treatment or disposal of such sewage; (iii) requiring the use by the county or any such municipality of a water, sewerage or water and sewerage facility; (iv) limiting the right, including a prohibition, of the county or any such municipality to construct a water, sewerage or water and sewerage facility which will serve the same, or substantially the same, function as a water, sewerage or water and sewerage facility constructed or to be constructed by the authority; (v) requiring the authority to reserve capacity in any water, sewerage or water and sewerage facility to assure the availability to the county or any such municipality of a specified amount of water, the treatment or disposal of a specified amount of sewage, or of the use of any water, sewerage or water and sewerage facility; (vi) providing for specified minimum periodic payments whether or not water is actually taken and used, sewage is actually treated or disposed of, or such water, sewerage or water and sewerage facility is actually used, subject to such limitations, exceptions and provisions therein; (vii) requiring the county or any such municipality to pay to the authority such amounts as shall be necessary to assure the continued operation of the authority; and (viii) requiring any such municipality to pay to the

county such amount as shall be necessary to assure that the periodic payments by the county to the authority will not result in an undue burden upon the residents of the county. All such payments shall be determined and paid in such manner and at such times as may be provided in such contracts.

6. Any gift, grant, sale, conveyance, loan, contract or lease authorized by this section may be made or entered into by the county, any other such municipality and, or, the authority and no such gift, grant, sale, conveyance, loan, contract or lease shall be subject to referendum, permissive or otherwise.

* NB There are 2 § 1125's

*** § 1126. Governmental capacity of the authority and municipalities.** The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

* NB There are 2 § 1126's

*** § 1127. Transfer of officers and employees.** Any public officer or employee under civil service who is selected by the authority may, with the consent of the commission, board or chief executive officer of the municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employee shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

* NB There are 2 § 1127's

*** § 1128. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject only to any agreements with the holders of outstanding bonds pledging any particular revenues, earnings or moneys.

2. The authority is authorized to obtain from any insurer or financial institution any insurance, guaranty or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance, guaranty or other credit support device, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds of the authority.

3. (a) Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or

times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years from the date of their original issuance and notes and any renewals thereof shall mature within five years from the date of their original issuance. Bonds shall be subject to such terms of redemption, bear interest at such rate or rates per annum, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be subject to tender to the authority, with or without extinction or cancellation, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to be to such comptroller, or by the state director of the budget, where such sale is to be to the comptroller.

(b) The state comptroller shall promulgate rules in conformance with the state administrative procedure act governing the sale on a negotiated basis of bonds, notes and certificates of participation by public authorities and public benefit corporations made subject to such rules by law. No such sale by the authority on a negotiated basis shall be conducted without prior approval of the state comptroller except as provided in such rules, which shall set forth the circumstances under which such approval shall not be required. Such rules shall be reviewed at least annually and updated as may be necessary. The corporation shall annually deliver to the senate finance committee, the assembly ways and means committee and the director of the division of the budget a report listing all such sales conducted in the previous year, including but not limited to the name of the issuer, the amount of the issue, the interest rate and interest cost per year for each such sale.

(c) Agreements for credit enhancement. (1) The authority is hereby authorized and empowered to enter into such agreements as it deems reasonable and appropriate, with any department or agency of the United States of America, the state, or any other financially responsible party, to facilitate the issuance, sale, resale and payment of bonds, notes, or other evidences of indebtedness of the authority, including, but not limited to letters of credit, lines of credit, revolving credit, bond insurance or other credit enhancements. Such agreements may provide for: (i) the advance or advances of funds on behalf of the authority to pay bonds, notes or other evidences of indebtedness of the authority on their date or dates of maturity or redemption; and (ii) the reimbursement of such advance or advances by the authority.

(2) Such agreements may be executed on or before the date of issuance of the obligations to be paid pursuant thereto, provided, however, that any reimbursement obligation of the authority shall be deemed indebtedness of the authority; (i) only as of the date that the corresponding advance is made pursuant to subparagraph one of this paragraph; and (ii) only in the amount of the advance made pursuant to such subparagraph. Such agreements may include a pledge by the authority of its faith and credit for the payment of any indebtedness deemed to be contracted as set forth in this paragraph, and may provide that any such indebtedness arising from a reimbursement obligation contracted pursuant to this section shall be paid in accordance with the terms of such agreement. Such indebtedness shall be excluded in ascertaining the power of the authority to contract indebtedness pursuant to this chapter. Such agreements shall also include such terms and conditions as the authority shall deem appropriate, including provisions for the payment of reasonable fees by the authority in return for a commitment to advance funds pursuant to such agreement. Such fees shall be deemed part of the cost of the object or purpose in connection with which they are incurred.

(3) Prior to procurement of any credit or liquidity enhancements, the authority shall, to the extent practicable:

(i) consider the ability of the credit or liquidity enhancement provider to make required payments as and when due under the terms of the appropriate governing instruments;

(ii) consider the business reputation of the credit or liquidity enhancement provider;

(iii) consider the maximum term of the credit or liquidity enhancement relative to the maturity of the bonds, notes or other obligations being credit or liquidity enhanced;

(iv) provide for the right of substitution for the credit or liquidity enhancement provider in all agreements, including a provision permitting such substitution when the rating of the credit or liquidity enhancement provider falls below the probable credit rating of the issue without considering the credit or liquidity enhancer; and

(v) consider the cost of the credit or liquidity enhancement relative to the savings or other benefit likely to be achieved through the utilization of the credit or liquidity enhancement.

(4) Where the credit or liquidity enhancement procured is an irrevocable letter of credit or an acquisition arrangement with a liquidity enhancer, such instrument shall be:

(i) issued or confirmed by a bank holding company or its direct subsidiaries, a federally chartered bank or its subsidiaries, or a state chartered bank or its subsidiaries, licensed or authorized to do business in this state; and

(ii) issued or confirmed by an agency or branch of a foreign banking institution licensed to do business in this state with total worldwide assets in excess of five billion dollars.

(5) Any such issuing banking organization referred to in subparagraph four of this paragraph shall meet the regulatory guidelines for capital adequacy as promulgated by the appropriate federal banking agency as defined in the Federal Deposit Insurance Act, 12 U.S.C. 1813(q).

(6) Where the credit or liquidity enhancement procured is provided by an insurance company, such insurer shall be licensed to write financial guarantee insurance in this state.

(7) The failure of the authority to comply with subparagraphs three through six of this paragraph shall not invalidate or impair any credit or liquidity enhancement contract or instrument.

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

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

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby, and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of any project or part hereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the

authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge, or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled at a price not exceeding; (i) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (ii) if the bonds are not then immediately redeemable then the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption, plus accrued interest to the next interest payment date.

* NB There are 2 § 1128's

*** § 1129. Remedies of bondholders.** Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision four of section one thousand one hundred twenty-eight of this title:

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

for the purpose herein provided.

2. Such trustee may and, upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding, shall in his, her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect lease payments, rates and charges adequate to carry out any agreement as to, or pledge of, such lease payments, rates and charges and to require the authority to carry out any other agreements with the county and any other municipality and, or, the holders of such bonds to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in Dutchess county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of

right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenue derived from the properties.

* NB There are 2 § 1129's

*** § 1130. State, county nor other municipality, other than authority, not liable on authority bonds.** Neither the state, the county nor any other municipality, other than the authority, shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the county nor any such municipality, and each such bond shall contain, on the face thereof, a statement to such effect.

* NB There are 2 § 1130's

*** § 1131. Moneys of the authority.** All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state of the county or of any other municipality within the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

* NB There are 2 § 1131's

*** § 1132. Bonds legal investments for fiduciaries.** The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are not or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other

obligations of this state is now or hereafter may be authorized.
* NB There are 2 § 1132's

*** § 1133. Agreement of the state.** The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect lease payments, rates, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged; provided, however, that this section shall not be construed to limit in any manner the ability of the state to alter, amend or enforce laws or regulations to protect public health and the environment. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.
* NB There are 2 § 1133's

*** § 1134. Exemption from taxes, assessments and certain fees.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any properties owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf; provided, however, that any real property acquired by the authority outside of the county shall be exempt from real property taxes, ad valorem levies and special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located. Notwithstanding the foregoing, the authority may enter into an agreement with any municipality in which real property of the authority is located or is to be located, to pay a sum or sums, annually or otherwise, or to provide other consideration to such municipality with respect to such real property.

2. Any bonds issued pursuant to this title, together with the income therefrom, shall be exempt from taxation. The revenues, moneys and other properties and activities of the authority, shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including real estate taxes, franchise taxes, sales taxes or other excise taxes. Any real property owned by the authority outside the county shall be subject to the provisions of subdivision one of this section. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title that the interest thereon shall be exempt from taxation. The state further covenants with the holder of such bonds that all revenues, moneys and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for real property taxes on real property owned by the authority outside the county. For purposes of this subdivision, the phrase "exempt from taxation" means exempt from direct taxation in conformity with established judicial interpretation of the tax exempt status of the obligations of the state and its agencies, entities, authorities and political subdivisions and thus, the meaning of such phrase is in conformity with the legislative intent expressed by section twenty-two of chapter one hundred sixty-six of the laws of nineteen hundred ninety-one regarding the tax exempt status of obligations of the state and its agencies.

* NB There are 2 § 1134's

*** § 1135. Actions against authority.** 1. No action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

* NB There are 2 § 1135's

*** § 1136. Construction and purchase contracts.** The authority shall let contracts for construction or purchase of supplies, materials or equipment pursuant to sections one hundred one and one hundred three of the general municipal law. Nothing in this section shall be construed to limit the powers of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB There are 2 § 1136's

*** § 1137. Interest in contracts prohibited.** It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing or work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

* NB There are 2 § 1137's

*** § 1138. Authority to take affirmative action.** 1. The authority in awarding contracts for designs, construction, services or materials for projects authorized by this title shall ensure that all employees and applicants for employment are afforded equal opportunity without discrimination.

2. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

* NB There are 2 § 1138's

*** § 1139. Audit, annual report and information.** In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of title one of article nine of this chapter, and a copy of such report shall be filed with both the county executive and with the county legislature. The authority shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two and two thousand five hundred three of title one of article nine of this chapter.

The county executive and the chairman of the county legislature may each designate a representative to act as a liaison to the authority. Each such liaison shall have the right to attend all meetings of the authority and request, from time to time, such information as the liaison may deem reasonably necessary for the purpose of informing the county executive and the county legislature, respectively, of the activities of the authority.

* NB There are 2 § 1139's

*** § 1140. Limited liability.** Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

* NB There are 2 § 1140's

*** § 1141. Environmental applications, proceedings, approvals and permits.** 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, or any determination or decision heretofore made by the county, any municipality within the county or any water district, sewer district or district corporation and sent to or filed with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any such municipality to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

* NB There are 2 § 1141's

*** § 1142. Dutchess county water district.** There is hereby defined and established an area to be known as the "Dutchess county water district" which shall embrace all the territory located within the county. After the establishment of the Dutchess county water district, such district shall have such powers as are provided in and shall be governed in accordance with the provisions of article five-A of the county law, including, without limitation, the power to enter into contracts, and carry out the terms thereof, with the city of New York, the New York city municipal finance authority, New York city water board, or any agency or instrumentality thereof, for the purchase of water.

* NB There are 2 § 1142's

*** § 1143. Separability.** If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB There are 2 § 1143's

*** § 1144. Effect of inconsistent provisions.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of the county, or other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

* NB There are 2 § 1144's

* TITLE 6-C

TOWN OF WILTON WATER AND SEWER AUTHORITY

* NB There are 2 Title 6-C's

*** § 1121. Short title.** This title shall be known and may be cited as the "town of Wilton water and sewer authority act".

* NB There are 2 § 1121's

*** § 1122. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section eleven hundred twenty-four of this title.

2. "Board" means the members of the authority constituting and acting as the governing board of the authority.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Civil service commission" shall mean the personnel officer of the county of Saratoga or any other person or entity acting as the civil service commission of the county of Saratoga.

5. "Comptroller" means the comptroller of the state of New York.

6. "Construction" means the negotiation, acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation, interconnection, or rehabilitation of a water, sewerage or water and sewerage system, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services, studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

7. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, real, personal and mixed, and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to the town, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

8. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is not a transmission facility, from a supply facility, to the ultimate consumers of water.

9. "District" means the town of Wilton water and sewer district created by section eleven hundred twenty-three of this title.

10. "Governing body" means:
(a) In the case of a city, county, town or village or district corporation, the finance board as such term is defined in the local finance law; or
(b) In the case of a public benefit corporation, the members thereof.

11. "Municipality" means any county, city, town, village, improvement district under the town law, any other such instrumentality, including any agency or public corporation of the state, or any of the foregoing or any combination thereof.

12. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

13. "Project" means any water, sewerage and water and sewerage facility.

14. "Properties" means the water system or systems of the authority, whether situated within or without the territorial limits of the district, including the plants, works, structures, instrumentalities or part thereof and appurtenances thereto, real property, water facilities, sewerage facilities or any other property incidental to and included in such system or systems or part thereof, and any improvements, extensions and betterments.

15. "Real property" means lands, structures, franchises, rights and interests in lands, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

16. "Revenues" means all rates, rents, fees, charges, payments and other income and receipts derived from the operation of the properties of the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sales or other dispositions of assets, together with all federal, state or municipal aid.

17. "Sewerage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other wastes also shall be considered "sewage" within the meaning of this title.

18. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewerage, including but not limited to main, truck, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, groundwater recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifies, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

19. "State" shall mean the state of New York.

20. "State agency" means any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

21. "State sanitary code" means the regulations adopted pursuant to section two hundred twenty-five of the public health law.

22. "Supply facility" means a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

23. "Town" means the town of Wilton.

24. "Town board" means the town board of the town.

25. "Town supervisor" means the town supervisor of the town.

26. "Transmission facility" means a water facility used to carry water from a supply facility to a distribution system.

27. "Treasurer" means the treasurer of the authority.

28. "Water facility" or "water facilities" means any plants, works, instrumentalities, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, heating or distributing water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

29. "Watershed rules" means the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

* NB There are 2 § 1122's

*** § 1123. Town of Wilton water and sewer district.** There is hereby defined and established an area to be known as the "town of Wilton water and sewer district" which shall embrace all the territory located within the town.

* NB There are 2 § 1123's

*** § 1124. Town of Wilton water and sewer authority.** 1. A public corporation to be known as the town of Wilton water and sewer authority, is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. The authority shall be governed by a board of five members, who shall be residents of the town and be appointed by a majority vote of the town board. The first members shall be appointed for the following terms of office: two shall be appointed for a term ending on December thirty-first of the third year following the year in which this title shall have become law; two shall be appointed for a term ending on December thirty-first of the fourth year following the year in which this title shall have become law; one shall be appointed for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. No elected officials shall be members of the water and sewer authority. In the event the town board shall not make any appointment within twenty days of the effective date of this title, then in such event the town supervisor shall make the appointment. Subsequent appointments of members shall be made by a vote of the majority of the members of the town board for a term of five years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. In no event shall more than three members belong to the same political party. Vacancies shall be filled in the manner provided for subsequent appointments. Vacancies, occurring otherwise than by expiration of term of office, shall be filled for the unexpired terms; and if not filled by the town board within twenty days of such vacancy, then the vacancy shall be filled by appointment by the town supervisor. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the town. They shall receive no reimbursement for the ordinary expenses of attending meetings, but may by resolution of the authority be allowed their expenses of a special or extraordinary nature.

2. The powers of the authority shall be vested in and be exercised by the board at a meeting duly called and held where a quorum of three members are present. No action shall be taken except pursuant to the favorable vote of at least three members. The board may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

3. The officers of the authority shall consist of a chairman, vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. The chairman shall be appointed by the town supervisor for a one year term coinciding with the calendar year and the remaining officers shall be appointed by the chairman and shall act in such capacities at the pleasure of the chairman. The chairman may be appointed to subsequent terms without limitations. In addition to the secretary, the board may appoint and at pleasure remove such additional officers and employees as it may determine necessary or desirable for the performance of the powers and duties of the authority which positions shall be in the exempt class of civil service, and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The board may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board and the premium therefor shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit

corporation, shall forfeit his or her office or employment by reason of his or her acceptance or appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment; provided, however, that no elected official shall be a member of the authority.

5. (a) The town supervisor shall file on or before March thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the town supervisor setting forth:

(1) the name of the authority;

(2) the names of the members appointed by the town board and their terms of office; and

(3) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the town.

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

7. In carrying out its functions the authority shall take into

consideration the local zoning and planning regulations as well as local comprehensive land use plans.

* NB There are 2 § 1124's

*** § 1125. Powers of the authority.** The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue bonds or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. To purchase, in the name of the authority, any water facility or sewerage facility, and any improvements, extensions and betterments, situated wholly within the district, provided, however, that the authority shall have the power to purchase any source of supply, supply facility, water supply system, transmission facility, sewerage system or sewerage facility or any part thereof situated wholly or partly without the territorial limits of the district, provided the same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties, the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments

under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore, the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall have become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall have become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. To construct, improve, maintain, develop, expand or rehabilitate water facilities or sewerage facilities and to pay the costs thereof;

8. To operate and manage and to contract for the operation and management of properties of the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed, owned or operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. To enter into contracts with municipalities for the collection, treatment and disposal of sewerage;

11. To take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the

cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

12. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

13. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

14. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

15. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purposes authorized by this title, the authority being liable only for actual damage done;

16. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

17. To obtain, store, treat, distribute, supply and sell water for domestic, commercial and public purposes at retail to individual

consumers within the district, and to collect, treat and discharge sewerage for such purposes by such generators;

18. To purchase water in bulk from any person, private corporation, public corporation or municipality when necessary or convenient for the operation of such water system;

19. To produce, develop, distribute and sell water or sewerage services within or without the territorial limits of the district; and to purchase water from any public corporation, town water district, municipality, person, association or corporation; provided, however, that water and sewerage services may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water or sewerage services in any area outside of the town (a) without town board approval and (b) in any area which is served by a water, sewerage or water and sewerage system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water or sewerage services, as the case may be, in such served area;

20. To make and amend from time to time by-laws for the management and regulation of its affairs and rules and regulations for the construction, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water or collection of sewerage and the collection of rents and charges therefor. A copy of such rules, regulations and by-laws, and any rules and regulations adopted pursuant to subdivision twelve of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of the town. In addition, the town board by local law shall have power to prescribe that violation of specific by-laws, rules and regulations of the authority, published once in a newspaper having a general circulation in the town, shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

21. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves and all other obligations and indebtedness of the authority;

22. To enter into cooperative agreements with other authorities, municipalities, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district, for the interconnection of facilities, the exchange or interchange of services and commodities, and within the territorial limits of the district to enter into a contract for the construction and operation and maintenance of a water or sewerage system by the authority for any municipality, public corporation or water or sewer district having power to construct and develop a water or sewer system, as the case may be, upon such terms and conditions as shall be determined to be reasonable including but not limited to the reimbursement of all costs of such construction, or for any other lawful purpose necessary or desirable to effect the purposes of this title;

23. To provide for the discontinuance or disconnection of water or sewerage service, or both, as the case may be, for non-payment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any water service, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

24. With the consent of the governing body of a municipality, to use officers and employees of such municipality and to pay a proper proportion of the compensation or costs for the services for such

officers or employees; and

25. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.
* NB There are 2 § 1125's

*** § 1126. Advances on behalf of the authority; transfer of property to authority; acquisition of property by town for authority.** 1. In addition to any powers granted to it by law, the town, from time to time, may appropriate sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the town may determine if the moneys so appropriated shall be subject to repayment by the authority to the town and, in such event, the manner and time or times for such repayment.

2. The town or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the town or other municipality may agree.

3. The town may acquire by purchase or by exercise of the power of eminent domain real property in the name of the town for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the town from the state may be used for any corporate purpose of the authority.
* NB There are 2 § 1126's

*** § 1127. Governmental capacity of the authority and municipalities.** The authority, the town and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

* NB There are 2 § 1127's

*** § 1128. Transfer of officers and employees.** Any public officer or employee in the public service who is selected by the authority may, with the consent of the commission, board, or chief executive officer of the municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such fund or system to be paid by the employer on account of such officers and employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

* NB There are 2 § 1128's

*** § 1129. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject only to any agreements with the holders of outstanding bonds pledging any particular revenues, earnings, or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or any nongovernmental insurer or financial institution any insurance, guarantee or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal or premium, or any of the foregoing, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guarantee, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years from the date of original issuance of any such bonds. Obligations with a maturity of five years or less from the date of their original issuance may be designated as notes. Bonds shall be subject to such terms of redemption, bear interest at such rate or rates per annum payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority, other than obligations designated as notes, may be sold by the authority at private sale unless such sale and the terms thereof

have been approved in writing by the comptroller, where such sale is not to be to such comptroller, or by the state director of the division of the budget, where such sale is to be to the comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

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

(a) pledging all or any part of the authority, together with any other moneys or property of the authority to secure the payment of the bonds, including, but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby, and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date;

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

* NB There are 2 § 1129's

* § 1130. **Remedies of bondholders.** Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision four of section one thousand one hundred twenty-nine of this title:

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

2. Such trustee may and, upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding, shall in his, her or its own name:

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of Saratoga, New York.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

* NB There are 2 § 1130's

*** § 1131. State and town not liable on authority bonds.** Neither the state nor the town shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, or the town, and such bonds shall contain, on the face thereof, a statement to such effect.

* NB There are 2 § 1131's

*** § 1132. Moneys of the authority.** All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the board. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the board or of such other person or persons as the board may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the town of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

* NB There are 2 § 1132's

*** § 1133. Bonds legal investments for fiduciaries.** The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

* NB There are 2 § 1133's

*** § 1134. Agreement of the state.** The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to negotiate, purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the bondholders.

* NB There are 2 § 1134's

*** § 1135. Exemption from taxes, assessments and certain fees.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the town and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf; provided, however, that any real property owned or under the jurisdiction, supervision or control of the authority outside of the district shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which said real property is located. The construction, use, occupation or possession of any property owned by the authority or the town, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title, together with the income therefrom, shall be exempt from taxation. For purposes of this subdivision, the phrase "exempt from taxation" means exempt from direct taxation in conformity with established judicial interpretation of the tax exempt status of the obligations of the state and its agencies, entities, authorities and political subdivisions and thus, the meaning of such phrase is in conformity with the legislative intent expressed by section twenty-two of chapter one hundred sixty-six of the laws of nineteen hundred ninety-one regarding the tax exempt status of obligations of the state and its agencies. The revenues, moneys and other properties and activities of the authority, shall be exempt from taxes and governmental fees or charges, whether imposed by the state or any municipality, including real estate taxes, franchise taxes, sales taxes or other excise taxes except as otherwise provided in subdivision one of this section with respect to real property located outside the district.

3. The state hereby covenants with the purchaser and with all subsequent holders and transferees of bonds issued by the authority

pursuant to this title that the interest thereon shall be exempt from taxation. The state further covenants with the holders of such bonds that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxation. For the purposes of this subdivision, the phrase "exempt from taxation" means exempt from direct taxation in conformity with established judicial interpretation of the tax exempt status of the obligations of the state and its agencies, entities, authorities and political subdivisions and thus, the meaning of such phrase is in conformity with the legislative intent expressed by section twenty-two of chapter one hundred sixty-six of the laws of nineteen hundred ninety-one regarding the tax exempt status of obligations of the state and its agencies.

* NB There are 2 § 1135's

*** § 1136. Actions against the authority.** 1. No action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and

(c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

* NB There are 2 § 1136's

*** § 1137. Construction and purchase contracts.** The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB There are 2 § 1137's

*** § 1138. Interest in contracts prohibited.** It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, in any contract therefor which the authority is empowered by this title to make.

* NB There are 2 § 1138's

*** § 1139. Audit and annual report.** In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the town supervisor. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two, and two thousand eight hundred three of this chapter.

* NB There are 2 § 1139's

*** § 1140. Limited liability.** Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

* NB There are 2 § 1140's

*** § 1141. Environmental applications, proceedings, approvals and permits.** 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the town with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the town to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

* NB There are 2 § 1141's

*** § 1142. Town may levy tax within district.** Should it appear to the town board at any time that the revenue of the authority is or will be insufficient to provide for the payment of any bonds issued under this title and to reimburse the town for any moneys that it may have advanced to the authority, the town board shall determine the amount of money necessary to be raised for such purpose, and shall levy a tax on the territory of the district located within the town and upon the several parcels of real estate in the district located within the town in an amount sufficient to produce the amount necessary to be raised as aforesaid; provided that such tax shall not be levied to pay any bonds of the authority unless the authority with the consent of the town board has pledged such tax prior to the issuance of such bonds. Such tax shall be levied and apportioned upon such territory located within the town and collected from the several parcels of real estate in the district located within the town in like manner as other town taxes. It is hereby determined that the liability imposed upon the territory included in the district located within the town is based upon the special benefit to such territory accruing under this title and that the tax to be levied because of such liability and in proportion to the taxable value of real estate in such territory will be in proportion to such benefits.

* NB There are 2 § 1142's

*** § 1143. Contracts for design, construction, service and materials.** For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

* NB There are 2 § 1143's

*** § 1144. Authority to take affirmative action.** The authority shall ensure that all employees and applicants for employment are afforded equal opportunity without discrimination.

* NB There are 2 § 1144's

§ 1145. Separability. If any section, clause or provisions of this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1146. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of the town, or other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 6-D

ALFRED, ALMOND, HORNELLSVILLE SEWER AUTHORITY

§ 1147. Short title. This title may be cited as the "Alfred, Almond, Hornellsville Sewer Authority Project Act".

§ 1147-a. Definitions. As used in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section eleven hundred forty-seven-c of this title.

2. "Board of directors" shall mean the governing board of the

authority.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority.

4. "Calendar year and official year" shall mean the twelve month period from January first through December thirty-first.

5. "Chief executive officer" when referring to a municipality shall mean the chief elected official of such municipality and, when referring to the authority, shall mean the chairperson of the authority.

6. "Civil service commission" shall mean the civil service commission of the county of Allegany.

7. "Comptroller" shall mean the comptroller of the state of New York.

8. The term "project" shall mean a system of trunk, intercepting and connecting, lateral and outlet sewers, pumping and ventilating stations, disposal or treatment plants or works and other appliances and structures, which in the judgment of the authority will provide an effectual and advantageous means for relieving the area which the authority encompasses and any waters within or passing through or any ground waters from pollution by the sewage and waste of the area encompassing the authority and relieving such area from inadequate sanitary drainage and for the sanitary disposal or treatment of the sewage thereof, or such sections or parts of such system as the authority may from time to time deem it proper or convenient to construct, consistent with the plan or purpose of this title.

9. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a sewer facility of a project as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications,

procedures and other actions incidental thereto.

10. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any building or structures on lands so acquired including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges and bond discount, interest to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, bond insurance, bond credit enhancement arrangements, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the cost of legal and financial advice and credit arrangements with banks or other financial institutions, the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or special fund from the proceeds of such bonds and the financing of the placing of any project in operation.

11. "County" shall mean, unless otherwise specifically stated, the county of Allegany.

12. "Governing body" shall mean:

(a) In the case of a village, county, town or village or district corporation the finance board, as such term is defined in subdivision four of section 2.00 of the local finance law;

(b) In the case of a public benefit corporation, the members thereof.

13. "Members" shall mean the members of the board of directors.

14. "Municipality" shall mean any city, county, town, village or county or town acting on behalf of an improvement district.

15. "Real property" shall mean lands, structures, franchises and interests in lands, waters, lands under water, groundwater riparian rights and air rights and any and all things and rights customarily

included within the term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgment, mortgages or otherwise.

16. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

17. "State" shall mean the state of New York.

18. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

19. "System revenues" shall mean rates, rents, fees, charges, payments, assessments and other income and receipts derived from users of the facilities of the authority without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation sales or other dispositions of assets together with all federal, state or municipal aid as well as any other income derived from the operation of the sewer facilities of the authority.

20. "Treasurer" shall mean the treasurer of the authority.

§ 1147-b. Sewer districts created. There are hereby created four separate sewer districts: one encompassing the village of Almond, to be known as the Almond village sewer district; one encompassing all of that portion of the town of Alfred outside the village of Alfred, to be known as sewer district number one of the town of Alfred; one encompassing all that portion of the town of Almond outside the village of Almond, to be known as sewer district number one of the town of Almond; and one encompassing that portion of the town of Hornellsville within the bounds of the authority created by this title to be known as sewer district number one of the town of Hornellsville. The lands within such

Hornellsville sewer district number one begin at the common boundary of Allegany and Steuben counties and are within (a) a corridor one thousand feet from and parallel to the westerly side of state route twenty-one and one thousand feet from and parallel to the easterly side of state route twenty-one as extended northerly to where the Morris bridge crosses the Canacada creek, and (b) a corridor beginning where the westerly line of the corridor described in clause (a) above intersects a point one thousand feet west of the westerly side of Webbs Crossing Road and a point where such westerly line of such corridor intersects a point one thousand feet from the easterly side of Webbs Crossing Road thence extending north one thousand feet west of Webbs Crossing Road and one thousand feet east of Webbs Crossing Road to a point one thousand feet past the northerly line of the intersection of Doorley Road and Webbs Crossing Road.

Each town board of each of such towns shall, on behalf of their respective districts and the board of trustees of such village, have the power to contract with the authority to carry out the purposes and intent of this title including the power to levy and collect fees, charges and assessments upon real property within each such district to pay for any charges, expenses, costs or amounts agreed upon with such authority.

§ 1147-c. Sewer authority created. 1. A corporation known as the Alfred, Almond, Hornellsville Sewer Authority is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation. The geographic boundaries of the authority shall be all of the territory within the sewer districts created by section eleven hundred forty-seven-b of this title. The authority shall be governed by a board of directors consisting of eight members, two of whom shall be appointed by the mayor of the village of Almond, subject to the approval of the board of trustees of the village, two of whom shall be appointed by the town board of the town of Alfred, two of whom shall be appointed by the town board of the town of Almond and two of whom shall be appointed by the town board of the town of

Hornellsville. One member of the authority from each town and village in which the authority is wholly or partially located shall be an elected member of the legislative body of such town or village and shall hold office for a single term commencing on the date of their appointment and expiring on the thirty-first day of December of the third year following the first day of January after their appointment. Their successors shall thereafter be appointed for full terms of three years. In the event any such member ceases to hold office as elected member of the legislative body of such town or village, such office shall become vacant and the vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. One member shall be appointed by the mayor of Almond, subject to the approval of the board of trustees, who shall serve a single term commencing on the date of appointment and ending on the thirty-first day of December following the first day of January of the second year after such appointment. His or her successor shall be appointed for a full three year term. One member shall be appointed by the town board of the town of Alfred for a single term commencing on the date of the appointment and ending on the thirty-first day of December following the first day of January of the second year after such appointment. His or her successor shall be appointed for a full three year term. One member shall be appointed by the town board of the town of Almond to serve a single term commencing on the day of appointment and ending on the thirty-first day of December following the first day of January of the year after such appointment. His or her successor shall be appointed for a full three year term. One member shall be appointed by the town board of the town of Hornellsville for a single term commencing on the date of the appointment and ending on the thirty-first day of December following the first day of January of the second year after such appointment. His or her successor shall be appointed for a full three year term. Each chief executive officer shall file with the secretary of state a certificate of appointment of any member appointed or reappointed to the board of directors within thirty days of the appointment or reappointment. Members of the board of directors shall receive no compensation for their services but shall be entitled to reimbursement of their actual and necessary expenses, incurred in the discharge of their duties.

2. Any one or more of the members of the board of directors may be an official or an employee of a municipality situated, wholly or partially within the district. In the event that an official or an employee of such municipality shall be appointed as a member of the board of directors, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her municipal office or employment, or incompatible therewith or effect his or her tenure or compensation in any way.

3. No action shall be taken by the authority except pursuant to the favorable vote of a majority of the members of the board of directors. Six members of the board shall constitute a quorum. Notwithstanding the presence of a quorum, no action shall be taken by the board of directors at such meeting unless board members who were appointed by not less than three different towns or villages wholly or partially within the bounds of the authority are present.

4. The powers of the authority shall be vested in and shall be exercised by the board of directors at a meeting duly called and held. The board of directors may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

5. The officers of the authority shall consist of a chairperson, treasurer, and secretary, who may, but need not be members of the board of directors. The officers of the authority shall be appointed by the board of directors. The board of directors may appoint and at its pleasure remove an attorney and an engineer, which positions, in addition to the officers above named, shall be in the exempt class of the civil service, and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties, compensations and terms of office or tenure, subject to the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The duties of the officers shall be as follows:

(a) Chairperson. The chairperson shall be the chief executive officer of the authority and it shall be the responsibility of the chairperson to:

(i) preside at all meetings of the board of directors and of the officers;

(ii) manage the facilities, projects and construction of the authority and to effectuate the decisions of the board of directors;

(iii) exercise supervision over the conduct of the officers and employees of the authority;

(iv) report annually to the residents and businesses within the bounds of the authority by publication once in a newspaper having general circulation within the district that a report has been filed in the office of the authority and in the offices of the clerks of the towns of Alfred, Almond and Hornellsville and the village of Almond and is available for public inspection; such report shall include but not be limited to the following:

(1) a brief financial account on operations of the sewer system including, but not limited to, sewer rates, total revenues and sources of such revenues, operating and maintenance expenses, outstanding indebtedness and interest on bonds and notes;

(2) the number of users of the sewer system by classification in the event users are classified;

(3) the extensions made of the system in the previous year, if any;

(4) any actions taken to make any capital improvements to the system including any extension of the system;

(5) the types of treatment to which the sewage is subjected before leaving the treatment plant or plants;

(6) any compliance activities required by regulations of the department of environmental conservation or the department of health or any local health department and any instances of noncompliance;

(7) the present condition of the sewer system and any appurtenances thereto and any significant actions, as determined by the authority, to improve, extend or maintain the system;

(8) any special public services the authority provides during the year;

(v) execute all contracts in the name of the authority;

(vi) institute, at the direction of the board of directors, all civil actions in the name of the authority;

(vii) provide for the enforcement of all rules and regulations of the authority and cause all violations thereof to be prosecuted;

(viii) sign orders to pay claims when authorized by the board of directors;

(ix) sign checks in the absence or inability of the treasurer or deputy treasurer, if any, when authorized by the board of directors; and a certified copy of the resolution of the board of directors to that effect shall be notice to the depository of such authorization;

(x) appoint, subject to the approval of the board of directors, non-elected officers, counsel, accountants and other financial advisors, engineers and other technical advisors;

(xi) employ, promote and discharge managers, supervisors and employees; and

(xii) take all other reasonable and necessary actions to carry out his or her office as the chief executive officer of the authority. If the chairperson has not been appointed as a member of the board of directors of the authority pursuant to this section, such chairperson shall be deemed an ex officio member of the board of directors. Such status shall not carry with it the right to vote on matters coming before the board of directors nor shall the presence of such chairperson be counted for the purpose of determining a quorum.

(b) Secretary. (i) The secretary shall be the recording and corresponding officer of the authority and the custodian of the records of the authority.

(ii) The secretary shall prepare and send required notices of all meetings when directed to do so by the chairperson or by the written request of four members who have specified the issues to be discussed at the meeting.

(iii) In the absence or disability of the secretary, the chairperson may appoint a temporary secretary.

(c) Treasurer. (i) The treasurer shall have custody of all moneys belonging to the authority and keep accounts of all receipts and expenditures in conformance with a uniform system of accounts formulated and prescribed by the comptroller pursuant to section thirty-six of the general municipal law.

(ii) The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board of directors and the premium therefor shall be paid by the authority.

(iii) The treasurer shall deposit within ten days after receipt thereof, in the name of the authority, in one or more banks, and/or trust companies, designated by the board of directors, all moneys received by him or her.

(iv) The treasurer may sign checks with the facsimile signature of the treasurer, as reproduced by a machine or device, when approved and authorized by the board of directors.

(v) The treasurer shall pay out moneys from the authority treasury only as authorized by the board of directors and by law. All such payments, except as may be authorized by the board of directors for a petty cash account, shall be by check.

(vi) The treasurer shall issue a report on the finances of the authority at each regular meeting of the board of directors.

(vii) The treasurer shall file in the office of the authority, within sixty days after the end of the fiscal year, a statement showing in detail all revenues and expenditures during the previous fiscal year and the outstanding indebtedness of the authority as of the end of the fiscal year. The members shall within ten days cause to be published once in a newspaper having general circulation within the district, a notice that the financial statement has been filed and is available for inspection or a summary of such statement in a form approved by the comptroller, with an endorsement thereon that details thereof are on file in the office of the authority.

6. The officers of the authority, other than members of the board of directors, shall receive such compensation as may be determined by the board of directors and shall be reimbursed for all necessary and actual expenses incurred in connection with their duties as such officers and in connection with carrying out the purposes of this title.

7. In addition to any powers granted to it by law, the governing body of each of the towns and of the village wholly or partially within the bounds of the authority, from time to time, may appropriate sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each governing body may

determine if the moneys so appropriated shall be subject to repayment by the authority to such towns and such village, and in such event, the manner and time for such repayment.

8. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the municipalities within the bounds of the authority and state, for the improvement of their health, welfare and prosperity and that the said purposes are a public purpose and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

9. (a) The mayor of the village of Almond and the supervisors of the towns of Alfred, Almond and Hornellsville shall each, pursuant to the authority granted to them by their respective governing boards, file on or before March thirty-first of the year following the year in which this title shall take effect, in the office of the secretary of state, a certificate signed by such mayor or supervisor setting forth: the name of the authority; the names of the members of the authority appointed by the mayor of that village or by the town board of that town; and the effective date of the authority. The authority shall be perpetual in duration, except that if any such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the authority, all facilities, rights and property shall be disposed of as shall be agreed upon by all of the members of the authority. In the event no such agreement can be reached, the issue of the disposition of such facilities, rights and property shall be submitted to arbitration in the manner provided by article seventy-five of the civil practice law and rules.

§ 1147-d. Responsibilities of the authority. The authority shall have the responsibility to investigate, analyze and evaluate various options for the collection, treatment and disposal of sewage generated within the district, including, but not limited to the following:

1. The purchase, in the name of the authority, of any existing sewer system or portion thereof deemed necessary by the authority in order to carry out the purposes of the authority;

2. The operation of any sewer system or sewage treatment facility and any related facilities necessary to carry out the functions and goals of the authority.

§ 1147-e. Powers of the authority. The authority shall have power:

1. To prepare or cause to be prepared plans, designs and estimates of costs for the construction of the project, and from time to time modify such plans, designs or estimates.

2. To construct the project and any additions, betterments and extensions to the facilities of the authority by contract or contracts, or through or by means of its own officers, agents and employees.

3. To have jurisdiction, control, possession and supervision of any existing sewer system acquired by the authority and the project; to maintain, operate, reconstruct and improve the same as a comprehensive sewerage system and to make additions, betterments and extensions thereto, and to have all the rights, privileges and jurisdiction necessary or proper for carrying such power into execution. No enumeration of powers in this or any other general, special or local law shall operate to restrict the meaning of this general grant of power or to exclude other powers comprehended within this general grant.

4. To sue and be sued.

5. To have a seal and alter the same at pleasure.

6. To borrow money and issue negotiable notes, bonds or other obligations and provide for the rights of the holders thereof.

7. To enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title.

8. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, as the authority may deem necessary, convenient or desirable to carry out the purposes of this title; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality.

9. To purchase in the name of the authority, any sewer system, including but not limited to trunk, intercepting and connecting, lateral and outlet sewers, pumping and ventilating stations, disposal or treatment plants or works, and other appliances and structures, which in the judgment of the authority will provide an effective and advantageous means of relieving the area within the bounds of the authority, including surface and ground waters from inadequate sanitary drainage and for the sanitary disposal or treatment of the sewage thereof, or such sections or parts of such system as the authority may from time to time deem it proper or convenient.

10. To construct, improve or rehabilitate sewage disposal facilities and appurtenances required for the maintenance, development or expansion of the sewage disposal system within the bounds of the authority.

11. To operate and manage and to contract for the operation and management of facilities of the authority.

12. To enter into contracts, and carry out the terms thereof, for the wholesale provision of sewerage disposal with municipalities and private individuals or corporations.

13. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approval of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials.

14. To take all necessary and reasonable actions within the bounds of the authority to protect from pollution surface and ground waters within the district, including the making of plans and studies, the adoption of rules and regulations relating to the disposal of sewage, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to sewage disposal, and the providing of educational materials and programs to the public relating to sewage disposal.

15. To retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice.

16. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto.

17. To make by-laws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's property, facilities and personnel and, subject to agreements with bondholders, rules, regulations and by-laws relating to the use of the facilities of the authority, including use of the sewer system including the imposition and collection of rents and charges therefor. A copy of each rule or regulation and each by-law and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the municipalities within the

district and thereafter a summary thereof shall be published once in a newspaper having general circulation in the district. Such notice shall state that a copy of such rule or regulation, by-law or amendment is on file in the office of each municipality in the district and available for public review. Violations of such rules and regulations shall be punishable by fine, not exceeding fifty dollars.

18. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, and other contingency reserves, and all other obligations and indebtedness of the authority; however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the bounds of the authority.

19. To accept gifts, grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or from any person or corporation, by bequest or otherwise, and to expend the proceeds for the purposes of the authority.

20. To contract with any town or village wholly or partially within the bounds of the authority for the purpose of undertaking or paying for any capital improvements made by the authority or its agents and such contract may provide, among other things consistent with the purposes of this title, (a) that any town, acting on behalf of any sewer district within the bounds of the authority, shall pay the districts agreed share of the cost of such capital improvements and such town shall have the authority to levy and collect special assessments upon real property within that area of the town which is benefited by such sewer facilities and pay such assessments to the authority as provided in such contract,

and (b) that any village within the bounds of the authority shall pay its agreed share of the cost of such capital improvements and such village shall have the authority to levy and collect special assessments upon real property within the village which is benefited by such sewer facilities and pay such special assessments to the authority as provided in such contract. In order to carry out the terms of any such contract each town board shall have the authority to levy special assessments upon the lands benefited in the same manner as special assessments are levied for district improvements within a town and each board of trustees shall have the authority to levy special assessments upon the lands benefited in the manner provided in article fourteen of the village law.

21. To enter into cooperative agreements with other authorities, municipalities, sewer districts and other public corporations for the interconnection of facilities, the exchange or interchange of services and commodities and, within the territorial limits of the authority, enter into contracts for the construction and operation and maintenance of all or a portion of the sewer system, upon such terms and conditions as shall be determined to be reasonable including but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title.

22. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damages done.

23. For the purposes of article fifteen-A of the executive law only the authority shall be deemed a state agency as that term is defined in such article and its contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

24. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 1147-f. Charges by the authority; method of collection. The authority may fix and collect, on any equitable basis, rates, fees and other charges for the use of its facilities or of the services or commodities provided by the authority. Such rates, rentals, fees and other charges may be fixed and collected from any person or corporation to which such facilities, services or commodities are provided or made available from the authority. Such rates, rentals, fees and other charges may be the same or different for each classification of user or service recipient and may, by way of example, reflect the source and composition of the sewage. The authority shall not establish, fix or revise any classification of user or rate, rental or fee or other charge unless and until the authority has held a public hearing at which interested persons shall have an opportunity to be heard concerning the same. Notice of any such public hearing shall be published at least ten days before the date set therefor, in at least one newspaper of general circulation in the boundaries of the authority. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of matters to be considered at such meeting. A copy of such notice shall be available for inspection by the public. At any such hearing, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision by the authority at such public hearing or relating to the matters under consideration at such hearing shall be in writing and made available in the office of the authority for public inspection during regular business hours.

All rates, fees and other charges for the use of the facilities or services provided or made available by the authority and billed directly by the authority to the user or service recipient pursuant to a classification of users or service recipients adopted by the authority as herein provided shall be lien upon the real property upon which, or in connection with which, services are provided or are made available, as and from the first date fixed for payment of such rates, rentals, fees and other charges. Any such lien shall take precedent over all other liens or encumbrances, except taxes or assessments. The treasurer of the authority shall prepare and transmit to the respective legislative body of each town or village wholly or partially within the bounds of the authority, on or before the first day of December in each year, a list of those properties within each respective town or village using such facilities or for which such services were provided or made available and from which the payment of rates, rentals, fees and other charges are in arrears for a period of thirty days or more after the last day fixed for payment of such rates, rentals, fees and other charges without penalty. The list shall contain a brief description of such properties, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interest computed to December thirty-first of that year. Each governing body shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the various towns and villages under the heading "sewer disposal charge". Such amounts, excluding penalties and interest when collected by the several town or village collectors or receivers of taxes, shall be paid over to the treasurer of the authority. Penalties and interest shall be retained by the collectors which shall become a part of the general funds of the collecting town or village. All of the provisions of the tax law of the state governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

§ 1147-g. Governmental capacity of the authority and municipalities. The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1147-h. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the municipality served by the authority, may, at the request of the authority and with the consent of the chief executive officer of such municipality be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 1147-i. Environmental applications, proceedings, approvals and permits. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county or any agency thereof with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the municipalities served by the authority or any agency thereof to the authority, unless such assignment and transfer is prohibited by federal law.

§ 1147-j. Limited liability. Neither the members of the authority, nor any municipality, officer or employee acting on behalf of the authority, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided however, that this section shall not be held to apply to any independent contractor.

§ 1147-k. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed twenty million dollars ($20,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than twenty million dollars ($20,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds (other than notes or other evidence of indebtedness) issued for refunding purposes, which have a final maturity date longer than the maturity of the bonds being refunded, shall be approved by the chief executive officers of the municipalities served by the authority. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other

credit enhancements to the extent not or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

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

(a) pledging all or part of its revenues, together with any other moneys, or property of the authority, to secure the payment of the bonds or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected by the authority and the amounts to be raised in each year thereby, and the use and disposition of revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand one hundred forty-seven-l of this title or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and to enter into trust indentures, agreements and other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys, or property and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements.

The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

9. Neither the members nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

10. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date;

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

§ 1147-l. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to subdivision five of section eleven hundred forty-seven-k of this title:

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

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

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The state supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of Allegany.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive

all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 1147-m. State, county and municipalities not liable on bonds of the authority. Neither the state, county nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, county or any other municipality or public corporation, and such bonds shall contain, on the face thereof, a statement to such effect.

§ 1147-n. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in interest bearing accounts in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer, upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States and the state of New York of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds, as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds, or in any way to secure bonds, and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law, as amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1147-o. Bonds and notes as legal investment. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or notes, or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or notes or other obligations of this state is now or hereafter may be authorized.

§ 1147-p. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds or notes issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or notes or with any public corporation or person with reference to such project or part thereof, or in any way to impair the rights and remedies of bondholders until the bonds or notes, together with the interest thereon, including interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged, provided, however, that this section shall not be construed to limit in any manner, the ability of the state to alter, amend or enforce laws or regulations to protect public health and the environment. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1147-q. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the village of Almond and the people of the towns of Almond, Alfred and that portion of the town of Hornellsville within the boundaries of the authority and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities or any filing, recording, or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. Mortgages made or financed, directly or indirectly, by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law. The authority shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for transfer and estate taxes. The revenues, moneys and all other property and all transactions and activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of any payment of the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation except for transfer and estate taxes.

§ 1147-s. Actions against the authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law, or (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

municipal law.

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

5. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all civil business pending therein, except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county in which the principal office of the authority is located.

§ 1147-t. Arbitration of disputes. In the event any dispute arises relating to the construction, improvement, extension, operation, funding or any other matter pertaining to the providing of sewer facilities or the operation of the sewer system and which any village or town wholly or partially within the boundaries of the authority has the right to participate in determining if, when and how the carrying out of that construction, improvement, extension, operation, funding or any other matter pertaining to the providing of sewer facilities or the operation of the sewer system shall be undertaken then such dispute shall be resolved by arbitration in the manner provided in article seventy-five of the civil practice law and rules.

§ 1147-u. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards, and working hours. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

§ 1147-v. Code of ethics. 1. Definition. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards. a. No authority employee should accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.

b. No authority employee should accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

c. No authority employee should disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

d. No authority employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

e. No authority employee should engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

f. An authority employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

g. An authority employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

h. An authority employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

i. No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

j. If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she should file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

§ 1147-w. Equal employment opportunity. The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 1147-x. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and comptroller and to the chairs of the senate finance and assembly ways and means committees a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the clerk of each town and village in the service area.

§ 1147-y. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1147-z. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

TITLE 6-E

SENECA COUNTY WATER AND SEWER AUTHORITY

§ 1149. Short title. This title shall be known and may be cited as the "Seneca county water and sewer authority act".

§ 1149-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section one thousand one hundred forty-nine-c of this title.

2. "Board" shall mean the members of the authority constituting and acting as the governing board of the authority.

3. "Board of supervisors" shall mean the board of supervisors of Seneca county.

4. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

5. "Civil service commission" shall mean the civil service commission of the county of Seneca.

6. "Comptroller" shall mean the comptroller of the state of New York.

7. "Construction" shall mean the negotiation, acquisition, erection,

building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water, sewerage or water and sewerage facility, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

8. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance or other credit enhancement associated with bonds of the authority (including notes) and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures made by them that would be costs of the project hereunder.

9. "County" shall mean the county of Seneca.

10. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

11. "District" shall mean the Seneca county water and sewer authority district created by section eleven hundred forty-nine-b of this title.

12. "Governing body" shall mean:

(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law;

(b) In the case of a public benefit corporation, the members thereof.

13. "Members" shall mean the members of the board.

14. "Municipality" shall mean any county, city, town, village, improvement district under the town law, any other such instrumentality, including any agency or public corporation of the state, or any of the foregoing or any combination thereof.

15. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

16. "Real property" shall mean lands, structures, franchises, rights and interests in land, waters, lands underwater, groundwater, riparian rights and air rights and any and all things and rights included within said term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also

shall be considered "sewage" within the meaning of this title.

19. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, groundwater recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

20. "State" shall mean the state of New York.

21. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

22. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

23. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived by the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

24. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

25. "Treasurer" shall mean the treasurer of the authority.

26. "Water facility" or "water facilities" shall mean any plants, structures or other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, approaches, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

27. "Water project" shall mean any sewerage facility, water facility or water and sewerage facility, as the case may be, including the planning, development, financing or construction thereof.

28. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

§ 1149-b. Seneca county water and sewer authority district. There is hereby defined and established a district to be known as the "Seneca county water and sewer authority district" which shall embrace all of the territory located within the county of Seneca.

§ 1149-c. Seneca county water and sewer authority. 1. A public corporation known as the "Seneca county water and sewer authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title.

The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board consisting of nine members, who shall be residents of the county and be appointed by the chairperson of the board of supervisors and confirmed by the board of supervisors.

The first members appointed shall be appointed for the following terms: three for a term ending on December thirty-first of the year following the year in which this title shall have become law; three for a term ending on December thirty-first of the second year following the year in which this title shall have become law; and three for a term ending on December thirty-first of the third year following the year in which this title shall have become law.

Subsequent appointment of members shall be made in the same manner and for terms of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and have qualified.

Vacancies shall be filled in the manner provided for original appointment. Vacancies occurring otherwise than by expiration of terms of office, shall be filled by appointment for the unexpired terms.

Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. In addition, members may be removed from office by the board of supervisors for inefficiency, neglect of duty or misconduct in office, after the board of supervisors has given such member a copy of the charges against such member and opportunity to be heard in person or by counsel in such member's defense, upon not less than ten days notice.

If a member fails to attend three consecutive regular meetings of the authority, unless such absence is for good cause and is excused by the chairperson of the authority or other presiding officers, or in the case of the chairperson of the authority, by the chairperson of the board of supervisors, the office may be deemed vacant for purposes of the nomination and appointment of a successor.

The officers of the authority shall receive from the authority such salary, if any, as shall be determined from time to time by the board of supervisors. In addition, members and officers shall be entitled to reimbursement of their actual and necessary expenses, including travel expenses, incurred in the discharge of their duties.

2. The powers of the authority shall be vested in and shall be exercised by the board at a meeting duly called and held where a quorum of five members is present. No action shall be taken by the authority except pursuant to the favorable vote of at least five members. The board may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

3. The officers of the authority shall consist of a chairperson, vice chairperson, and treasurer who shall be members of the board and a secretary who need not be a member of the board. The officers of the authority shall be appointed by the board and shall serve in such capacities at the pleasure of the board.

In addition, the board may appoint and at its pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority, which positions shall be in the exempt class of the civil service, and fix and determine the qualifications, duties and compensation of such additional officers and employees, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority.

The authority may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of such treasurer's office, the amount and sufficiency of which shall be approved by the board, and the premium therefor shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit such officer, member or employee's office or employment by reason of such officer, member or employee's acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment, and one or more members of the board of supervisors may be appointed to serve as a member of the authority.

5. (a) The chairperson of the board of supervisors shall file within one year after the effective date of this title, in the office of the secretary of state, a certificate signed by the chairperson of the board of supervisors setting forth: (i) the name of the authority; (ii) the names of the initial members of the board and their terms of office; and (iii) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

6. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations of any power over the regulation of rates fixed or charges collected by the authority.

7. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for

the benefit of the people of the county and the state, for the improvement of their health, welfare and prosperity and that such purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 1149-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law within the district, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title and to pay the costs thereof; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. To purchase or refuse to purchase in the name of the authority, any water or sewerage facility, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water or sewer mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and

included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district and to pay the costs thereof; provided, however that prior to the acquisition of any existing water or sewer district, the authority shall discuss and consider the status of current employees of the water or sewer district; and further provided, however, that the authority shall have the power to purchase any source of supply, supply facility, water supply system, or transmission facility or any part thereof situated wholly or partly without the territorial limits of the district, provided same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock or any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. To construct, improve, maintain, develop, expand or rehabilitate water or sewerage facilities and to pay the costs thereof;

8. To operate and manage and to contract for the operation and management of facilities of the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed, owned or operated by the authority, to municipalities and private water

companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. To enter into contracts with municipalities or other persons for the collection, treatment and disposal of sewage;

11. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

12. To take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

13. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

14. With the consent of the governing body of a municipality, to use officers and employees of such municipality and to pay a proper proportion of the compensation or costs for the services for such officers or employees;

15. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to

prepare recommendations in regard thereto;

16. To prepare a water supply emergency plan which may include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule;

Such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

17. To enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

18. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal

government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

19. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district or to collect, treat or discharge sewage produced within the district;

20. To purchase water in bulk from any person, private or public benefit corporation or municipality when necessary or convenient for the operation of such water system;

21. To produce, develop, distribute and sell water or sewerage services within or without the territorial limits of the district; and to purchase water from any municipality, town water district, person, association or corporation, provided, however, that water or sewerage services may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system or sewerage services in any area which is served by a sewerage system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water or sewerage services, as the case may be, in such served areas;

22. To make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water or collection of sewage and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county. In addition, the board of supervisors

by local law shall have power to prescribe that violation of specific bylaws, rules, or rules and regulations of the authority, published once in a newspaper having general circulation within the county, shall be punishable as determined by a court of competent jurisdiction;

23. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal of and interest on the bonds, notes, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, other contingency reserves, and all other obligations and indebtedness of the authority;

24. To enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the provision, exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution system or sewerage system or facilities, upon such terms and conditions as shall be determined to be reasonable, including but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

25. To provide for the discontinuance or disconnection of the supply of water or sewerage service, or both, as the case may be, for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any

water or sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

26. To act as a county water agency in accordance with the provisions of article five-A of the county law;

27. To do all things necessary, convenient or desirable to carry out its purposes and for all exercise of the powers granted in this title.

§ 1149-e. Advances on behalf of the authority; transfer of property to the authority; acquisition of property by county for authority. 1. In addition to any powers granted to it by law, the county from time to time may appropriate sums of money, after approval by the board of supervisors, to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the county at the time of the appropriation shall determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree.

3. The county may acquire by purchase or by exercise of the power of eminent domain real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the

county from the state may be used for any corporate purpose of the authority.

§ 1149-f. Transfer of officers and employees. Any officer or employee under civil service who is selected by the authority and may be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority.

The salary or compensation of any such officer or employee, as determined by the authority, shall after such transfer be paid by the authority.

Any such officers or employees so transferred to the authority pursuant to this section, who are members of or beneficiaries under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

All such officers and employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

§ 1149-g. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in conformance with the applicable provisions of the uniform commercial code in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith.

The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose.

Bonds issued by the authority shall be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America of the state or nongovernmental insurer or financial institution any insurance, guaranty, or other credit enhancement arrangement, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the authority and to enter into any agreement or contract with respect to such insurance, guaranty or credit enhancement arrangement, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holder of the bonds or notes of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and renewals thereof shall mature within forty years from the date their original issuance and notes and any renewals thereof shall mature within five years from the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be

subject to such terms and conditions as such resolution may provide.

Bonds may be sold at public sale or at private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to the comptroller, or by the state director of the budget, where such sale is to be to the comptroller.

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

(a) pledging all or part of its revenues, together with any other moneys, or property of the authority, to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected by the authority and the amounts to be raised in each year thereby, and the use and disposition of revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any water project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to applicable sections of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any water facility or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of its properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the

issuance of bonds to enter into such agreements as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including remarketing agreements or other similar agreements for the bonds, the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys, or property and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements.

The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance

thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date;

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or bond resolution of the authority may contain. Such notes may be sold at public sale or, upon the approval of the comptroller of the terms thereof, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1149-h. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to applicable provisions of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall

become due whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders including the right to require the authority to collect rents, rates, fees, and charges adequate to carry out any agreement as to, or pledge of, such rents, rates and charges, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

4. The state supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. Venue of any such action or proceeding shall be laid in the county.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

§ 1149-i. State and municipalities not liable on authority bonds. Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality.

§ 1149-j. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the board or of such other person or persons as the authority may authorize to make such requisitions.

All deposits of such moneys shall be secured by obligations of (or guaranteed by) the United States or of the state or of the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law.

The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1149-k. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them.

The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

§ 1149-l. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any water or sewer project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1149-m. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. The authority may pay, or may enter into agreements with any municipality not located within the county to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of its water or sewerage system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

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

§ 1149-n. Actions against the authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused;

(c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based; and

(d) the action or special proceeding shall be commenced in accordance with the notice of claim and time limitation provisions of this chapter.

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

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

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on

bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

§ 1149-o. Interest in contracts prohibited. It shall be a misdemeanor for any member or any officer, agent, servant or employee of an authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 1149-p. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

§ 1149-q. Authority to take affirmative action. The authority shall ensure that, where possible, all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 1149-r. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and comptroller and to the state legislature a detailed report pursuant to the provisions of this chapter, and a copy of such report shall be filed with the board of supervisors.

§ 1149-s. Environmental applications, proceedings, approvals and

permits. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county or any agency thereof with the department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any agency thereof to the authority, unless such assignment and transfer is prohibited by federal law.

§ 1149-t. Limited liability. Neither the members of the authority, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 1149-u. Governmental capacity of the authority and municipalities. The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1149-v. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1149-w. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other general, special or local law, or of any charter or any local law, ordinance or resolution of the county or other municipality, the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 7

ONONDAGA COUNTY WATER AUTHORITY

§ 1150. Short title. This title may be cited as the "Onondaga County Water Authority Act."

§ 1151. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context.

1. The term "authority" shall mean the corporation created by section eleven hundred twenty-eight of this title;

2. The term "county" shall mean the county of Onondaga;

3. The term "treasurer" shall mean the treasurer of the authority;

4. The term "comptroller" shall mean the comptroller of the state of New York;

5. The term "civil service commission" shall mean the civil service commission of the county of Onondaga;

6. The term "properties" shall mean the water supply and distribution system or systems of the authority, whether situated within or without the territorial limits of the district, including the plants, works, instrumentalities or part thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water

mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments;

7. The term "bonds" shall mean the bonds, notes and obligations, issued by the authority, pursuant to this act;

8. The term "revenues" shall mean all rents, charges and other income derived from the operation of the properties of the authority;

9. The term "municipality" shall mean any county, city, town, village, town water district, fire district, fire protection district, fire alarm district, school district, and any other political subdivision of the state.

10. The term "district" shall mean the Onondaga county water authority district created by section eleven hundred twenty-seven of this title.

§ 1152. Onondaga county water authority district. There is hereby created a district to be known as the "Onondaga County Water Authority District" which shall embrace the towns of Camillus, Clay, Cicero, DeWitt, Elbridge, Geddes, Lysander, Manlius, Marcellus, Onondaga, Salina and Van Buren, in the county of Onondaga, state of New York.

§ 1153. Onondaga county water authority. 1. A corporation known as "Onondaga County Water Authority" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. It shall consist of five members, all of whom shall be residents of the county, who shall be appointed by the chairman of the board of supervisors of Onondaga county subject to confirmation by a majority of the board of supervisors of Onondaga county. The first members shall be appointed for the following terms from the effective date of this act, as follows: two for a term of three years, two for a term of two years and one for a term of one year. Subsequent appointments shall be made in the same manner and for terms of three years. All members shall continue to hold office until their successors are appointed and qualify. The first chairman shall be designated by the board of supervisors. Subsequent chairmen shall be elected annually by the members of the authority. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointments by the board of supervisors for the unexpired terms. Members of the authority may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive such compensation for their services as shall be fixed by the board of supervisors and shall be reimbursed for all their actual and necessary expense incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the members at a meeting duly called and held and three members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least three members. The authority may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The authority and its corporate existence shall continue for a period of twelve years and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged and thereupon all rights and properties of the authority shall pass to and be vested in the county of Onondaga.

3. The officers of the authority shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. The vice-chairman, treasurer and secretary shall be appointed by the authority and shall serve at the pleasure of the authority. The authority may appoint and at pleasure remove an attorney and an engineer which positions, in addition to the position of secretary, shall be in the exempt class of the civil service and such additional officers and employees as it may require for the performance of its duties, fix and

determine their qualifications, duties and compensation, subject to the provisions of the civil service law of the state of New York and such rules as the civil service commission of the county of Onondaga may adopt and make applicable to such public authority. The authority may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the authority and the premium therefor shall be paid by the authority.

4. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the county of Onondaga and the state of New York, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

5. Upon creation of the authority, from time to time the board of supervisors, may, by resolution, appropriate sums of money to defray the preliminary expenses of the authority. The moneys so appropriated shall be repaid by the authority to the county out of the proceeds of the first bond issue of the authority.

6. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority.

§ 1154. Powers of the authority. The authority shall have power:

1. To sue and be sued;

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

3. To acquire, in the name of the authority, lease, hold and dispose of real estate and personal property or any interest therein for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the exercise of the power of condemnation hereinafter granted;

4. To purchase, in the name of the authority, any water supply system, water distribution system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the county, provided, however, that the authority shall have the power to purchase any source of supply, or water supply system or any part thereof situated wholly or partly without the territorial limits of the district; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, it shall be lawful to dissolve such corporation;

5. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the county of Onondaga or at wholesale in the manner provided by subdivision eight of this section as a means of so acquiring for such purposes, and the authority may purchase all of the stock of any existing privately owned water corporation or company, and thereafter, within a reasonable time, such

water corporation or company shall be dissolved;

6. To condemn in the name of the authority, within the territorial limits of the county, any water supply system, water distribution system, including plants, works, instrumentalities, or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments for the purpose of supplying water for domestic, commercial and public purposes at retail to individual consumers within the county of Onondaga or at wholesale in the manner provided by subdivision eight of this section. The authority shall exercise the power of condemnation hereby granted in the manner provided by the condemnation law and title to the properties described in the condemnation proceedings shall become and be vested in the authority in accordance with the provisions of the condemnation law. In the exercise of such power of condemnation, the property being condemned shall be deemed, when so determined by the authority, to be for a public use superior to the public use in the hands of any other person, association, or corporation, provided, however, that the authority shall have no power to condemn property the legal title to which is vested in a municipality or a political subdivision of the state, unless such municipality or political subdivision shall consent thereto.

7. To construct and develop any water supply system, water distribution system including plants, works, instrumentalities, or parts thereof, and appurtenances thereto, dams, reservoirs, water mains, pipe lines, pumping stations and equipment, or any other property incidental to or included in such system or part thereof within the county of Onondaga, and to acquire, by condemnation in the manner provided by this title, or by purchase, lands, easements, rights in land, and water rights and rights-of-way in connection therewith within such county; and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its properties acquired or constructed under this title, all of which, together with

the acquisition of such properties are hereby declared to be public purposes;

8. To sell water by volume to any or all municipalities, duly established water districts or privately owned public water supply and distribution systems in such county. The fact that any municipality has procured or is about to procure an independent source of water supply shall not prevent such municipality from purchasing water from the authority. To sell any water not needed in such county to any duly established water district, municipality or privately owned public water supply and distribution system outside of the county in which created. Not only may the authority sell any surplus water it may have developed, but it may develop and provide a sufficient amount of water so as to supply water outside of the county to any municipality, duly established water district or privately owned public water supply and distribution system;

9. To purchase water in bulk from any person, private corporation or municipality when necessary or convenient for the operation of such water supply and distribution system;

10. To acquire, hold, use, lease, sell, transfer and dispose of any property, real, personal or mixed, or interest therein, for its corporate purposes, including the right to sell, lease, convey or otherwise dispose of any distribution system or improvements thereto which the authority may acquire or construct to any municipal corporation or town water district, town water supply district, or to the county;

11. To produce, develop, distribute and sell water or water services within or without the territorial limits of the district; and to purchase water from any municipal corporation, town water district, person, association or corporation; provided, however, that water may be sold at retail to individual consumers only within the county of Onondaga and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality or special

improvement district unless the governing board of such municipality or district shall adopt a resolution requesting the authority to sell water in such served area; and the authority shall not interfere with any water supply or water system of any municipality unless requested by such municipality after such municipality has held a referendum on such question and approval given thereon;

12. To make by-laws for the management and regulation of its affairs and subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of the county and thereafter published once in two newspapers having a general circulation in the county. Violation of such rules shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both. Exclusive jurisdiction is hereby conferred upon the local criminal courts of the county, outside the city of Syracuse, which have trial jurisdiction, to hear and determine, subject to the provisions of the criminal procedure law, any violation of this title;

13. To use the officers, employees, facilities and equipment of the county with the consent of the county, paying a proper portion of the compensation or cost;

14. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

15. To enter on any lands, waterways and premises for the purpose of making surveys, soundings and examinations;

16. To borrow money and to issue negotiable bonds or notes or other obligations and to fund or refund the same, and to provide for the rights of the holders of its obligations;

17. To fix rates and collect charges for the use of the facilities of,

or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, notes or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority;

18. To enter into cooperative agreements with other water authorities, municipalities, counties, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the exchange or interchange of services and commodities, and within the territorial limits of the district to enter into a contract for the construction and operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution system, upon such terms and conditions as shall be determined to be reasonable including, but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

19. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the county, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

20. To do all things necessary or convenient to carry out the powers expressly given in this title.

21. To contract with the board of supervisors of the county of Onondaga for the acquisition, construction and development of a water supply and distribution system, or any part or parts thereof, on behalf of a county water district or districts, and to contract for the operation and management of any such district or districts, in

accordance in each case with the provisions of article five-A of the county law.

22. To act as a county water agency in accordance with the provisions of article five-A of the county law.

23. To contract for the purposes of subdivision twenty-four of section ten of article two of the highway law.

24. Notwithstanding any other provision of this section, to purchase, construct, lease and operate water systems and properties in the towns of Sullivan, Lenox, Lincoln, Volney, Verona, Vienna, Hannibal, Hastings, Minetto, Schroeppel, Scriba, Oswego, West Monroe, Annsville, Granby, Constantia, Parish and Sterling to enter into any contract authorized by this section with any municipality within the territorial limits of said towns, and to supply and sell any water not needed in the county of Onondaga at retail or at wholesale to individual consumers within the territorial limits of said towns.

§ 1155. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state of New York designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer on requisition by the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York or of the county of a market value equal at all times to the amount of deposit and all banks and trust companies are authorized to give such security for such deposits. The auditor and his legally authorized representatives of the county of Onondaga, and the comptroller if they so elect, are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, security, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

§ 1156. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any of its corporate purposes, including incidental expenses in connection therewith, and to secure the payment of the same by a lien or pledge covering all or part of its contract, earnings or revenues. The authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Except as may be otherwise expressly provided by the authority, every issue of bonds by the authority shall be general obligations payable out of any moneys, earnings or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys, earnings or revenues.

2. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rates per annum not exceeding six per centum per annum payable at such times, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide.

Bonds of the authority shall be sold at public sale upon sealed bids to the bidder who shall offer the lowest interest cost to the authority to be determined by the authority. The notice of sale shall be published at least once, not less than ten nor more than forty days before the date of sale, in a financial newspaper published and circulated in the city of New York and designated by the authority. The notice shall call for the receipt of sealed bids and shall fix the date, time and place of sale. Bonds may also be sold at private sale. Such bonds, whether publicly or privately sold, shall be sold for a price not less than ninety-six per centum of the par value thereof, plus accrued interest, provided always that the interest cost to maturity of the moneys realized from the sale of such bonds shall not exceed six per centum per annum. The terms of private sale shall be approved by the comptroller, or by the division of the budget when the sale is to the comptroller.

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

(a) pledging all or any part of the moneys, earnings, income and revenues derived from all or any part of the properties of the authority to secure the payment of the bonds or of any issue of the bonds subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

(d) limitations on the right of the authority to restrict and regulate the use of the properties in connection with which such bonds are issued;

(e) limitations in the purposes to which and the manner in which the proceeds of sale of any issue of bonds may be applied;

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

(g) the procedure, if any, by which the terms of any contract with

bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any earnings or revenues of the authority may be deposited;

(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section eleven hundred forty-three hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of its properties;

(m) any other matters, of like or different character which in any way affect the security or protection of the bonds;

(n) limitations on the amount of moneys derived from the properties to be expended for operating, administrative or other expenses of the authority;

(o) the protection and enforcement of the rights and remedies of the bondholders;

(p) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(q) the payment of the proceeds of bonds and revenues of the properties to a trustee or other depositary, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine.

4. It is the intention of the legislature that any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds or other obligations shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase (as distinguished from the power of redemption hereinabove provided) any bonds issued by it or which may be assumed by such authority at a price of not more than the principal amount thereof and accrued interest, and all such bonds shall be cancelled.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the properties, and the custody, safeguarding and application of all moneys, and may provide that the properties shall be constructed and paid for under the supervision and approval of

consulting engineers. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the properties to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the properties. If the bonds shall be secured by a trust indenture the bondholders shall have no authority to appoint a separate trustee to represent them.

Notwithstanding any other provisions of this title, any resolution or resolutions authorizing bonds or notes of the authority shall contain a covenant by the authority that it will at all times maintain rates, fees, rentals and/or other charges sufficient to pay, and that any contracts entered into by the authority for the sale or distribution of water shall contain rates, fees, rentals or other charges sufficient to pay, the cost of operation and maintenance of the properties, the principal of and interest on any obligation issued pursuant to such resolution or resolutions as the same severally become due and payable, and to maintain any reserves or other funds required by the terms of such resolution or resolutions.

§ 1157. Notes of the authority. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale at not less than par and shall bear interest at a rate not exceeding five per centum per annum. Such note shall be as fully negotiable as the bonds of the authority.

§ 1158. Duty of authority to maintain and operate. It shall be the duty of the authority, subject to any limitation on the amount of revenues to be expended for such purpose, to maintain and operate and where necessary to reconstruct its properties.

§ 1159. Transfer of officers and employees. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board or department by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such tranfer be paid by the authority. But notwithstanding the provisions of this act, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers or employee, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission of the county of Onondaga shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. It is hereby declared that in the interest of efficiency and insofar as it may be practicable, all employees engaged in the operation of any property or properties, except in an executive capacity, at the time such property or properties shall have been acquired by the authority, pursuant to the provisions of this act, shall become the employees of the authority. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law (constituting chapter seven of the consolidated laws) and such rules as the civil service commission of the county of Onondaga may adopt and make applicable to such authority.

§ 1160. Agreements of the state. The state of New York does pledge to and agree with the holders of the bonds or notes that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, operate, reconstruct and improve the properties, to establish and collect the revenues, rates, rentals, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or notes, or in any way impair the rights and remedies of such bondholders or noteholders, until the bonds or notes together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully met and discharged.

§ 1161. State, county and municipalities not liable on bonds or notes. The bonds or notes of the authority shall not be a debt of the state of New York or of the county or of any municipality in the county, and neither the state nor the county nor any municipality in the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1162. Bonds and notes legal investments for fiduciaries. The bonds, or notes, are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds or notes shall not be eligible for the investment of funds including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds or notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1163. Exemption from taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by the title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

§ 1164. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation except for transfer and estate taxes.

§ 1165. Officers and employees not to be interested in transactions. It shall be a misdemeanor for any of the members of the authority, or any officer, agent, servant or employee thereof, employed or appointed by them to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 1166. Contracts. 1. All contracts, or orders, for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure of more than ten thousand dollars shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed proposals shall be published at least once in a newspaper or trade paper selected by the authority for such purpose, such publication to be at least ten days before the date for the receipt of bids. If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest bidder, unless the authority shall determine that it is for the public interest that a bid other than the lowest bid should be accepted. In any contract for work, material or supplies, there shall be inserted in the discretion of the authority a provision that additional work may be done or material or supplies furnished for the purpose of completing such contract at an expense not exceeding fifteen per centum of the amount of such contract if such additional work, materials or supplies shall be ordered by the authority. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain for such period as shall be stipulated any construction done under the contract, all in the manner prescribed and required by the authority; and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the authority or its duly authorized agent. If the bidder whose bid has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security the authority shall have the right to declare his deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the authority may, if the best interest of the authority be thereby served, adopt on behalf of the authority any or all sub-contracts made by such contractor for such work and all such sub-contractors shall be bound by such adoption if made; and the authority shall in the manner provided herein readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the subcontract or subcontracts so adopted. No bid shall be accepted from or any contracts awarded to, any person or corporation who is in arrears to the authority, or the county of Onondaga upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation of the authority, or the county. Every contract involving an expenditure of more than ten thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. Upon the adoption of a resolution by a vote of two-thirds of all the members of the authority stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, material or supplies of more than ten thousand dollars may be awarded by the authority to the lowest responsible bidder furnishing the required security after advertisement for sealed bids therefor in the manner provided in this section. Such resolution shall contain a full explanation of the reasons for its adoption.

2. For the purposes of article fifteen-A of the executive law only,

the authority shall be deemed a state agency as that term is used in such article, and its contracts, or orders for work, material or supplies performed or furnished in connection with construction shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 1167. Restriction of jurisdiction. Anything contained in this chapter to the contrary notwithstanding, the authority shall have no power to purchase or otherwise acquire any source of supply, or water supply system, or any part thereof, situated wholly or partly in the county of Seneca or in the town of Skaneateles in the county of Onondaga.

§ 1168. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Onondaga and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the rights to require the authority to collect revenues, rates, rentals, fees and other charges adequate to carry out any agreement as to, or pledge of such revenues, rates, rentals, fees and other charges and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders.

4. Before declaring the principal of all such bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the properties and subject to any pledge or agreement with bonders shall take possession of all moneys and other property derived from such part or parts of the properties and proceed with any construction thereon or the acquisition of any property, real or personal in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements

allowed by the court shall be a first charge on any revenues derived from the properties.

6. Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1169. Actions. 1. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

2. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1170. Audit of authority; annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and such state comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and the books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall annually submit to the governor and the comptroller and to the legislature a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the chief fiscal officer of the county.

§ 1171. Limitation of liability. Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance or operation of the properties or any of the improvements or from carrying out any of the powers expressly given in this title.

§ 1172. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be held unconstitutional, or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall, on account thereof, be deemed invalid or ineffective.

§ 1173. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of any city, the provisions of this title shall be controlling. Nothing contained in this title shall be held to alter or abridge the powers and duties of the state department of health or of the water power and control commission over water supply matters.

TITLE 7-A

WATER AUTHORITY OF SOUTHEASTERN NASSAU COUNTY

§ 1174-a. Title. This title may be cited as the "water authority of Southeastern Nassau county act".

§ 1174-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section eleven hundred seventy-four-d of this title.

2. "Board of directors" shall mean the governing board of the authority.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title.

4. "Calendar year" shall mean the twelve month period from January first through December thirty-first.

5. "Chief executive officer" when referring to a municipality shall mean the chief elected official of such municipality and, when referring

to the authority, shall mean the chairperson of the authority.

6. "Civil service commission" shall mean the civil service commission of the county of Nassau.

7. "Comptroller" shall mean the comptroller of the state of New York.

8. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water facility as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

9. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges and bond discount, interest to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, bond insurance, bond credit enhancement arrangements, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the cost of legal and financial advice and credit arrangements with banks or other financial institutions, the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or special fund from the proceeds of such bonds and the financing of the placing of any project in operation.

10. "County" shall mean the county of Nassau.

11. "Distribution system" shall mean the water facility or facilities

employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

12. "District" shall mean the water authority of Southeastern Nassau county district created by section eleven hundred seventy-four-c of this title.

13. "Governing body" shall mean:

(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law.

(b) In the case of a public benefit corporation, the members thereof.

14. "Members" shall mean the members of the board of directors.

15. "Municipality" shall mean any city, county, town, village or county or town acting on behalf of an improvement district.

16. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, groundwater riparian rights and air rights and any and all things and rights customarily included within the term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "State" shall mean state of New York.

19. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

20. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

21. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived from users of the authority without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

22. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

23. "Treasurer" shall mean the treasurer of the authority.

24. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated or constructed for the purpose of supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

25. "Water project" shall mean any water facility, including the planning, development, financing or construction thereof.

26. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public

health law.

§ 1174-c. Water authority of Southeastern Nassau county district. 1. There is hereby created a district to be known as the "water authority of Southeastern Nassau county district" which shall be defined as all that portion of Nassau county serviced by the New York Water service corporation as of January first, nineteen hundred ninety-one.

2. If the authority decides to enter into a contract to purchase or otherwise acquire an interest in the New York Water Service Corporation or to initiate a condemnation proceeding pursuant to the eminent domain procedure law, prior to entering into any contract to purchase or otherwise acquire an interest in the New York Water Service Corporation or the initiation of any condemnation proceeding by the authority pursuant to the eminent domain procedure law the authority shall provide ratepayers within the area serviced by the New York Water Service Corporation and the public with public forums for the expression and discussion of views regarding such purchase, acquisition or condemnation of the New York Water Service Corporation. The authority shall hold at least one forum in each of the towns of Hempstead and Oyster Bay within the portions of the towns of Hempstead and Oyster Bay serviced by the New York Water Service Corporation.

3. If the authority decides to enter into a contract to purchase or otherwise acquire an interest in the New York Water Service Corporation or to initiate a condemnation proceeding pursuant to the eminent domain procedure law, the authority is authorized to provide registered voters within the area serviced by the New York Water Service Corporation prior to entering into such contract to purchase or otherwise acquire an interest in the New York Water Service Corporation or the initiation of any condemnation proceeding by the authority pursuant to the eminent domain procedure law, with a nonbinding referendum, regarding whether the authority should enter into a contract to purchase or otherwise acquire an interest in the New York Water Service Corporation or initiate condemnation proceeding pursuant to the eminent domain procedure law. The proposition shall be placed on the ballot and voted

upon at a special election or a date to be determined by the Nassau county board of elections.

§ 1174-d. Water authority of Southeastern Nassau county. 1. A corporation known as "water authority of Southeastern Nassau county" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board of directors consisting of five members, three of whom shall be appointed by the town board of the town of Hempstead and two of whom shall be appointed by the town board of the town of Oyster Bay in the same manner as officers and employees are appointed pursuant to paragraph a of subdivision one of section twenty of the town law. Each member shall serve for a period of two years. Each chief executive officer shall file with the secretary of state a certificate of appointment or reappointment of any member appointed or reappointed by such chief executive within thirty days of the appointment or reappointment. Members shall receive no compensation for their services but shall be entitled to reimbursement of their necessary expenses, including traveling expenses, incurred in the discharge of their duties.

2. Any one or more of the members of the board of directors may be an official or an employee of a municipality situated within the district. In the event that an official or an employee of such municipality shall be appointed as a member of the board of directors, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her municipal office or employment, or incompatible therewith or affect his or her tenure or compensation in any way.

3. No action shall be taken by the authority except pursuant to the favorable vote of three members of the board of directors.

4. The powers of the authority shall be vested in and shall be exercised by the board of directors at a meeting duly called and held.

Three members of the board of directors shall constitute a quorum. The board of directors may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

5. The officers of the authority shall consist of a chairperson, treasurer, and secretary, who may, but need not be members of the board of directors. The officers of the authority shall be appointed by the board of directors. The board of directors may appoint and at its pleasure remove an attorney and an engineer, which positions, in addition to the officers above named, shall be in the exempt class of the civil service and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties, compensations and terms of office or tenure, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The duties of the officers shall be as follows:

(a) Chairperson. The chairperson shall be the chief executive officer of the authority and it shall be the responsibility of the chairperson to:

(i) preside at all meetings of the board of directors and of the officers;

(ii) manage the water facility, the transmission facility and the distribution system and to effectuate the decisions of the board of directors;

(iii) exercise supervision over the conduct of the officers and employees of the authority;

(iv) report annually to each customer, either by mail or by publication once in a newspaper having general circulation within the district; such report shall include but not be limited to the following information:

(1) a brief financial account on operations of the water system including, but not limited to, water rates, total revenues, operating and maintenance expense, and interest on bonds and notes;

(2) the population served by the authority;

(3) the number of wells, towers and other storage facilities operated by the authority;

(4) the total pumpage of groundwater including the amount received through interdistrict interconnections and the estimated amount lost from the system;

(5) the single highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which exceeds the applicable county water quality standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found, and the date on which each reported constituent was analyzed;

(6) the highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which does not exceed the applicable county water standard or guideline, but which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found and the date on which each reported constituent was analyzed;

(7) once every five years, the highest level of any constituent discovered within the distribution system which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, and the resulting action taken by the authority;

(8) any well restricted, removed from service or otherwise limited in its use and the cause for such action;

(9) any actions taken to secure new supplies or replace lost capacity;

(10) the types of treatment which the water receives before entering the distribution system;

(11) any compliance activities required by regulations of the department of environmental conservation or the department of health or any local health department and any instances of noncompliance;

(12) the present condition of the distribution system and any significant actions, as determined by the authority, to improve or maintain the system;

(13) any special public services the authority provides during the year; and

(14) information on water conservation measures customers can implement, such as, but not limited to, retrofitting plumbing fixtures, altering irrigation timing, using irrigation sensors, leak detection, proper use of water-consuming appliances, daily conscientious use of water and estimated savings of water, energy, and money, from use of these measures;

(v) execute all contracts in the name of the authority;

(vi) institute, at the direction of the board of directors, all civil actions in the name of the authority;

(vii) provide for the enforcement of all of the rules and regulations of the authority and cause all violations thereof to be prosecuted;

(viii) sign orders to pay claims when authorized by the board of directors;

(ix) sign checks in the absence or inability of the treasurer or deputy treasurer, if any, when authorized by the board of directors; and a certified copy of a resolution of the board of directors to that effect shall be notice to the depository of such authorization;

(x) appoint, subject to the approval of the board of directors, non-elected officers, counsel, accountants, and other financial advisors, engineers and other technical advisors;

(xi) employ, promote and discharge managers, supervisors and employees; and

(xii) take all other reasonable and necessary actions to carry out his or her office as the chief executive of the authority. If the chairperson has not been appointed as a member of the board of directors of the authority pursuant to this section, such chairperson shall be deemed an ex officio member of the board of directors. Such status shall not carry with it the right to vote on matters coming before the board of directors nor shall the presence of such chairperson be counted for the purpose of determining a quorum.

(b) Secretary. (i) The secretary shall be the recording and corresponding officer of the authority and the custodian of the records of the authority.

(ii) The secretary shall prepare and send required notices of all meetings when directed to do so by the chairperson or by the written request of four members who have specified the issues to be discussed at the meeting.

(iii) In the absence or disability of the secretary, the chairperson may appoint a temporary secretary.

(c) Treasurer. (i) The treasurer shall have custody of all moneys belonging to the authority and keep accounts of all receipts and expenditures in conformance with a uniform system of accounts formulated and prescribed by the comptroller pursuant to section thirty-six of the general municipal law.

(ii) The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board of directors and the premium therefor shall be paid by the authority.

(iii) The treasurer shall deposit, within ten days after receipt thereof, in the name of the authority, in one or more banks, and/or trust companies, designated by the board of directors, all moneys received by him or her.

(iv) The treasurer may sign checks with the facsimile signature of the treasurer, as reproduced by a machine or device commonly known as a checksigner, when authorized by the board of directors.

(v) The treasurer shall pay out moneys from the authority treasury only as authorized by the board of directors and by law. All such payments, except as may be authorized by the board of directors for a petty cash account, shall be by check.

(vi) The treasurer shall issue a report on the finances of the authority at each regular meeting of the board of directors.

(vii) The treasurer shall file in the office of the authority, within sixty days after the end of the fiscal year, a statement showing in detail all revenues and expenditures during the previous fiscal year and the outstanding indebtedness of the authority as of the end of the fiscal year. The members shall, within ten days, cause to be published once in a newspaper having general circulation within the district, a notice that the annual financial statement has been filed and is available for inspection or a summary of such statement in a form approved by the comptroller, with an endorsement thereon that details thereof are on file in the office of the authority. The members shall cause to be audited by a certified public accountant engaged for that purpose, such report and supporting records.

6. The officers of the authority shall receive such compensation for their services as shall be fixed by the board of directors and shall be reimbursed for all necessary and actual expenses incurred in connection with their duties as such officers and in connection with the carrying out of the purposes of this title.

7. The authority and its corporate existence shall continue until terminated by law or terminated pursuant to an affirmative vote of all five members of the board of directors to retain the water supply system within the district which is in existence as of the effective date of this title; provided, however, that no such law or vote shall take effect so long as the agency shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Except as provided in paragraph (d) of subdivision one of section eleven hundred seventy-four-e of this article, upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the towns within the district. Such property shall be apportioned and distributed so each town shall receive the property located within its boundaries.

8. In addition to any powers granted to it by law, the governing body of each of the towns within the district, from time to time, may appropriate sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each governing body may determine if the moneys so appropriated shall be subject to repayment by the authority to the towns, and in such event, the manner and time or times for such repayment.

9. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

10. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for

the benefit of the people of the towns within the district and state, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

11. (a) The county executive shall file on or before March thirty-first of the year following the year in which this title shall have become law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the authority; (2) the names of the members appointed by the county executive and their terms of office; and (3) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

§ 1174-e. Responsibilities of the authority. The authority shall have the responsibility to: 1. investigate, analyse and evaluate various options for the distribution of water to the district, including, but not limited to, the following:

(a) The purchase, in the name of the authority, or in the name of any municipality or municipalities, of any water facility or distribution system or parts thereof involved in the supply of water to the district;

(b) The operation of any water facility or distribution system or parts thereof by any public water suppliers which operate in geographic areas adjacent to the district;

(c) The creation of additional water authorities to supply water to portions of the district as described in section eleven hundred seventy-four-c of this article; and

(d) The retention of the water supply system within the district which is in existence as of the effective date of this title.

2. Following any purchase pursuant to paragraph (a) of subdivision one of this section:

(a) Meter service to its customers; and

(b) Repair and maintain that portion of a water supply pipe extending from the water mains to the water meter. For purposes of this paragraph "water supply pipe" shall mean a pipe or line which connects the water mains directly to a customer's water meter.

§ 1174-f. Powers of the authority. Except as otherwise limited by this title, the authority shall have the power to:

1. sue and be sued;

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

3. borrow money and issue negotiable or non-negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such

municipality;

6. purchase, in the name of the authority, any water supply system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district, provided, however, that the authority shall have the power to purchase any source of supply, or water supply system or any part thereof situated wholly or partly without the territorial limits of the district, provided same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. construct, improve or rehabilitate water supply facilities required for the maintenance, development or expansion of water supply sources;

8. operate and manage and to contract for the operation and management

of facilities of the authority;

9. enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed and operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

11. take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

12. retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

14. prepare a water supply emergency plan which shall include, but not be limited to, the following:
(a) establishment of criteria and procedures to determine critical

water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule; such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

15. enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

16. apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

17. obtain, store, treat, distribute, supply and sell water for

domestic, commercial and public purposes at retail to individual consumers within the district;

18. purchase water from any municipal corporation, town water district, person, association or corporation;

19. produce, develop, distribute and sell water or water services within or without the territorial limits of the district; provided, however, that water may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water in such served areas;

20. make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the municipalities within the district and thereafter published once in a newspaper having general circulation within the district. Violation of such rules and regulations shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

21. fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair

reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority; however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district;

22. enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution system, upon such terms and conditions as shall be determined to be reasonable including, but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

23. provide for the discontinuance or disconnection of the supply of water for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

24. contract for, provide and maintain such insurance as it deems necessary or reasonable to:

(a) secure and protect its real and personal property from fire, theft or other calamity or loss;

(b) secure and protect it against liability imposed by law for damages or injuries to persons or property;

(c) secure and protect it against any liability which may be imposed pursuant to section eighteen of the public officers law; and

(d) secure and protect it against any other liability, casualty or loss as it deems necessary or reasonable; and

25. do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1174-g. Transfer of officers and employees. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board, department or municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority, but notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers and employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

§ 1174-h. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, or any other credit enhancement arrangement with any bank or other financial institution to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be

payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public sale or at private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by:

(a) the comptroller, where such sale is not to the comptroller, or

(b) the director of the division of the budget of the state, where such sale is to the comptroller.

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

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

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and the refunding of outstanding or other bonds;

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust deed or indenture securing the bonds under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of any system or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may

deem necessary, consistent or desirable concerning the use or disposition of its revenues or other moneys or property, including remarketing agreements or other similar agreements for the bonds, the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys, or property and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the board of directors nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date,

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or bond resolution of the authority may contain. Such notes may be sold at public sale or, upon the approval of the comptroller of the terms thereof, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1174-i. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the applicable county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§ 1174-j. State and municipalities not liable on authority bonds.
Neither the state nor any municipality shall be liable on the bonds of

the authority and such bonds shall not be a debt of the state or of any municipality.

§ 1174-k. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the chairperson of the authority or of such other officer or officers as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States of America or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1174-l. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

§ 1174-m. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or in any way impair the rights and remedies of bondholders until the bonds together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1174-n. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. The authority may pay, or may enter into agreements with any municipality to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting

a part of its water system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes. For purposes of this subdivision, the phrase "exempt from taxation" means exempt from direct taxation in conformity with established judicial interpretation of the tax exempt status of the obligations of the state and its agencies, entities, authorities and political subdivisions and thus, the meaning of such phrase is in conformity with the legislative intent expressed by section twenty-two of chapter one hundred sixty-six of the laws of nineteen hundred ninety-one regarding the tax exempt status of obligations of the state and its agencies.

4. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title that the interest thereon shall be exempt from taxation. The state further covenants with the holders of such bonds that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxes. For purposes of this subdivision, the phrase "exempt from taxation" means exempt from direct taxation in conformity with established judicial interpretation of the tax exempt status of the obligations of the state and its agencies, entities, authorities and political subdivisions and thus, the meaning of such phrase is in conformity with the legislative intent expressed by section twenty-two of chapter one hundred sixty-six of the laws of nineteen hundred ninety-one regarding the tax exempt status of obligations of the state and its agencies.

5. Notwithstanding the above, nothing herein shall prevent the state from assessing a tax or surcharge against the water customers based on their water consumption, provided, however, that all such taxes and surcharges and the authority's obligation to collect and pay such taxes and surcharges shall be subordinate to the rights of holders of all of

the authority's bonds and notes and to the payment of principal, premiums if any, and interest thereon.

§ 1174-o. Actions against the authority. 1. No action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law,

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and

(c) the action or proceeding shall be commenced within one year and ninety days after the cause of action therefor shall have accrued.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall not exceed six per centum per annum. Interest on payments of principal or interest on any bonds in default shall accrue at the

rate borne by such bonds from the date thereof until paid or otherwise satisfied.

§ 1174-p. Conflicts of interest of members of the board of directors and officers and employees of the authority. No member of the board of directors or officer or employee of the authority shall have any interest in any contract, or take any action or otherwise involve himself or herself in any activity which, pursuant to article eighteen of the general municipal law, would be deemed a conflict of interest for a municipal officer or employee holding a position with a municipality similar to the position held by the member, officer or employee with the authority.

It shall not be deemed a conflict of interest for a person to simultaneously hold positions as a member and as an officer of the authority.

§ 1174-q. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority or to contract with a public utility, for a term not to exceed five years, for the operation and maintenance of a water supply system acquired from said public utility.

§ 1174-r. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1174-s. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local or of any charter or any local ordinance or resolution of any municipality the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 8

BUFFALO SEWER AUTHORITY

§ 1175. Short title. This title may be cited as the "Buffalo Sewer Authority Act. "

§ 1176. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context,

1. The term "authority" shall mean the corporation created by section eleven hundred seventy-seven of this title;

2. The term "city" shall mean the city of Buffalo;

3. The term "bonds" shall mean the bonds, notes, interim certificates and other obligations issued by the authority pursuant to this title;

4. The term "board" shall mean the members of the authority;

5. The term "comptroller" shall mean the comptroller of the city;

6. The term "treasurer" shall mean the treasurer of the city;

7. The term "charter" shall mean the charter of the city enacted by the electors of the city at a special election held on the twenty-ninth day of August, nineteen hundred twenty-seven, as amended;

8. The term "project" shall mean a system of trunk, intercepting and connecting, lateral and outlet sewers, storm water drains, pumping and ventilating stations, disposal or treatment plants or works, and other appliances and structures, which in the judgment of the authority will provide an effectual and advantageous means for relieving the Niagara river, Buffalo river and Lake Erie from pollution by the sewage and waste of the city and relieving the city from inadequate sanitary and storm water drainage and for the sanitary disposal or treatment of the sewage thereof, or such sections or parts of such system as the

authority may from time to time deem it proper or convenient to construct, consistent with the plan or purpose of this title;

9. The term "existing sewer system" shall mean all sewers, including, without limitation, trunk, intercepting, connecting, lateral and other sewers, storm water drains, pumping stations, disposal or treatment plants or works, structures, appliances, equipment and other adjuncts thereto, comprising the entire system of sewerage owned by the city at the time of the filing with the common council of the city and with the secretary of the state of New York of a certificate of completion of the project as provided in section eleven hundred seventy-nine of this title;

10. The term "facilities" shall include the project and, from and after the filing with the common council of the city and the secretary of state of the state of New York of the certificate of completion of the project, as provided in section eleven hundred seventy-nine of this title, the existing sewer system.

11. The term "attorney general" shall mean the attorney general of the state of New York.

12. The term "general manager" shall mean the general manager of the Buffalo sewer authority.

13. The term "hazardous substance" shall mean any substance which:

a. is identified or listed as a hazardous waste or acute hazardous waste in regulation promulgated pursuant to section 27-0903 of the environmental conservation law and all amendments thereto, regardless of whether at the time of release the substance was actually a waste; or

b. appears on the list of substances hazardous or acutely hazardous to public health, safety or the environment in regulation promulgated pursuant to paragraphs (a) and (b) of subdivision one of section 37-0103 of the environmental conservation law and all amendments thereto.

14. The term "person" shall mean any individual, public or private corporation, political subdivision, government agency, department or bureau of the state or federal government, municipality, co-partnership, association, firm, trust, estate or any other legal entity whatsoever (including directors, officers or agents thereof), or combination of persons. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

15. The term "pollutant" shall mean any liquid, solid or gaseous substance, or combination thereof, which may cause an impairment (reduction) of water quality to a degree that has an adverse effect on any beneficial use of the water, including but not limited to hazardous substances.

16. The term "effluent source" shall mean a source of introduction of any waste into the facilities or any sewer system connected to the facilities.

17. The term "discharge" shall mean any introduction of waste into the facilities from any effluent source.

18. The term "sewer system" shall mean pipelines or conduits, pumping stations, and force mains and all other constructions, devices, and appliances appurtenant thereto, wherever located, used for conducting sewage, industrial waste or other waste into or through the facilities of the authority to a point of ultimate disposal.

19. The term "domestic sewage" shall mean a combination of wastes from the non-commercial preparation, cooking, and handling of food; human bodily wastes and similar matter from sanitary conveniences in dwellings, commercial buildings, industrial buildings and institutions; or any other wastes from non-commercial, non-industrial or non-institutional activities.

20. The term "domestic user" shall mean any user not covered under the definition of "industrial user".

21. The term "industrial user" shall mean a person who discharges industrial waste.

22. The term "industrial waste" shall mean any liquid, solid, or gaseous substance, or combination thereof, resulting from any process of industrial, commercial, governmental and institutional concerns, manufacturing, business, trade, or research, including the development, recovery, or processing of natural resources, or from sources other than those described as domestic sewage. Groundwater and surface runoff may be considered to be industrial waste if contaminated with industrial process chemical constituents.

23. The term "sewage" shall mean any combination of wastes from residences, business buildings, institutions and industrial establishment, together with such ground, surface and stormwaters as may be present.

24. The term "waste" shall mean any liquid, solid or gaseous substance, or combination thereof, that may be introduced into a sewer system.

25. The term "user" shall mean any person who directly or indirectly contributes, causes or permits the contribution of waste into the sewer system and into or through the authority's facilities.

§ 1177. Buffalo Sewer Authority. 1. A board, to be known as "Buffalo Sewer Authority," is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. Such board shall consist of five members, each of whom shall be a resident of the city of Buffalo and who shall be appointed by the mayor of the city. One shall be designated by him to serve until July first, nineteen hundred thirty-six, two shall be designated by him to serve until July first, nineteen hundred thirty-seven, and two shall be designated by him to serve until July first, nineteen hundred thirty-eight. Upon the expiration of the term of each member, a successor shall be appointed by the mayor for a term expiring three years after the expiration of the term of his predecessor. The mayor may remove any member of the board after giving to such member a copy of the charges against him and an opportunity to be heard in his defense. If a vacancy shall occur by reason of the death, disqualification, resignation or removal of a member, his successor shall be appointed by the mayor for the unexpired term. Every appointment to the board shall be subject to confirmation by the common council of the city. The powers of the board shall be vested in and exercised by a majority of the members thereof then in office. Such board and its corporate existence shall continue only for a period of five years and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist all its rights and properties shall pass to the city of Buffalo. The members of the board shall be compensated at the rate of twenty-five hundred dollars per annum each for a full year's service and the chairman of the board shall be compensated at the rate of thirty-five hundred dollars per annum for a full year's service, and in addition thereto, they shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties. At the first meeting of the board and at the first meeting thereof in each fiscal year thereafter the members of the board shall choose from their number a chairman, a vice-chairman and a secretary. The board may appoint agents and employees with such powers and duties as it may determine and shall fix their compensation and pay the same out of funds of the authority. Except as otherwise provided herein or by the board, the corporation counsel of the city shall be the attorney for the authority and shall prosecute and defend all actions and proceedings brought by or against the authority and shall institute and conduct all legal proceedings by the authority in the exercise of its powers of eminent domain. The authority may also use the agents, employees, records and equipment of the city with the consent of the city.

2. The purpose of this title, among other things, is to provide for the jurisdiction, control, possession, supervision and use of the facilities; authorization to make rules and regulations in furtherance of this title; the enforcement of this title, the rules, regulations, permits and orders of the authority in connection with the direct or

indirect use of the facilities by persons within the city and the county of Erie and any other persons from whom the authority accepts, treats and disposes of sewage, industrial waste, and other waste, from whatever source derived; and to enable the authority to comply with all applicable laws of the United States and the state of New York, and the rules, regulations, permits and orders of their regulatory agencies.

3. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people served by the facilities and the state, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon by this title.

§ 1178. Powers of the authority. The authority shall have power:

1. To prepare or cause to be prepared plans, designs and estimates of costs for the construction of the project, and from time to time to modify such plans, designs or estimates;

2. To construct the project and any additions, betterments and extensions to the facilities of the authority by contract or contracts, or under, through, or by means of its own officers, agents and employees;

3. To have jurisdiction, control, possession and supervision of the existing sewer system and the project; to maintain, operate, reconstruct and improve the same as a comprehensive sewerage system and to make additions, betterments and extensions thereto, and to have all the rights, privileges and jurisdiction necessary or proper for carrying such power into execution. No enumeration of powers in this or any other general, special or local law shall operate to restrict the meaning of this general grant of power or to exclude other powers comprehended within this general grant;

4. To sue and be sued;

5. To have a seal and alter the same at pleasure;

6. To acquire, hold and dispose of personal property for its corporate purposes;

7. To acquire, in the name of the city, by purchase or condemnation, real property or rights or easements therein, necessary or convenient for its corporate purposes and to use the same so long as its corporate existence shall continue;

8. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of its property and the establishment and collection of rates, rentals and charges;

9. To make contracts and execute all instruments necessary or convenient;

10. To borrow money and to issue negotiable bonds and to provide for the rights of the holders thereof;

11. To fix and collect rates, rentals and other charges for goods or services rendered by the authority, subject to and in accordance with such agreements with holders of bonds as may be made as hereinafter provided;

12. To enter on any lands, water and premises as in the judgment of the authority shall be necessary for the purpose of making borings, samples, surveys, soundings and examinations of any effluent source and to accomplish any purpose authorized by this title;

13. To accept, treat and dispose of the sewage and waste of all municipal corporations in the county of Erie and from any other persons from whatever source derived;

14. To do all things necessary or convenient to carry out the powers expressly given by this title;

15. To establish, adopt, amend or cancel and issue such rules, regulations, permits and orders as it deems necessary, desirable or convenient, for the jurisdiction, control, supervision, possession and use of the facilities and for the administration and enforcement of this title and such rules, regulations, permits and orders applicable to all users;

16. To enforce the rules, regulations, orders and permits of the authority for all users and in the event of non-compliance therewith, the authority may take any enforcement action, as may be established in the authority's rules and regulations or otherwise allowed by this title. The rules, regulations, permits and orders of the authority shall be enforced in jurisdictions outside of the city pursuant to agreements with the county of Erie or the respective sewer districts, municipalities or political subdivisions for effluent sources located therein. In the absence of such agreements, the authority is authorized to enforce its rules, regulations, permits and orders in such jurisdictions located outside the city directly upon users who violate the authority's rules, regulations, permits or orders, where such violations are not discontinued and remedied, to the authority's satisfaction, by the county of Erie or the respective sewer district, municipality or political subdivision wherein such effluent source is located.

§ 1178-a. Enforcement and special powers of the authority. 1. Administrative sanctions and civil liability. a. Any user who has been finally determined to violate any rules, regulations, permits or orders of the authority made pursuant to this title, shall be strictly liable, without regard to fault, to a penalty of not to exceed ten thousand dollars per violation per day. Each violation shall be a separate and distinct violation and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. The penalties provided for herein shall be imposed by the authority, pursuant to the rules and regulations of the authority.

b. The authority may bring suit for collection or recovery of any such penalty in any court of competent jurisdiction. Any sanction, penalty, action or cause of action for the recovery of a penalty, under this title, may be settled or compromised by the authority, before or after proceedings are brought to recover such penalties and prior to the entry of judgment thereof. All penalties received by the authority shall be deposited with the treasurer and applied by the board to the benefit of the authority's sewer rent payors and bondholders.

c. In addition to the penalties provided herein, in the event of a violation or threatened violation of any of the authority's rules, regulations, permits, or orders, the authority is authorized to:

(i) obtain a warrant upon application to the Erie county court or any other court of competent jurisdiction, based upon reasonable cause and reliable information that such violation is threatened or has occurred, for entry onto a user's premises or effluent source where entry has been denied or obstructed; or

(ii) suspend or revoke any user's discharge permit; or

(iii) discontinue, disconnect or block the user's access to the sewer system; or

(iv) obtain an injunction or other judicial relief upon application to a court of competent jurisdiction, to enjoin any user from continuing such violation or from carrying out the threat of such violation. In any such suit the court shall have jurisdiction to grant the authority, without bond or undertaking, such prohibitory or mandatory injunctions as the facts may warrant, including prevention or abatement of pollutant discharges, temporary restraining orders or preliminary injunctions; and

(v) recover the fee, cost or expense incurred by the authority for any investigation, sampling, monitoring (enhanced or otherwise), removal and remediation costs or other actual expenses, fees or costs, including attorneys fees and costs.

d. Imposition of any sanction or penalty or application for judicial relief, shall not be a bar against, or prerequisite for taking any other action against a user.

e. In determining the amount of an administrative or civil penalty, the authority or the court shall consider the seriousness of the violation or violations, any history of such violations, any good faith efforts to comply with applicable requirements and such other matters as justice may require.

2. Summary abatement. Notwithstanding any inconsistent provisions of law, whenever the general manager finds, after investigation, that any person is discharging any pollutant, sewage, industrial waste or other waste which, in his judgment, presents an imminent danger to the facilities, the environment or the public health, safety or welfare of persons and the general manager determines that it would be harmful to delay action until an opportunity for a hearing can be provided, the general manager may, without prior hearing, order such person by notice, in writing wherever practicable or in such other form as in the general manager's judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such discharge, and thereupon such person shall immediately discontinue, abate or alleviate such discharge. In the event of non-compliance with such order, the authority is authorized to discontinue, disconnect or block the user's access to the sewer system. Within thirty days after the issuance of such order, the authority shall give written notice to any such person which provides for an opportunity for a hearing.

3. Records, reports, inspections and entry. a. Whenever required to carry out the purposes and objectives of this title, including but not limited to, developing or assisting in the development of any discharge limitation, or other limitation, prohibition or discharge standard, pretreatment standard, or standard of performance; or determining whether any industrial user is in violation of any such discharge limitation, or other limitation, prohibition, discharge standard, pretreatment standard, or standard of performance or the authority's rules, regulations, permits or orders;

(i) the authority may require industrial users to:

(1) establish and maintain such records;

(2) make such reports;

(3) install, use and maintain such monitoring equipment or methods (including where appropriate, biological monitoring equipment or methods);

(4) sample such discharges, in accordance with such methods, at such intervals, and in such manner as the authority shall prescribe in its rules, regulations, permits or orders; and

(5) provide such other information as the authority may reasonably require; and

(ii) except as otherwise provided by a court warrant or order, the authority or its authorized representative, (including an authorized contractor acting as a representative of the authority) upon presentation of his credentials:

(1) shall have a right of entry, at all reasonable times, to, upon, or through any premises in which any effluent source of an industrial user is located or in which any records are required to be maintained pursuant to this title or any rules, regulations, orders or permits of the authority;

(2) may, at reasonable times during regular business hours, have access to and copy any records required to be maintained pursuant to this title or any rules, regulations, orders or permits of the authority;

(3) may, during all times of industrial user discharges, inspect any monitoring equipment or method which is required pursuant to this title or any rules, regulations, orders or permits of the authority; and

(4) may, during all times of industrial user discharges, have access to and sample any discharges or pollutants, resulting directly or indirectly from activities or operations of the industrial user of the premises in which an effluent source is located.

b. Any records, reports or information obtained under this section shall, in the case of discharge data, be related to any applicable limitation, toxic pretreatment, or performance standards, and shall be available to the public, except that upon a showing satisfactory to the authority by any person that records, reports, or information, or particular part thereof (other than discharge data), to which the authority has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the authority shall consider such record, report, or information, or particular portion thereof confidential, except that such record, report, or information may be disclosed to officers, employees, or authorized representatives of the United States or New York state concerned with carrying out the Clean Water Act or when relevant to any proceeding under this title or the Clean Water Act.

4. Proceedings before the authority. a. Whenever the authority determines, after investigation, that there has been a violation of any of the provisions of this title or any rules, regulations, orders or permits issued pursuant thereto, the authority shall give notice in writing, in such form as will reasonably notify the alleged violator or violators setting forth any thing or act done or omitted to be done or claimed to be in violation of any such provisions, and requiring that the matters complained of be corrected. Such notice shall inform the violator of an opportunity for a hearing, or that the alleged violator appear in person or by attorney before the authority, at a reasonable time and place in said notice specified, and show cause why enforcement action should not be taken.

b. The authority shall establish in its rules and regulations procedures for the conduct of any hearings.

c. In any hearing, a hearing officer may administer oaths, examine witnesses, and issue, in the name of the authority, notices of hearings and subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any hearing conducted by the authority.

d. In any proceeding before the authority, the burden of proof, with respect to violations of or liability imposed by this title or by rules, regulations, orders or permits issued pursuant thereto shall be upon the user or person cited by notice. In any such proof, the authority or the hearing officer may rely upon the self-monitoring reports submitted by the person being investigated or any other evidence.

e. After due consideration of the written and oral statements, and testimony and arguments, or on default in appearance, the authority may issue and enter such final order or make such final determination as it deems appropriate under the circumstances, and shall notify such person or persons thereof in writing.

f. The general manager may designate an agent of the authority or any other person, independent of the authority, to serve and preside as hearing officer.

g. In case of contumacy or refusal to obey a notice of hearing or subpoena issued by the authority, the supreme court shall have jurisdiction, upon application of the authority, to issue an order requiring such person to appear and testify or produce evidence as the case may require.

§ 1179. Transfer to authority of city sewer system. Upon the filing by the authority with the common council of the city and the secretary of state of the state of New York, of its certificate signed by its chairman or vice-chairman stating that the project has been completed, thereupon, and by virtue of this title, the existing sewer system, together with all contracts, books, maps, plans, papers and records of whatever description pertaining to subjects or matters relating to the design, construction, operation and affairs of the existing sewer system shall be assigned, transferred and dedicated to the use of and be in the possession of and under the jurisdiction, control and supervision of the authority and the authority is empowered to take possession thereof for its uses and purposes. The authority shall thereafter have complete jurisdiction, control, possession and supervision of the existing sewer system and of all the facilities in the city for the disposal of sewage and storm water, and shall continue to exercise such power for a period of five years and so long thereafter as any of the bonds and liabilities of the authority shall remain unpaid or shall not have otherwise been discharged. When all of the bonds and liabilities of the authority shall have been paid in full or shall have otherwise been discharged and the authority shall have ceased to exist, the powers, jurisdiction and duty of the board shall cease and the property and assets acquired or held by it shall thereafter become the property of, and shall be under the jurisdiction, control, possession and supervision of, the city.

§ 1180. Sewer rents. Upon the filing with the common council of the city and the secretary of state of the state of New York of the certificate of completion of the project, as provided in section fourteen hundred four of this chapter, the authority is authorized to establish a schedule of rates, rentals or charges, to be called "sewer rents," to be collected from all real property served by its facilities, except that no ad valorem sewer rent shall be assessed against real property exempt from real property taxes pursuant to subdivision one of section four hundred, sections four hundred four, four hundred six, four hundred twelve, four hundred eighteen, subdivision one of section four hundred twenty, sections four hundred forty-six, four hundred fifty-two, four hundred sixty-two and four hundred seventy-seven of the real property tax law, and to prescribe the manner in which and the time at which such sewer rents are to be paid, and to change such schedule from time to time as may be deemed advisable. Such sewer rents may be based upon either the consumption of water on premises connected with such facilities, making due allowances for commercial use of water, the number and kind of plumbing fixtures connected with such facilities, or the number of persons served by such facilities, or may be determined by the authority on any other equitable basis. Prior to the final adoption or modification of such schedule of sewer rents, the authority shall adopt a proposed schedule of such sewer rents and publish notice thereof once a week for three successive weeks in the official publication of the city. The notice so published shall be dated as of the date of first publication thereof and shall state that the proposed schedule of sewer rents will remain open for inspection in the office of the authority for thirty days from the date of such notice, and that objections thereto may be filed during said period with the authority by any person conceiving himself aggrieved thereby. The authority shall hear and examine any such complaints and may modify the proposed schedule and shall adopt a final schedule of sewer rents within sixty days after the date of said notice. Such schedule shall be uniform for all property falling within the same classification. The schedule of sewer rents so adopted shall thereafter be the sewer rents to be charged all real property served by the facilities of the authority. From and after the due date thereof, such sewer rents shall constitute a lien upon the real property served by the facilities. Such lien shall have the same priority and superiority as the lien of the general tax of the city. In the event that any such sewer rent shall remain unpaid for a period of ninety days, the authority may bring and maintain an action in the supreme court for the foreclosure of such lien, and, except as otherwise provided by this title, such lien shall be foreclosed in the same manner by the authority as the lien of the general tax of the city may be foreclosed by the city.

§ 1180-a. Shutting off water supply for unpaid sewer rents. Upon certification by the authority to the director of water of the city of Buffalo that sewer rents, based upon the consumption of water charged against real property which is connected with the facilities of the authority, remain unpaid for a period of more than one year from the due date thereof and that notice and demand has been given by the authority to the owner or occupant of said premises, by registered or certified mail, addressed to said premises and to the address of the owner as shown on the records of the board of assessors of the city of Buffalo, to pay the same within ten days from the date of the mailing of said notice and that such rents still remain unpaid, the director of water shall shut off the supply of water to said premises until the sewer rents are paid, together with a charge of five dollars for restoring water service to said premises.

§ 1181. Construction contracts. If the project, or any portion thereof, or any addition, betterment or extension to the facilities, shall be constructed pursuant to a contract for which the estimated cost exceeds seven thousand dollars, such contract shall be awarded to the lowest responsible bidder after advertisement for bids. The board may make rules and regulations for the submission of bids and the construction of the project or such portion thereof or such addition, betterment, or extension. No contract shall be entered into for construction of the project or any portion thereof or any addition, betterment or extension to the facilities, or for the purchase of materials, unless the contractor shall give an undertaking with a sufficient surety or sureties approved by the authority and in an amount fixed by the authority, for the faithful performance of the contract. As to contracts entered into for construction, such undertaking shall provide, among other things, that the person or corporation entering into such contract with the authority, will pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the authority to construct the project or any portion thereof or any addition, betterment or extension to the facilities directly by the officers, agents, and employees of the authority or otherwise than by contract. The authority may proceed jointly with the state of New York in the construction of any highway which also includes sewage and storm water facilities and by agreement with the state of New York fix and determine the amount which shall constitute the contribution by the authority toward the cost of the construction by the state of New York of such facilities in connection with the construction or improvement of any highway. The portion of the cost to be paid by the authority shall be deposited with the state comptroller, who is authorized to receive and accept the same. Upon completion of any project authorized by this section the commissioner of transportation shall render to the authority an itemized statement showing in full (a) the amount of money deposited as hereinbefore provided, and (b) all disbursements made pursuant to this section. Any surplus money shall be paid to such authority on the warrant of the comptroller on vouchers therefore approved by the commissioner of transportation.

§ 1182. Acquisition of lands. The city shall have the power to acquire by purchase or eminent domain proceedings either the fee or such right, title, interest or easement in such lands as the authority may deem necessary for any of the purposes mentioned in this title, whether within or without the city, and such lands or interest in such lands may be so acquired whether or not the same are owned or held for public use by corporations, associations or persons having the power of eminent domain or otherwise held or used for public purposes, including lands held or used for cemetery purposes. Whenever the authority shall determine by resolution and certify to the common council of the city that it is necessary to acquire the fee of or such right, title, interest or easement as shall be specified in such resolution, in any lands for any of the purposes mentioned in this title, the city may purchase such lands or the common council may pass a resolution that it has so determined to take such lands describing them and the estate to be taken therein. Upon such resolution becoming of force, the corporation counsel of the city shall proceed as directed by section three hundred and seventy-four of the charter and all of the proceedings had subsequent to the adoption of such resolution of determination for the acquisition of such lands shall be in the manner prescribed by such section three hundred and seventy-four and subsequent sections of article twenty-one of the charter, provided that it shall be unnecessary for the board of assessors of the city to certify and report to the common council the district benefited and assessed therefor, nor to adopt a resolution of intention or publish the same, and provided that a resolution as provided for by section three hundred and eighty-one of the charter, directing the corporation counsel to apply for the confirmation of the whole or any part of the decision in such proceedings, may be adopted without the certificate mentioned in such section, that funds have been appropriated or are available; and further provided that the provision of such section relative to the providing of funds shall not apply to the proceeding or proceedings authorized by this title. Such fee, right, title, interest or easement in or to said lands shall be taken in the name of the city and payment therefor shall be made by the authority. The power hereby conferred upon the city shall not limit or restrict the power of the authority itself to acquire lands, or any right, title, interest or easement therein in the name of the city. Forthwith upon the acquisition by the city, or by the authority in the name of the city, of any such fee, right, title, interest or easement, the same shall, without further act, but by virtue of this title, be and become dedicated to the uses and purposes of the authority.

§ 1183. Obligations of public utilities. Wherever railroad tracks, street railroad tracks, gas pipes, telephone wires, telegraph wires, electric light or power wires, or conduits for carrying telephone, telegraph or electric wires, or other structures of any public service corporation, extend in, along or across any part of the work authorized by this title, it shall be and become the duty of the corporation owning or using such tracks, pipes, wires or conduits, or other structures, to make such changes in the same, at its own expense, as may be required during the construction of the improvement provided for in this title, and to construct or rebuild and maintain at its own expense its tracks, pipes, wires or conduits and structures over or along the work by this title authorized and constructed or in the process of construction in pursuance thereof.

§ 1184. Property to be restored. The authority may enter upon streets, highways, bridges or public places for the purpose of constructing the project or any part thereof, or any addition, betterment or extension to the facilities of the authority. Whenever the authority has entered upon and damaged any street, highway, bridge or other public place the authority shall restore the same to its former condition.

§ 1185. Fiscal year. The fiscal year of the authority shall begin on the first day of July.

§ 1186. Moneys of the authority. All moneys of the authority, from whatever source derived, shall be paid to the treasurer as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited by the treasurer in one or more banks or trust companies in a special account or accounts, and if the treasurer or the authority shall so require, each of such special accounts shall be continuously secured by a pledge of direct obligations of the United States of America or of the state of New York having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer or be held by a trustee or agent satisfactory to the authority. In lieu of any such pledge of such securities, such funds may be secured by a surety bond or bonds which shall be in form, sufficiency and substance satisfactory to the authority. All banks and trust companies are authorized to give such security for such deposits. The moneys in such accounts shall be paid out on the warrant or check of the comptroller as agent of the authority on requisition of the chairman of the authority, or of such other person or persons as the authority may authorize to make such requisitions, after audit by the comptroller. The comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its finances, operation and affairs.

The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, security, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

§ 1187. Bonds of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any of its corporate purposes. The total amount of bonds issued and outstanding at any one time shall not exceed in the aggregate the sum of five hundred million dollars, excluding bonds or notes for the payment or redemption of which there has been set aside and held in trust either moneys, or direct and general obligations of, or obligations guaranteed by, the United States of America, or obligations secured by such obligations, or any combination thereof, which are or will be sufficient to pay when due the principal or applicable redemption price and all accrued interest thereon and, if such bonds or notes are to be redeemed, for which notice of redemption has been given or satisfactory provision has been made for the giving of such notice. The authority shall have power from time to time, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured or are then subject to redemption, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates per annum payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that bonds, exclusive of notes, shall not be sold at private sale unless the board of the authority makes a written determination, setting forth the reason therefore, that a private sale is in the best interest of the authority and such determination, private sale and the terms thereof have been approved in writing by (a) the state comptroller, where such sale is not to the state comptroller, or (b) the state director of the budget, where such sale is to the state comptroller. The foregoing provisions shall be applicable to bonds issued by the authority notwithstanding the provisions of any other general, special or local law to the contrary.

3. Any resolution or resolutions authorizing any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, as to

(a) pledging all or any part of the gross or net revenues of the authority to secure the payment of the bonds;

(b) the rates, rentals and other charges to be imposed and the amounts to be raised in each year by such rates, rentals and charges and the use and disposition thereof and of any other revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of its facilities;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

(f) limitations on the issuance of additional bonds;

(g) the time when the project shall be deemed to be completed, or the method of determining such time, and the time when the certificate provided for in section fourteen hundred four of this chapter shall be filed;

(h) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(i) the refunding of outstanding or other bonds;

(j) the creation of special funds into which any earnings or revenues of the authority may be deposited;

(k) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section eleven hundred ninety-two hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(l) the payment of the proceeds of bonds and revenues of the properties to a trustee or other depositary, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine;

4. Neither the members of the board nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

5. The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest. All bonds so purchased shall be cancelled.

6. It is the intention of the legislature that any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

§ 1188. Agreement of the state. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to establish and collect such rates, rentals and other charges as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of bondholders until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged. From and after the filing with the common council of the city and with the secretary of state of the state of New York of a certificate of completion of the project, as provided in section fourteen hundred four of this chapter, and so long as the authority exists, the city shall not be authorized to construct, operate or maintain any sewerage system within or without the territorial limits of the city, and no other corporation or agency shall be authorized to construct, operate or maintain any sewerage system within the city, but all such power shall be vested in the authority.

§ 1189. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1190. Bonds legal investments for fiduciaries. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees and other fiduciaries in the state may properly and legally invest funds in their control.

§ 1191. Exemptions from taxation. 1. It is hereby found and declared that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, for the improvement of their health and welfare, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title, and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of its facilities.

2. The bonds together with the income therefrom shall, at all times, be exempt from taxation, except for transfer and estate taxes.

§ 1192. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of, or interest on, any of the bonds after the said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the clerk of the county of Erie and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of the bonds then outstanding shall, in his or its own name:

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the rights to require the authority and the board to collect rates, rentals and other charges adequate to carry out any agreement as to, or pledge of, the revenues of the authority, and to require the authority and the board to carry out any other agreements with the bondholders and to perform its and their duties under this title;

(b) bring suit upon the bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(e) declare all bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of the bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Erie.

4. Before declaring the principal of all bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver who may enter and take possession of the facilities of the authority or any part or parts thereof and operate and maintain the same, and collect and receive all rentals and other revenues thereafter arising therefrom in the same manner as the authority and the board might do and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any rentals and other revenues derived from the facilities of the authority.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

§ 1193. Obligations of contracts not impaired. From and after the filing with the common council of the city and the secretary of state of the state of New York of the certificate of completion of the project, as provided in section fourteen hundred four of this chapter, all contracts of the city in respect of the existing sewer system or any part thereof shall be binding upon the authority with the same force and effect as though such contracts had been expressly assumed by the authority and such contracts shall inure to the benefit of the authority with the same force and effect as though such contracts had been expressly assigned to the authority. Moneys to provide for the payment of notes, bonds or other obligations issued by the city in relation to the existing sewer system or any part thereof, shall be raised, collected and paid by the city as though this law had not been enacted, and the authority shall not be liable thereon.

§ 1193-a. Actions against the authority. 1. In every action or special proceeding against the authority founded upon tort for damages to real or personal property, or for the destruction thereof, or for personal injuries or death, a notice of claim shall be required to be served upon a member of the authority, its general manager or secretary as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice.

2. Wherever a notice of claim is filed against the authority examination of said claimant may be had by the authority in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority shall be liable for, and shall assume the liability to the extent that it shall save harmless any duly appointed officer or employee of the authority for the negligence of such officer or employee, in the operation of a vehicle or other facility of transportation under the jurisdiction and control of the authority, upon the public streets, highways or railroads within the city, in the discharge of a duty imposed upon such officer or employee at the time of the accident, injury or damages complained of, while acting in the performance of his duties and within the scope of his employment.

4. Except in an action for wrongful death, no action or special proceeding against the authority founded on tort shall be commenced later than one year and ninety days after the happening of the event or events upon which the claim is based; nor unless it shall appear by and as an allegation in the complaint that at least thirty days have elapsed since the service of such notice of claim as required by subdivision one of this section and that the authority has neglected or refused to make an adjustment or payment of the claim for thirty days after the service

of such notice. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

5. The rate of interest to be paid by the authority, or by its officers or employees whose liability has been assumed by the authority pursuant to subdivision three of this section, upon any judgment or accrued claim against the authority or such officer or employee, shall be the rate of interest provided for in section three-a of the general municipal law.

6. The venue of any action or proceeding against the authority of whatever nature shall be laid in the county of Erie.

§ 1194. Title not affected if in part unconstitutional. If any clause, sentence, paragraph, or part of this title shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this title, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1195. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or any local law, the provisions of this title shall be controlling.

TITLE 8-A

NEW YORK STATE LOCAL WATER AND SEWER AUTHORITY ACT

§ 1196-a. Policy and purposes. It is hereby declared to be the policy of this state to enable local governments to provide expeditiously, efficiently and effectively, safe and adequate supplies of water and sewerage service for domestic and industrial use, both of which are essential to the public health and to the social and economic well-being of the people and communities of this state.

It is further declared that cooperation among local governments in the provision of both water supplies and sewerage service may result in economic and service benefits and should therefore be facilitated. It is further declared that the provision of water supplies and sewerage service may be independently supported by charges therefor, and that revenue financing of the capital costs of improvements to systems therefor should also be facilitated.

It is further declared that the availability to local governments of locally organized public benefit corporations for the provision and improvement of water supply and sewerage systems would facilitate inter-local cooperation and revenue financing while maintaining local responsibility and control and thereby promote the public health and welfare.

§ 1196-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean a water authority or sewerage authority or water and sewerage authority organized pursuant to the provisions of this title.

2. "Bonds" shall mean bonds, notes or other evidences of indebtedness issued by an authority pursuant to this title.

3. "Chief executive officer" shall mean the chief elected official of a municipality.

4. "Comptroller" shall mean the comptroller of the state.

5. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a water, sewerage or water and sewerage system, as the case may be, as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

6. "Cost", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges and bond discount, interest to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary or

incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of an authority providing for the issuance of bonds to be paid into any reserve or special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder.

7. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

8. "District" shall mean the authority district established at the time of organization of an authority by the governing body or bodies of the municipality or municipalities for whose benefit the authority is established by special act of the legislature, or as it may be amended by such governing body or bodies, all in accordance with the provisions of section eleven hundred ninety-six-c of this title.

9. "Governing body" shall mean:

(a) In the case of a city, county, town, or village or district corporation, the finance board as such term is defined in the local finance law.

(b) In the case of a public benefit corporation, the members thereof.

10. "Municipality" shall mean any city, county, town, village, or county or town acting on behalf of an improvement district.

11. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, groundwater riparian rights and air rights and any and all things and rights included within said term and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for

years and liens thereon by way of judgments, mortgages or otherwise.

12. "Sewage" shall mean the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also shall be considered "sewage" within the meaning of this title.

13. "Sewerage facility" or "sewerage facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, treating and disposing of sewage, including main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfall, pumping stations, treatment and disposal plants, groundwater recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment, and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

14. "Sewerage system" shall mean the sewage collection, pumping, treatment neutralizing, storage and disposal system or systems in the possession of, or under the jurisdiction and control of, a municipality, including all additions, increases, enlargements, extensions or improvements thereto.

15. "State" shall mean the state of New York.

16. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

17. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

18. "System revenues" shall mean rates, rents, fees, charges, payments and other income and receipts derived from users of a water system or sewerage system of a municipality including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid.

19. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

20. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated, or constructed for the purpose of supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

21. "Water project" shall mean any sewerage facility, water facility or water and sewerage facility, as the case may be, including the planning, development, financing or construction thereof.

§ 1196-c. Organization of authorities. 1. When an authority has been established by special act of the legislature for the benefit of a single sponsoring municipality, upon such establishment the governing body of such municipality shall file within one year after the effective date of such special act, in the office of the secretary of state, a certificate setting forth (a) the date of passage of such special act; (b) the name of the authority; (c) the names of the members and their terms of office, specifying which member is the chairman; and (d) the bounds of the district established by local law in which the authority will deliver water to or transport sewage from the ultimate consumers or dischargers thereof, provided, however, that unless otherwise provided in such special act no such district may encompass any area contained within another district established under this title or within any other water authority district created by this chapter. Should such district include all or any portion of a municipality or municipalities other than the sponsoring municipality, such certificate shall be accompanied by a copy of the intermunicipal contract or contracts under which the authority will provide services within such other municipality or municipalities, together with copies of the local law approving same. Any changes in the bounds of such districts or to such contracts shall be similarly filed within thirty days thereof.

2. Where an authority has been established by special act of the legislature for the benefit of more than one sponsoring municipality, upon such establishment the governing body of each such municipality shall file within one year after the effective date of such special act, in the office of the secretary of state, a certificate setting forth (a) the date of passage of such special act; (b) the name of the authority; (c) the name or names of the member or members appointed by such governing body and their terms of office; and (d) the bounds of that portion of the district established by local law within the applicable municipality in which the authority will deliver water to or transport sewage from the ultimate consumers or dischargers thereof, provided, however, that unless otherwise provided by such special act no such portion may encompass any area contained within another district established under this title or within any other water district created by this chapter. Each such certificate shall be accompanied by a copy of the local law establishing such portion of the district and by a copy of the intermunicipal agreement under which membership on the authority is apportioned among the sponsoring municipalities and a copy of the local law approving same.

3. An authority shall be deemed to be and shall be in existence upon the satisfactory filing and receipt of the certificate or certificates required by subdivision one or two hereof. An authority and its

corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the agency shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the sponsoring municipality or municipalities, as the case may be.

4. An authority shall be a corporate governmental agency constituting a public benefit corporation. Except as otherwise provided by special act of the legislature where there is more than one sponsoring municipality, an authority shall consist of not less than three nor more than five members. Such members shall be appointed and the chairman designated by the governing body of the sponsoring municipality, provided that where there is more than one sponsoring municipality, the apportionment of members between or among the sponsoring municipalities and the manner of selection of a chairman shall be determined by intermunicipal agreement. Members shall serve at the pleasure of the appointing municipality, and each member shall continue to hold office until his successor is appointed and has qualified. The governing body shall file with the secretary of state a certificate of appointment or reappointment of any member appointed or reappointed by it. Members shall receive no compensation for their services but shall be entitled to reimbursement of the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

5. No action shall be taken by an authority except pursuant to the favorable vote of a majority of the members then in office.

6. Any one or more of the members of an authority may be an official or an employee of a sponsoring municipality. In the event that an official or an employee of such municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his municipal office or employment, or incompatible therewith or affect his tenure or compensation in any way. The term of office of a member of an authority who is an official or an employee of such municipality when appointed as a member thereof by

special act of the legislature creating the authority shall terminate at the expiration of the term of his municipal office.

7. In addition to any powers granted to it by law, the governing body of the sponsoring municipality or municipalities, from time to time, may appropriate by resolution sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the governing body may determine if the moneys so appropriated shall be subject to repayment by the authority to the municipality or municipalities, and in such event, the manner and time or times for such repayment.

8. It is hereby determined and declared that an authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the sponsoring municipality or municipalities and the state, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that an authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 1196-d. General powers of an authority. Except as otherwise limited by this title, an authority shall have power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable or non-negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title.

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided, however, that an authority may not acquire, condemn or otherwise receive real property of a municipality without the consent of the governing body of such municipality;

6. To construct, improve or rehabilitate water supply or sewerage facilities required for the maintenance, development or expansion of water supply sources or sewerage facilities;

7. To construct, improve or rehabilitate distribution, transmission, and sewerage facilities;

8. To operate and manage and to contract for the operation and management of facilities constructed by the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed and operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. To enter into contracts, with municipalities for the collection, treatment and disposal of sewage;

11. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

12. To appoint such officers and employees as are required for the performance of its duties, and to fix and determine their

qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

14. To enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

15. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

16. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district and to collect, treat and discharge sewage produced for such purposes by such generators;

17. To purchase water in bulk from any person, private corporation or municipality when necessary or convenient for the operation of such water system;

18. To produce, develop, distribute and sell water or water services within or without the territorial limits of the district; and to purchase water from any municipal corporation, town water district, person, association or corporation; provided, however, that water may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title,

the authority shall not sell water in any area which is served by a water system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water in such served areas;

19. To make bylaws for the management and regulation of its affairs and subject to agreements with bondholders, rules for the sale of water or collection of sewage and the collection of rents and charges therefor. A copy of such rules and bylaws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the sponsoring municipality or municipalities and thereafter published once in two newspapers having a general circulation in the sponsoring municipality or municipalities. Violation of such rules shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

20. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, notes or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority;

21. To enter into cooperative agreements with other authorities, municipalities, counties, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the exchange or interchange of services and commodities, and within the territorial limits of the district to enter into a contract for the construction and operation and maintenance of a water supply and distribution or sewerage system by the authority for any municipality having power to construct and develop a water supply and distribution or sewerage system, upon such terms and conditions as shall be determined

to be reasonable including, but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

22. To provide for the discontinuance or disconnection of the supply of water or the provision of sewerage service, or both, as the case may be, for non-payment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any supply of water or the provision of sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law; and

23. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1196-e. Transfer of officers and employees. Any public officer or employee under civil service, selected by an authority may, with the consent of the commission, board or department by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority. But notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers or employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the applicable civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of an authority shall be made in accordance with the provisions of the civil service law and such rules as the applicable civil service commission may adopt and make applicable to such authority.

§ 1196-f. Bonds and notes of an authority. 1. An authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith. An authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by an authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. An authority is authorized to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of an authority.

3. Bonds shall be authorized by resolution of an authority, be in such denominations and bear such date or dates, mature at such time or times,

except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public sale or, upon the approval of the state comptroller, at private sale for such price or prices as an authority shall determine, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved by writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the division of the budget, where such sale is to the comptroller.

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

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

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

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

(d) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

(e) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and the refunding of outstanding or other bonds;

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

(g) the creation of special funds into which any revenues or other moneys may be deposited;

(h) the terms and provisions of any trust deed or indenture securing the bonds under which the bonds may be issued;

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

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

(k) limitations on the power of the authority to sell or otherwise dispose of any system or any part thereof or other property;

(l) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(m) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(n) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon an authority to secure its bonds, an authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, consistent or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and

the doing of any act, including refraining from doing any act, which an authority would have the right to do in the absence of such agreements. An authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by an authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the directors of an authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

9. An authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (i) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date, (ii) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon

which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. An authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefore and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public sale or, upon the approval of the state comptroller, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1196-g. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the applicable county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

(a) by action or proceeding in accordance with the civil practice law

and rules, enforce all rights of the bondholders and require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to an authority.

§ 1196-h. State and municipalities not liable on authority bonds. Neither the state nor any municipality shall be liable on the bonds of an authority and such bonds shall not be a debt of the state or of any municipality.

§ 1196-i. Moneys of an authority. All moneys of an authority from whatever source derived shall be paid to the treasurer of an authority and shall be deposited forthwith in a bank or banks in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the chairman of the authority or of such other officer or officers as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. An authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of an authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1196-j. Bonds legal investment for fiduciaries. The bonds of an authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 1196-k. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by an authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to fulfill the terms of any agreement made with or for the benefit of the holders of bonds, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. An authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1196-l. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of an authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose, and an authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf; provided, however, that any real property owned or acquired by the authority outside of a sponsoring municipality shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located.

2. An authority may pay, or may enter into agreements with any municipality to pay, a sum or sums, annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of a water or sewerage system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and activities of an authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or

other excise taxes. Notwithstanding the foregoing provision of this subdivision, any real property owned or acquired by an authority outside a sponsoring municipality shall be subject to subdivision one of this section. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by an authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom shall be free from such taxation, as aforestated herein, and that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxes, as aforestated herein.

§ 1196-m. Actions against an authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against an authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

3. An authority may require any person presenting for settlement an

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

4. The rate of interest to be paid by an authority upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall not exceed six per centum per annum. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 1196-n. Interest in contracts prohibited. It shall be a misdemeanor for any member or any officer, agent, servant or employee of an authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 1196-o. Equal employment opportunity. Authorities shall ensure that, where possible, all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 1196-p. Construction and purchase contracts. An authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of an authority to do any construction directly by the officers, agents and employees of the authority.

§ 1196-q. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1196-r. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local or of any charter or any local ordinance or resolution of any municipality, the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 8-B

WATER AUTHORITY OF GREAT NECK NORTH

§ 1197-a. Title. This title may be cited as the "Water Authority of Great Neck North Act".

§ 1197-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section eleven hundred ninety-seven-d of this title.

2. "Board of directors" shall mean the governing board of the authority.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title.

4. "Calendar year" shall mean the twelve month period from January first through December thirty-first.

5. "Chief executive officer" when referring to a municipality shall mean the chief elected official of such municipality and, when referring to the authority, shall mean the chairperson of the authority.

6. "Civil service commission" shall mean the civil service commission of the county of Nassau.

7. "Comptroller" shall mean the comptroller of the state of New York.

8. "Construction" shall mean the negotiation, acquisition, erection,

building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water facility as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

9. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges and bond discount, interest to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, bond insurance, bond credit enhancement arrangements, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the cost of legal and financial advices and credit arrangements with banks or other financial institutions, the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures made by them that would be costs of the project hereunder, notwithstanding the fact that such expenditures may have been incurred prior to the effective date of this act, so long as such expenditures were not incurred prior to January first, nineteen hundred eighty-two, and were expended through the water consortium of the villages of Great Neck.

10. "County" shall mean the county of Nassau.

11. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there

is no transmission facility, from a supply facility, to the ultimate consumers of water.

12. "District" shall mean the water authority of Great Neck north district created by section eleven hundred ninety-seven-c of this title.

13. "Governing body" shall mean:

(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law.

(b) In the case of a public benefit corporation, the members thereof.

14. "Members" shall mean the members of the board of directors.

15. "Municipality" shall mean any city, county, town, village or county or town acting on behalf of an improvement district.

16. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, goundwater riparian rights and air rights and any and all things and rights customarily included within the term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "State" shall mean state of New York.

19. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

20. "Supply facility" shall mean a water facility employed to make

groundwater or surface water available for delivery into a transmission facility or distribution system.

21. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived from users of the authority without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

22. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

23. "Treasurer" shall mean the treasurer of the authority.

24. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated or constructed for the purpose of supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

25. "Water project" shall mean any water facility, including the planning, development, financing or construction thereof.

26. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

§ 1197-c. Water authority of Great Neck north district. There is hereby created a district to be known as the "water authority of Great Neck north district" which shall embrace that portion of the area which, as of the date of the adoption of this act, is within union free school district number seven, Great Neck, town of North Hempstead, county of Nassau, lying northerly of the north line of the Manhasset-Lakeville water district.

§ 1197-d. Water authority of Great Neck north. 1. A corporation known as "water authority of Great Neck north" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board of directors consisting of eight members. The chief executive officers of the villages of Great Neck, Great Neck Estates, Great Neck Plaza, Kensington, Kings Point, Saddle Rock, Thomaston and the town of North Hempstead shall each appoint one member. Each member shall serve for a period of two years. Each chief executive officer shall file with the secretary of state a certificate of appointment or reappointment of any member appointed or reappointed by such chief executive within thirty days of the appointment or reappointment. Members shall receive no compensation for their services but shall be entitled to reimbursement of their necessary expenses, including traveling expenses, incurred in the discharge of their duties. Nothing herein shall be construed as preventing a chief executive officer of a municipality from appointing himself or herself to be a member of the board of directors.

2. Any one or more of the members of the board of directors may be an official or an employee of a municipality situated within the district. In the event that an official or an employee of such municipality shall be appointed as a member of the board of directors, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her municipal office or employment, or incompatible therewith or affect

his or her tenure or compensation in any way.

3. No action shall be taken by the authority except pursuant to the favorable vote of fifty-one percent of the total authorized voting strength of the board of directors. The total authorized voting strength of the board of directors shall be 100.0.

(a) The number of weighted votes possessed by each member of the board of directors shall be determined in accordance with paragraphs (c), (d) and (e) of this subdivision.

(b) No action shall be taken by the authority except pursuant to the favorable vote of at least: (i) fifty-one percent of the total authorized voting strength of the board of directors; and (ii) four members of the board of directors, at least two of whom must be from among the four members of the board of directors possessing the greatest number of weighted votes.

(c) The vote of each member shall be equal to one hundred multiplied by a fraction, the numerator of which shall be equal to the quantity of water supplied by the authority to the owners, tenants, occupants and other water users in the municipality from which such member was appointed and the denominator of which shall be equal to the quantity of water supplied by the authority to the owners, tenants, occupants and other water users in all of the municipalities within the district.

(d) Based upon the water supplied to the municipalities within the district in nineteen hundred eighty-two, the voting shall be weighted as follows:

MEMBER APPOINTED BY THE CHIEF EXECUTIVE OFFICER OF THE	AUTHORIZED NUMBER OF VOTES
Village of Kings Point	32.9
Village of Great Neck	24.4
Village of Great Neck Plaza	14.2
Village of Great Neck Estates	11.7
Town of North Hempstead	8.0
Village of Kensington	4.4
Village of Saddle Rock	3.9
Village of Thomaston	0.5
	----
total	100.0

(e) Commencing on the first day of April, nineteen hundred eighty-nine and every four years thereafter, the authorized number of votes of each member shall be adjusted in accordance with the formula set forth in paragraph (c) of this subdivision to reflect the total quantity of water supplied by the authority to owners, tenants, occupants and other water users in each municipality within the district during the two calendar years immediately preceding the date on which the adjustment is being made.

4. The powers of the authority shall be vested in and shall be exercised by the board of directors at a meeting duly called and held. Five members of the board of directors, who together are authorized to cast a majority of the weighted vote, shall constitute a quorum. The board of directors may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

5. The officers of the authority shall consist of a chairperson, vice chairperson, deputy chairperson, treasurer, and secretary, who may, but need not be members of the board of directors. The officers of the authority shall be appointed by the board of directors. The board of directors may appoint and at its pleasure remove an attorney and an engineer, which positions, in addition to the officers above named, shall be in the exempt class of the civil service and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties, compensations and terms of office or tenure, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The duties of the officers shall be as follows:

(a) Chairperson. The chairperson shall be the chief executive officer of the authority and it shall be the responsibility of the chairperson to:

(i) preside at all meetings of the board of directors and of the officers;

(ii) manage the water facility, the transmission facility and the distribution system and to effectuate the decisions of the board of directors;

(iii) exercise supervision over the conduct of the officers and employees of the authority;

(iv) report annually to each customer, either by mail or by publication once in a newspaper having general circulation within the district; such report shall include but not be limited to the following information:

(1) a brief financial account on operations of the water system including, but not limited to, water rates, total revenues, operating and maintenance expense, and interest on bonds and notes;

(2) the population served by the authority;

(3) the number of wells, towers and other storage facilities operated by the authority;

(4) the total pumpage of groundwater including the amount received through interdistrict interconnections and the estimated amount lost from the system;

(5) the single highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which exceeds the applicable county water quality standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found, and the date on which each reported constituent was analyzed;

(6) the highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which does not exceed the applicable county water standard or guideline, but which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found and the date on which each reported constituent was analyzed;

(7) once every five years, the highest level of any constituent discovered within the distribution system which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, and the resulting action taken by the authority;

(8) any well restricted, removed from service or otherwise limited in

its use and the cause for such action;

(9) any actions taken to secure new supplies or replace lost capacity;

(10) the types of treatment which the water receives before entering the distribution system;

(11) any compliance activities required by regulations of the department of environmental conservation or the department of health or any local health department and any instances of noncompliance;

(12) the present condition of the distribution system and any significant actions, as determined by the authority, to improve or maintain the system;

(13) any special public services the authority provides during the year; and

(14) information on water conservation measures customers can implement, such as, but not limited to, retrofitting plumbing fixtures, altering irrigation timing, using irrigation sensors, leak detection, proper use of water-consuming appliances, daily conscientious use of water and estimated savings of water, energy, and money, from use of these measures;

(v) execute all contracts in the name of the authority;

(vi) institute, at the direction of the board of directors, all civil actions in the name of the authority;

(vii) provide for the enforcement of all of the rules and regulations of the authority and cause all violations thereof to be prosecuted;

(viii) sign orders to pay claims when authorized by the board of directors;

(ix) sign checks in the absence or inability of the treasurer or deputy treasurer, if any, when authorized by the board of directors; and a certified copy of a resolution of the board of directors to that effect shall be notice to the depository of such authorization;

(x) appoint, subject to the approval of the board of directors, non-elected officers, counsel, accountants, and other financial advisors, engineers and other technical advisors;

(xi) employ, promote and discharge managers, supervisors and employees; and

(xii) take all other reasonable and necessary actions to carry out his or her office as the chief executive of the authority. If the chairperson has not been appointed as a member of the board of directors of the authority pursuant to this section, such chairperson shall be deemed an ex officio member of the board of directors. Such status shall not carry with it the right to vote on matters coming before the board of directors nor shall the presence of such chairperson be counted for the purpose of determining a quorum.

(b) Vice chairperson. The vice chairperson shall perform all duties delegated to him or her by the chairperson and, in the absence or during the disability of the chairperson, the vice chairperson shall act as chairperson.

(c) Deputy chairperson. The deputy chairperson shall perform all duties delegated to him or her by the chairperson or the vice chairperson.

(d) Secretary. (i) The secretary shall be the recording and corresponding officer of the authority and the custodian of the records of the authority.

(ii) The secretary shall prepare and send required notices of all meetings when directed to do so by the chairperson or by the written request of four members who have specified the issues to be discussed at the meeting.

(iii) In the absence or disability of the secretary, the chairperson may appoint a temporary secretary.

(e) Treasurer. (i) The treasurer shall have custody of all moneys belonging to the authority and keep accounts of all receipts and expenditures in conformance with a uniform system of accounts formulated and prescribed by the comptroller pursuant to section thirty-six of the general municipal law.

(ii) The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board of directors and the premium therefor shall be paid by the authority.

(iii) The treasurer shall deposit, within ten days after receipt thereof, in the name of the authority, in one or more banks, and/or trust companies, designated by the board of directors, all moneys received by him or her.

(iv) The treasurer may sign checks with the facsimile signature of the treasurer, as reproduced by a machine or device commonly known as a checksigner, when authorized by the board of directors.

(v) The treasurer shall pay out moneys from the authority treasury only as authorized by the board of directors and by law. All such payments, except as may be authorized by the board of directors for a petty cash account, shall be by check.

(vi) The treasurer shall issue a report on the finances of the authority at each regular meeting of the board of directors.

(vii) The treasurer shall file in the office of the authority, within sixty days after the end of the fiscal year, a statement showing in detail all revenues and expenditures during the previous fiscal year and the outstanding indebtedness of the authority as of the end of the fiscal year. The members shall, within ten days, cause to be published once in a newspaper having general circulation within the district, a notice that the annual financial statement has been filed and is available for inspection or a summary of such statement in a form approved by the comptroller, with an endorsement thereon that details thereof are on file in the office of the authority. The members shall cause to be audited by a certified public accountant engaged for that purpose, such report and supporting records.

6. The term of the chairperson, vice chairperson and deputy chairperson first appointed shall be staggered, the chairperson first appointed shall serve for a period of four years, the vice chairperson first appointed shall serve for a period of three years and the deputy chairperson first appointed shall serve for a period of two years; thereafter their successors shall serve for terms of four years. The remaining officers shall each serve terms of one year. The board of directors shall have the right, at any time, to extend any such term, for a period of months, to provide that such term terminates contemporaneously with the end of the fiscal year of the authority.

7. The officers of the authority shall receive such compensation for their services as shall be fixed by the board of directors and shall be reimbursed for all necessary and actual expenses incurred in connection with their duties as such officers and in connection with the carrying out of the purposes of this title.

8. The authority and its corporate existence shall continue until

terminated by law; provided, however, that no such law shall take effect so long as the agency shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the municipalities within the district. Such property shall be apportioned and distributed among the municipalities within the district in direct proportion to their weighted voting on the date of the termination of the authority.

9. In addition to any powers granted to it by law, the governing body of each of the municipalities within the district, from time to time, may appropriate sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each governing body may determine if the moneys so appropriated shall be subject to repayment by the authority to the municipalities, and in such event, the manner and time or times for such repayment.

10. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority.

11. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the municipalities within the district and state, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 1197-e. Powers of the authority. Except as otherwise limited by this title, the authority shall have the power to:

1. sue and be sued;

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

3. borrow money and issue negotiable or non-negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, but within the territorial limits of the town of North Hempstead, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. purchase, in the name of the authority, any water supply system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district, provided, however, that the authority shall have the power to purchase any source of supply, or water supply system or any part thereof situated wholly or partly without the territorial limits of the district, provided same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were

issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. construct, improve or rehabilitate water supply facilities required for the maintenance, development or expansion of water supply sources;

8. operate and manage and to contract for the operation and management of facilities of the authority;

9. enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed and operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

11. take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed

rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

12. retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

14. prepare a water supply emergency plan which shall include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule; such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

15. enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

16. apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

17. obtain, store, treat, distribute, supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district;

18. purchase water from any municipal corporation, town water district, person, association or corporation;

19. produce, develop, distribute and sell water or water services within or without the territorial limits of the district; provided, however, that water may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water in such served areas;

20. make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection

of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the municipalities within the district and thereafter published once in a newspaper having general circulation within the district. Violation of such rules and regulations shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

21. fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority; however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district;

22. enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution

system, upon such terms and conditions as shall be determined to be reasonable including, but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

23. provide for the discontinuance or disconnection of the supply of water for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

24. contract for, provide and maintain such insurance as it deems necessary or reasonable to:

(a) secure and protect its real and personal property from fire, theft or other calamity or loss;

(b) secure and protect it against liability imposed by law for damages for injuries to persons or property;

(c) secure and protect it against any liability which may be imposed pursuant to section eighteen of the public officers law; and

(d) secure and protect it against any other liability, casualty or loss as it deems necessary or reasonable; and

25. do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1197-f. Transfer of officers and employees. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board, department or municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority, but notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers and employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

§ 1197-g. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, or any other credit enhancement arrangement with any bank

or other financial institution to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public sale or at private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by:

(a) the comptroller, where such sale is not to the comptroller, or

(b) the director of the division of the budget of the state, where such sale is to the comptroller.

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

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

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use

and disposition of the earnings and other revenues;
(c) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;
(d) limitations on the purpose to which the proceeds from the sale of bonds may be applied;
(e) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;
(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and the refunding of outstanding or other bonds;
(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given;
(h) the creation of special funds into which any revenues or other moneys may be deposited;
(i) the terms and provisions of any trust deed or indenture securing the bonds under which the bonds may be issued;
(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section eleven hundred ninety-seven-h of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;
(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;
(l) limitations on the power of the authority to sell or otherwise dispose of any system or any part thereof or other property;
(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the

authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security

interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the board of directors nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date,

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the

proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or bond resolution of the authority may contain. Such notes may be sold at public sale or, upon the approval of the comptroller of the terms thereof, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1197-h. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the applicable county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§ 1197-i. State and municipalities not liable on authority bonds. Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality.

§ 1197-j. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the chairperson of the authority or of such other officer or officers as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States of America or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1197-k. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

§ 1197-l. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or in any way impair the rights and remedies of bondholders until the bonds together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1197-m. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. The authority may pay, or may enter into agreements with any municipality to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of its water system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

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

in such subdivision.

5. Notwithstanding the above, nothing herein shall prevent the state from assessing a tax or surcharge against the water customers based on their water consumption, provided, however, that all such taxes and surcharges and the authority's obligation to collect and pay such taxes and surcharges shall be subordinate to the rights of holders of all of the authority's bonds and notes and to the payment of principal, premiums if any, and interest thereon.

§ 1197-n. Actions against the authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law,

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused,

(c) the action or proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and

(d) An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall not exceed six per centum per annum. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the date thereof until paid or otherwise satisfied.

§ 1197-o. Conflicts of interest of members of the board of directors and officers and employees of the authority. No member of the board of directors or officer or employee of the authority shall have any interest in any contract, or take any action or otherwise involve himself or herself in any activity which, pursuant to article eighteen of the general municipal law, would be deemed a conflict of interest for a municipal officer or employee holding a position with a municipality similar to the position held by the member, officer or employee with the authority.

It shall not be deemed a conflict of interest for a person to simultaneously hold positions as a member and as an officer of the authority.

§ 1197-p. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority or to contract with a public utility, for a term not to exceed five years, for the operation and maintenance of a water supply system acquired from said public utility.

§ 1197-q. Authority; affirmative action. 1. All contracts for design, construction, services or materials for water projects authorized by this title shall require that such contracts and documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue programs of affirmative action to insure that minority group persons and women are afforded equal employment opportunity without discrimination. Such action shall be taken with reference, but not be limited to recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) At the request of the authority, the contractor shall request each employment agency, labor union, or authorized representative of workers with which he or she has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, in performance of the contract that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of paragraphs (a) through (c) of this subdivision in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its working connection with a contract.

2. The authority shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action as required by this section. Such procedures may require, after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. Such procedures and guidelines shall be consistent with the guidelines promulgated by the office of federal contract compliance programs of the United States department of labor pursuant to presidential executive order eleven thousand two hundred forty-six, as amended, and any state statutory or regulatory requirements. The authority shall, in the promulgation of procedures and guidelines pursuant to this section, cooperate with any federal, state or local agency established for the purpose of implementing affirmative action compliance programs.

3. The authority shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, American Indian or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

4. In the implementation of subdivisions two and three of this section, the authority shall consider compliance by any contractor with the requirements of any federal, state or local law concerning minority business enterprises or equal employment opportunity, which may effectuate the requirements of this section. If the authority determines

that by virtue of the imposition of the requirements of any such law, in respect to contracts affected by this section, that the provisions thereof duplicate or conflict with such law, the authority shall waive the applicability of this section to the extent of such duplication or conflict.

5. In order to implement the requirements and objectives of this section, the authority shall be responsible for monitoring the contractors' compliance with the provisions hereof, for advising contractors on the availability of competing qualified minority business enterprises to perform contracts proposed to be awarded and for making recommendations to contractors to improve the access of minority business enterprises to such contracts.

§ 1197-r. Charges by authority; method of collection. All rates, fees and other charges for the use or availability of the facilities or services or commodities provided or made available by the authority and billed directly by the authority to the user or service recipient pursuant to the rate schedules adopted by the authority as herein provided shall be a lien upon the real property upon which, or in connection with which, services are provided or are made available, as and from the first date fixed for a payment of such rates, fees and other charges. Any such lien shall take precedence over all other liens, or encumbrances, except taxes or assessments. The chief financial officer of the authority shall prepare and transmit to the Nassau county legislature, on or before the first day of November in each year, a list of those properties using such facilities or for which such facilities, services or commodities were provided or made available and from which the payment of rates, fees and other charges are in arrears for a period of ninety days or more after the last day fixed for payment of such rates, fees and other charges without penalty. The list shall contain a brief description of such properties, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interest, as applicable, computed to December thirty-first of that year. The Nassau county legislature shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the county under the heading "water charge". Such amounts, excluding penalties and interest imposed by the county when collected by the county collector or receivers of taxes, shall be paid over to the chief financial officer of the authority. County imposed penalties and interest shall be retained by the county collector or receiver of taxes which shall become a part of the general funds of the county. All of the provisions of the tax law of the state governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

§ 1197-t. Acquisition by eminent domain. Notwithstanding any provision of the eminent domain procedure law to the contrary, in any proceeding brought by the authority pursuant to said law, title shall vest in the authority and compensation shall be paid only (a) upon a decision by the supreme court that compensation for the property so condemned shall be determined solely by the income capitalization method of valuation, based on the actual net income as allowed by the public service commission, and (b) upon such court's determination of the amount of such compensation, based upon the income capitalization method, entry of the final judgment, the filing of the final decree, and the conclusion of any appeal or expiration of the time to file an appeal related to the condemnation proceeding. Should any court determine that a method of compensation other than the income capitalization method be utilized, or if the proposed award is more than the rate base of the assets taken in condemnation as utilized by the public service commission in setting rates and as certified by the public service commission, the authority may withdraw the condemnation proceeding without prejudice or costs to any party.

§ 1197-y. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1197-z. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local or of any charter or any local ordinance or resolution of any municipality the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 8-C

WATER AUTHORITY OF WESTERN NASSAU COUNTY

§ 1198-a. Title. This title may be cited as the "water authority of Western Nassau county act".

§ 1198-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section eleven hundred ninety-eight-d of this title.

2. "Board of directors" shall mean the governing board of the authority.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title.

4. "Calendar year" shall mean the twelve month period from January first through December thirty-first.

5. "Chief executive officer" when referring to a municipality shall mean the chief elected official of such municipality and, when referring to the authority, shall mean the chairperson of the authority.

6. "Civil service commission" shall mean the civil service commission of the county of Nassau.

7. "Comptroller" shall mean the comptroller of the state of New York.

8. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water facility as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal,

economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

9. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges and bond discount, interest to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, bond insurance, bond credit enhancement arrangements, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the cost of legal and financial advices and credit arrangements with banks or other financial institutions, the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures made by them that would be costs of the project hereunder, notwithstanding the fact that such expenditures may have been incurred prior to the effective date of this title.

10. "County" shall mean the county of Nassau.

11. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

12. "District" shall mean the water authority of Western Nassau county district created by section eleven hundred ninety-eight-c of this title.

13. "Governing body" shall mean:

(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law.

(b) In the case of a public benefit corporation, the members thereof.

14. "Members" shall mean the members of the board of directors.

15. "Municipality" shall mean any city, county, town, village or county or town acting on behalf of an improvement district.

16. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, goundwater riparian rights and air rights and any and all things and rights customarily included within the term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "State" shall mean state of New York.

19. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

20. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

21. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived from users of the authority without limiting the generality of the foregoing, investment

proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

22. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

23. "Treasurer" shall mean the treasurer of the authority.

24. "Water facility" or "water facilities" shall mean any plants, structures and other real and personal property acquired, rehabilitated or constructed for the purpose of supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

25. "Water project" shall mean any water facility, including the planning, development, financing or construction thereof.

26. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

§ 1198-c. Water authority of Western Nassau county district. There is hereby created a district to be known as the "water authority of Western Nassau county district" which shall be defined as follows:

Beginning at the point of intersection of the boundary line between the City of New York and the County of Nassau and the center line of Hillside Avenue; thence northerly along the boundary line of the City of New York and Nassau County to the southerly line of the Lakeville Manhasset Water District; thence easterly along the southerly line of the Lakeville Manhasset Water District to a point approximately three hundred seventy-five (375) feet west of Gerard Avenue; thence northerly along the boundary line of the Lakeville Manhasset Water District to Marcus Avenue; thence easterly along the center line of Marcus Avenue to the center line of New Hyde Park Road; thence southerly and along the center line of New Hyde Park Road to a point of one hundred (100) feet north of Ashland Avenue, which is also the boundary line of the Garden City Water District; thence easterly along a line of one hundred (100) feet north of Ashland Avenue to a point one hundred fifty (150) feet east of Leonard Boulevard; thence southeasterly along the boundary line of the Garden City Park Water District to the center line of Denton Avenue to a point approximately seventy (70) feet north of Evergreen Avenue; thence southerly and along the center line of Denton Avenue to Jericho Turnpike; thence continuing southerly along the center line of Tanners Pond Road (Denton Avenue, to the Long Island Rail Road (main line)); thence westerly along the Long Island Rail Road to a point approximately one thousand one hundred fifty (1150) feet east of New Hyde Park Road; thence southerly along the center line of Hudson Road (Block N, Map of Nassau Haven) to the south side of Colonial Avenue; thence westerly along Colonial Avenue and Colvin Drive to the rear line of the property on the east side of Hathaway Drive; thence southerly to a point approximately two hundred (200) feet north of Fenimore Avenue; thence westerly to the rear line of the property on the west side of Hathaway Drive; thence northerly to the center line of New Hyde Park Road; thence southerly along the center line of New Hyde Park Road to the boundary line of the Franklin Square Water District (a line parallel to and approximately one hundred (100) feet south of Cambridge Avenue); thence southerly and westerly along said boundary line to the center line of Covert Avenue; thence southerly and along the center line of Covert Avenue to a point distant five hundred (500) feet more or less north of Hempstead Turnpike; thence westerly and following the boundary line of Franklin Square Water District (a line distant five hundred (500) feet more or less north of Hempstead Turnpike) to its intersection with the easterly side of Makofski Avenue; thence along the easterly side of Makofski Avenue to the center line of Old School Road; thence continuing southerly and along the center line of Old School Road to the center line of Atherton Avenue; thence easterly and along the center line of Atherton Avenue to the center line of Emporia Avenue; thence northerly and along the center line of Emporia Avenue to a point distant five hundred (500) feet more or less south of Hempstead Turnpike; thence easterly on a line parallel to and distant five hundred (500) feet more or less south of Hempstead Turnpike to the center line of Meachem Avenue; thence northerly along the center line of Meacham Avenue to the center line of American Avenue; thence easterly along the center line of American Avenue to a point distant one hundred (100) feet more or less east of Evans Avenue; thence southerly on a line distant one hundred (100) feet more or less east of and parallel to Evans Avenue to the boundry line of the Franklin Square Water District where the same deflects to the east and is parallel with Nelson Street; thence easterly to the center line of Franklin Avenue; thence continuing easterly on a line parallel to and one hundred (100) feet north of First Avenue to a point approximately five hundred seventy-three (573) feet more or less east of Fourth Street, said point being twenty-five (25) feet west of the easterly line of the Nassau County drainage easement and also being the westerly boundary line of the West Hempstead-Hempstead Gardens Water District; thence following the boundry line of the West Hempstead-Hempstead Gardens Water District and running in a southerly direction along a line parallel with and twenty-five (25) feet west of the easterly line of the Nassau County drainage easement a distance of one thousand three hundred fifty-seven (1357) feet more or less; thence in an easterly direction and along the rear lot lines between Anderson and Doughty Avenues, which is also the southerly line of the West Hempstead-Hempstead Gardens Water District, to a point one hundred (100) feet more or less south of Sprague Avenue; thence in a southeasterly direction following the southerly line of the West Hempstead-Hempstead Gardens Water District along the rear lot lines between Sprague and Craft Avenues to the easterly side of Hall Street; thence along the easterly side of Hall Street to the southerly side of Sprague Avenue; thence in an easterly direction along the southerly side of Sprague Avenue to the center line of Dogwood Avenue; thence in a southerly direction along the center line of Dogwood Avenue, which is also the boundary line of the Lakeview Water District, a distance of two thousand five hundred thirty (2530) feet more or less to the boundary line of the Village of Malverne; thence westerly, thence southerly along the westerly boundary line of the Village of Malverne and the center line of Foeter's Brook to the center line of Wolf Avenue; thence in a westerly direction along the center line of Wolf Avenue a distance of two hundred seventy (270) feet more or less to a point in Peterhoff Street, said point being distant five hundred (500) feet east of the center line of Franklin Avenue and five hundred (500) feet north of the Incorporated Village of Valley Stream boundary line; thence in a southerly direction along a line parallel with and distant five hundred (500) feet east of the center line of Franklin Avenue a distance of six hundred (600) feet more or less to the boundary line of the Incorporated Village of Valley Stream; thence westerly along the boundary line of the Incorporated Village of Valley Stream to a point at Cumberland Avenue and Foster Meadow Road, said point being the junction of the boundary line between the County of Nassau and the City of New York; thence northerly along the boundary line of the City of New York and the County of Nassau to the center line of Jericho Turnpike; thence easterly along the center line of Jericho Turnpike to the boundary line of the City of New York and the Village of Floral Park; thence northeasterly along the boundary line of the City of New York and the Village of Floral Park to Hillside Avenue to the point or place of beginning.

§ 1198-d. Water authority of Western Nassau county. 1. A corporation known as "water authority of Western Nassau county" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board of directors consisting of nine members, two of whom shall be appointed by the town board of the town of Hempstead and one of whom shall be appointed by the town board of the town of North Hempstead in the same manner as officers and employees are appointed pursuant to paragraph a of subdivision one of section twenty of the town law. The village boards of the villages of Bellrose, Floral Park, Garden City, New Hyde Park, South Floral Park and Stewart Manor shall each appoint one member in the same manner as officers are appointed pursuant to subdivision three of section 3-301 of the village law. Each member shall serve for a period of two years. Members shall receive no compensation for their services but shall be entitled to reimbursement of their necessary expenses, including traveling expenses, incurred in the discharge of their duties. Nothing herein shall be construed as preventing a chief executive officer of a town from being appointed as a member of the board of directors.

2. Any one or more of the members of the board of directors may be an official or an employee of a municipality situated within the district. In the event that an official or an employee of such municipality shall be appointed as a member of the board of directors, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her municipal office or employment, or incompatible therewith or affect his or her tenure or compensation in any way.

3. No action shall be taken by the authority except pursuant to the favorable vote of not less than fifty-one percent of the total authorized voting strength of the board of directors. The total authorized voting strength of the board of directors shall be equal to 100.0.

(a) The number of weighted votes possessed by each member of the board of directors shall be determined in accordance with paragraphs (c), (d) and (e) of this subdivision.

(b) No action shall be taken by the authority except pursuant to the favorable vote of at least: (i) fifty-one percent of the total authorized voting strength of the board of directors; and (ii) five members of the board of directors.

(c) The vote of each member shall be equal to one hundred multiplied by a fraction, the numerator of which shall be equal to the number of customers to whom water is supplied by the authority or any other public water supplier in the municipality from which such member was appointed and the denominator of which shall be equal to the number of customers to whom water is supplied by the authority or any other public water supplier in all of the municipalities within the district. Provided, however, in the case of the two members appointed by the town board of the town of Hempstead, the vote of each member shall be equal to fifty multiplied by such fraction.

(d) Based upon the water supplied to the municipalities within the district in the year nineteen hundred ninety-two, the voting shall be weighted as follows:

MEMBER APPOINTED BY THE TOWN OR VILLAGE BOARD OF THE:	AUTHORIZED NUMBER OF VOTES:
Town of Hempstead (1 member)	26.6
Town of Hempstead (1 member)	26.6
Village of Floral Park	14.6
Village of New Hyde Park	10.5
Town of North Hempstead	15.1
Village of Stewart Manor	2.4
Village of Bellrose	1.5
Village of South Floral Park	1.4
Village of Garden City	1.3

Total	100.0

(e) Commencing on the first day of April, nineteen hundred ninety-three and every four years thereafter, the authorized number of votes of each member shall be adjusted in accordance with the formula set forth in paragraph (c) of this subdivision to reflect the total number of customers to whom water is supplied by the authority or any other public water supplier in each municipality within the district during the two calendar years immediately preceding the date on which the adjustment is being made.

(f) Any person serving on the board of directors as of April first, nineteen hundred ninety-two may be appointed to represent any municipality pursuant to the provisions of subdivision one of this section. Provided, however, that the two-year term of such person shall be considered to have started on the date of his or her original appointment and will expire two years from the date of such appointment.

4. The powers of the authority shall be vested in and shall be exercised by the board of directors at a meeting duly called and held.

Six members of the board of directors, who together are authorized to cast a majority of the weighted vote, shall constitute a quorum. The board of directors may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

5. The officers of the authority shall consist of a chairperson, treasurer, and secretary, who may, but need not be members of the board of directors. The officers of the authority shall be appointed by the board of directors. The board of directors may appoint and at its pleasure remove an attorney and an engineer, which positions, in addition to the officers above named, shall be in the exempt class of the civil service and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties, compensations and terms of office or tenure, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The duties of the officers shall be as follows:

(a) Chairperson. The chairperson shall be the chief executive officer of the authority and it shall be the responsibility of the chairperson to:

(i) preside at all meetings of the board of directors and of the officers;

(ii) manage the water facility, the transmission facility and the distribution system and to effectuate the decisions of the board of directors;

(iii) exercise supervision over the conduct of the officers and employees of the authority;

(iv) report annually to each customer, either by mail or by publication once in a newspaper having general circulation within the district; such report shall include but not be limited to the following information:

(1) a brief financial account on operations of the water system including, but not limited to, water rates, total revenues, operating and maintenance expense, and interest on bonds and notes;

(2) the population served by the authority;

(3) the number of wells, towers and other storage facilities operated by the authority;

(4) the total pumpage of groundwater including the amount received through interdistrict interconnections and the estimated amount lost from the system;

(5) the single highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which exceeds the applicable county water quality standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found, and the date on which each reported constituent was analyzed;

(6) the highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which does not exceed the applicable county water standard or guideline, but which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found and the date on which each reported constituent was analyzed;

(7) once every five years, the highest level of any constituent discovered within the distribution system which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, and the resulting action taken by the authority;

(8) any well restricted, removed from service or otherwise limited in its use and the cause for such action;

(9) any actions taken to secure new supplies or replace lost capacity;

(10) the types of treatment which the water receives before entering the distribution system;

(11) any compliance activities required by regulations of the department of environmental conservation or the department of health or any local health department and any instances of noncompliance;

(12) the present condition of the distribution system and any significant actions, as determined by the authority, to improve or maintain the system;

(13) any special public services the authority provides during the

year; and

(14) information on water conservation measures customers can implement, such as, but not limited to, retrofitting plumbing fixtures, altering irrigation timing, using irrigation sensors, leak detection, proper use of water-consuming appliances, daily conscientious use of water and estimated savings of water, energy, and money, from use of these measures;

(v) execute all contracts in the name of the authority;

(vi) institute, at the direction of the board of directors, all civil actions in the name of the authority;

(vii) provide for the enforcement of all of the rules and regulations of the authority and cause all violations thereof to be prosecuted;

(viii) sign orders to pay claims when authorized by the board of directors;

(ix) sign checks in the absence or inability of the treasurer or deputy treasurer, if any, when authorized by the board of directors; and a certified copy of a resolution of the board of directors to that effect shall be notice to the depository of such authorization;

(x) appoint, subject to the approval of the board of directors, non-elected officers, counsel, accountants, and other financial advisors, engineers and other technical advisors;

(xi) employ, promote and discharge managers, supervisors and employees; and

(xii) take all other reasonable and necessary actions to carry out his or her office as the chief executive of the authority. If the chairperson has not been appointed as a member of the board of directors of the authority pursuant to this section, such chairperson shall be deemed an ex officio member of the board of directors. Such status shall not carry with it the right to vote on matters coming before the board of directors nor shall the presence of such chairperson be counted for the purpose of determining a quorum.

(b) Secretary. (i) The secretary shall be the recording and corresponding officer of the authority and the custodian of the records of the authority.

(ii) The secretary shall prepare and send required notices of all meetings when directed to do so by the chairperson or by the written request of four members who have specified the issues to be discussed at

the meeting.
(iii) In the absence or disability of the secretary, the chairperson may appoint a temporary secretary.
(c) Treasurer. (i) The treasurer shall have custody of all moneys belonging to the authority and keep accounts of all receipts and expenditures in conformance with a uniform system of accounts formulated and prescribed by the comptroller pursuant to section thirty-six of the general municipal law.
(ii) The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board of directors and the premium therefor shall be paid by the authority.
(iii) The treasurer shall deposit, within ten days after receipt thereof, in the name of the authority, in one or more banks, and/or trust companies, designated by the board of directors, all moneys received by him or her.
(iv) The treasurer may sign checks with the facsimile signature of the treasurer, as reproduced by a machine or device commonly known as a checksigner, when authorized by the board of directors.
(v) The treasurer shall pay out moneys from the authority treasury only as authorized by the board of directors and by law. All such payments, except as may be authorized by the board of directors for a petty cash account, shall be by check.
(vi) The treasurer shall issue a report on the finances of the authority at each regular meeting of the board of directors.
(vii) The treasurer shall file in the office of the authority, within sixty days after the end of the fiscal year, a statement showing in detail all revenues and expenditures during the previous fiscal year and the outstanding indebtedness of the authority as of the end of the fiscal year. The members shall, within ten days, cause to be published once in a newspaper having general circulation within the district, a notice that the annual financial statement has been filed and is available for inspection or a summary of such statement in a form approved by the comptroller, with an endorsement thereon that details thereof are on file in the office of the authority. The members shall cause to be audited by a certified public accountant engaged for that purpose, such report and supporting records.

6. The officers of the authority shall receive such compensation for their services as shall be fixed by the board of directors and shall be reimbursed for all necessary and actual expenses incurred in connection with their duties as such officers and in connection with the carrying out of the purposes of this title.

7. The authority and its corporate existence shall continue until terminated by law or terminated pursuant to an affirmative vote of at least six members of the board of directors, who together are authorized to cast at least ninety-five votes, to retain the water supply system within the district which is in existence as of the effective date of this title; provided, however, that no such law or vote shall take effect so long as the agency shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Except as provided in paragraph (d) of subdivision one of section eleven hundred ninety-eight-e of this article, upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the municipalities within the district. Such property shall be apportioned and distributed so each municipality shall receive the property located within its boundaries.

8. In addition to any powers granted to it by law, the governing body of each of the municipalities within the district, from time to time, may appropriate sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each governing body may determine if the moneys so appropriated shall be subject to repayment by the authority to the municipalities, and in such event, the manner and time or times for such repayment.

9. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority.

10. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

11. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the municipalities within the district and state, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 1198-e. Responsibilities of the authority. The authority shall have the responsibility to: 1. investigate, analyse and evaluate various options for the distribution of water to the district, including, but not limited to, the following:

(a) The purchase, in the name of the authority, or in the name of any municipality or municipalities, of any water facility or distribution system or parts thereof involved in the supply of water to the district;

(b) The operation of any water facility or distribution system or parts thereof by any public water suppliers which operate in geographic areas adjacent to the district;

(c) The creation of additional water authorities to supply water to portions of the district as described in section eleven hundred ninety-eight-c of this article; and

(d) The retention of the water supply system within the district which is in existence as of the effective date of this title.

2. Following any purchase pursuant to paragraph (a) of subdivision one of this section:

(a) Meter service to its customers; and

(b) Repair and maintain that portion of a water supply pipe extending from the water mains to the water meter. For purposes of this paragraph "water supply pipe" shall mean a pipe or line which connects the water mains directly to a customer's water meter.

§ 1198-f. Powers of the authority. Except as otherwise limited by this title, the authority shall have the power to:

1. sue and be sued;

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

3. borrow money and issue negotiable or non-negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. purchase, in the name of the authority, any water supply system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district, provided, however, that the authority shall

have the power to purchase any source of supply, or water supply system or any part thereof situated wholly or partly without the territorial limits of the district, provided same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. construct, improve or rehabilitate water supply facilities required for the maintenance, development or expansion of water supply sources;

8. operate and manage and to contract for the operation and management of facilities of the authority;

9. enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed and operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon

such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

11. take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

12. retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

14. prepare a water supply emergency plan which shall include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule; such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

15. enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

16. apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

17. obtain, store, treat, distribute, supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district;

18. purchase water from any municipal corporation, town water district, person, association or corporation;

19. produce, develop, distribute and sell water or water services within or without the territorial limits of the district; provided, however, that water may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area

which is served by a water system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water in such served areas;

20. make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the municipalities within the district and thereafter published once in a newspaper having general circulation within the district. Violation of such rules and regulations shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

21. fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority; however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district;

22. enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of

facilities, the exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution system, upon such terms and conditions as shall be determined to be reasonable including, but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

23. provide for the discontinuance or disconnection of the supply of water for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

24. contract for, provide and maintain such insurance as it deems necessary or reasonable to:

(a) secure and protect its real and personal property from fire, theft or other calamity or loss;

(b) secure and protect it against liability imposed by law for damages or injuries to persons or property;

(c) secure and protect it against any liability which may be imposed pursuant to section eighteen of the public officers law; and

(d) secure and protect it against any other liability, casualty or loss as it deems necessary or reasonable; and

25. do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1198-g. Transfer of officers and employees. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board, department or municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority, but notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers and employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

§ 1198-h. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, or any other credit enhancement arrangement with any bank or other financial institution to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public sale or at private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by:

(a) the comptroller, where such sale is not to the comptroller, or

(b) the director of the division of the budget of the state, where such sale is to the comptroller.

4. Any resolution or resolutions authorizing bonds or any issue of

bonds by the authority may contain provisions which may be part of the contract with the holders of the bonds thereby authorized as to:

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

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and the refunding of outstanding or other bonds;

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust deed or indenture securing the bonds under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of any system or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the board of directors nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date,

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or bond resolution of the authority may contain. Such notes may be sold at public sale or, upon the approval of the comptroller of the terms thereof, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1198-i. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the applicable county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§ 1198-j. State and municipalities not liable on authority bonds. Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality.

§ 1198-k. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the chairperson of the authority or of such other officer or officers as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States of America or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1198-l. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

§ 1198-m. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or in any way impair the rights and remedies of bondholders until the bonds together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1198-n. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. The authority may pay, or may enter into agreements with any municipality to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of its water system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

4. The state hereby covenants with the purchasers and with all

subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom shall be exempt from such taxation, as aforestated in subdivision three of this section, and that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxes as aforestated in such subdivision.

5. Notwithstanding the above, nothing herein shall prevent the state from assessing a tax or surcharge against the water customers based on their water consumption, provided, however, that all such taxes and surcharges and the authority's obligation to collect and pay such taxes and surcharges shall be subordinate to the rights of holders of all of the authority's bonds and notes and to the payment of principal, premiums if any, and interest thereon.

§ 1198-o. Actions against the authority. 1. No action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law,

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and

(c) the action or proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is

made, in accordance with the provisions of section fifty-h of the general municipal law.

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall not exceed six per centum per annum. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the date thereof until paid or otherwise satisfied.

§ 1198-p. Conflicts of interest of members of the board of directors and officers and employees of the authority. No member of the board of directors or officer or employee of the authority shall have any interest in any contract, or take any action or otherwise involve himself or herself in any activity which, pursuant to article eighteen of the general municipal law, would be deemed a conflict of interest for a municipal officer or employee holding a position with a municipality similar to the position held by the member, officer or employee with the authority.

It shall not be deemed a conflict of interest for a person to simultaneously hold positions as a member and as an officer of the authority.

§ 1198-q. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority or to contract with a public utility, for a term not to exceed five years, for the operation and maintenance of a water supply system acquired from said public utility.

§ 1198-r. Acquisition by eminent domain. Notwithstanding any provision of the eminent domain procedure law to the contrary, in any proceeding brought by the authority pursuant to such law, title shall vest in the authority and compensation shall be paid only (a) upon a decision by the supreme court that compensation for the property so condemned shall be determined solely by the income capitalization method of valuation, based on the actual net income as allowed by the public service commission, and (b) upon such court's determination of the amount of such compensation, based upon the income capitalization method, entry of the final judgment, the filing of the final decree, and the conclusion of any appeal or expiration of the time to file an appeal related to the condemnation proceeding. Should any court determine that a method of compensation other than the income capitalization method be utilized, or if the proposed award is more than the rate base of the assets taken in condemnation as utilized by the public service commission in setting rates and as certified by the public service commission, the authority may withdraw the condemnation proceeding without prejudice or costs to any party.

§ 1198-s. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1198-t. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local or of any charter or any local ordinance or resolution of any municipality the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 8-D
Rensselaer County Water and Sewer Authority

§ 1199. Short title. This title shall be known and may be cited as the "Rensselaer county water and sewer authority act."

§ 1199-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section one thousand one hundred ninety-nine-c of this title.

2. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Civil service commission" means the civil service commission of the county.

4. "Comptroller" means the comptroller of the state.

5. "Construction" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a water, sewerage or water and sewerage system, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

6. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

7. "County" means the county of Rensselaer.

8. "County executive" means the county executive of the county.

9. "County legislature" means the county legislature of the county.

10. "District" means the Rensselaer county water and sewer district created by section one thousand one hundred ninety-nine-b of this title.

11. "Distribution system" means the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of such water.

12. "Governing body" means the members of the authority constituting

and acting as the governing body of the authority.

13. "Municipality" means any county, city, town, village, improvement district under the town law, any other such instrumentality, including any agency, or public corporation of the state, or any of the foregoing or any combination thereof.

14. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

15. "Project" means any water facility, sewerage facility or water and sewerage facility.

16. "Properties" means the water, sewerage and water and sewerage system or systems of the authority, whether situated within or without the territorial limits of the district, including the plants, works, structures, instrumentalities or part thereof and appurtenances thereto, real property, water facilities, sewerage facilities or any other property incidental to and included in such system or systems or part thereof, and any improvements, extensions and betterments.

17. "Real property" means lands, structures, franchises, rights and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

18. "Revenues" means all rates, rents, fees, charges, payments and other income and receipts derived from the operation of the properties of the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sale or other disposition of assets, together with all federal, state or municipal aid.

19. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also shall be considered "sewage" within the meaning of this title.

20. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, groundwater recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

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

22. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

23. "Supply facility" means a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

24. "Transmission facility" means a water facility used to carry water from a supply facility to a distribution system.

25. "Water facility" or "water facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying,

transmitting, treating or distributing water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

§ 1199-b. Rensselaer county water and sewer district. There is hereby defined and established an area to be known as the "Rensselaer county water and sewer district" which shall embrace all the territory located within the county of Rensselaer that is not, as of the effective date of this title, located within the incorporated limits of a city.

§ 1199-c. Rensselaer county water and sewer authority. 1. A public corporation, to be known as the "Rensselaer county water and sewer authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. It shall consist of five members, who shall be residents of the county and be appointed by the county executive; one upon recommendation of the chairman of the county legislature and one upon recommendation of the minority leader, no more than three members shall be members of the same political party. The first members appointed by the county executive shall be appointed for the following terms of office: one for a term ending on December thirty-first of the second year following the year in which this title shall have become law, two for a term ending on December thirty-first of the third year following the year in which this title shall have become law; and two for a term ending on December thirty-first of the fourth year following the year in which this title shall have become law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive such salary as shall be determined by local law. They shall receive no reimbursement for the ordinary expenses of attending meetings, but may by resolution by the authority be allowed their expenses of a special or extraordinary nature. A member may receive additional compensation to be fixed by the county, if appointed an officer of the authority. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of three members are present. No action shall be taken except pursuant to the favorable vote of at least three members. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

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

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment.

4. (a) The county executive shall file on or before March thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the authority; (2) the names of the members appointed by the county executive and their terms of office; and (3) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

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

§ 1199-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue bonds or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided however, that the authority may not condemn real property of a municipality of the state unless such municipality shall consent thereto;

6. To purchase, in the name of the authority, any water facility or sewerage facility, and any improvements, extensions and betterments, situated wholly within the district, provided, however, that the authority shall have the power to purchase any source of supply, supply facility or transmission facility or any part thereof situated wholly or partly without the territorial limits of the district, provided the same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties, the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority

shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. To construct, improve, maintain, develop, expand or rehabilitate water facilities or sewerage facilities;

8. To operate and manage and to contract for the operation and management of properties of the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed and operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. To enter into contracts with municipalities for the collection, treatment and disposal of sewage;

11. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

12. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

14. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

15. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

16. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district and to collect, treat and discharge sewage produced for such purposes by such generators;

17. To purchase water in bulk from any person, private corporation or municipality when necessary or convenient for the operation of such water system;

18. To produce, develop, distribute and sell water or sewerage services within or without the territorial limits of the district; and to purchase water from any municipal corporation, town water district, person, association or corporation; provided, however, that water and sewerage services may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water or sewerage services in any area which is served by a water system or sewerage system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district

shall adopt a resolution requesting the authority to sell water or sewerage services, as the case may be, in such served areas;

19. To make by-laws for the management and regulation of its affairs and subject to agreements with bondholders, rules for the sale of water or collection of sewage and the collection of rents and charges therefor. A copy of such rules and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county. In addition, the county legislature by local law shall have power to prescribe that violation of specific by-laws of the authority, published once in a newspaper having a general circulation in the county, shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

20. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority;

21. To enter into cooperative agreements with other authorities, municipalities, counties, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district, for the interconnection of facilities, the exchange or interchange of services and commodities, and within the territorial limits of the district to enter into a contract for the construction and operation and maintenance of a water or sewerage system by the authority for any municipality having power to construct and develop a water or sewerage system, upon such terms and conditions as shall be determined to be reasonable including but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes

of this title;

22. To provide for the discontinuance or disconnection of water or sewerage service, or both, as the case may be, for non-payment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any water or sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

23. To act as a county water agency in accordance with the provisions of article five-A of the county law; and

24. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1199-e. Advances on behalf of the authority; transfer of property to authority; acquisition of property by county for authority. 1. In addition to any powers granted to it by law, the county from time to time may appropriate sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the county may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree.

3. The county may acquire by purchase or by exercise of the power of

eminent domain real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

§ 1199-f. Governmental capacity of the authority and municipalities. The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1199-g. Transfer of officers and employees. Any public officer or employee in the public service who is selected by the authority may, with the consent of the commission, board, or chief executive officer of the municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 1199-h. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject only to any agreements with the holders of outstanding bonds pledging any particular revenues, earnings, or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or any nongovernmental insurer or financial institution any insurance, guaranty or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years from the date of original issuance of any such bonds. Obligations with a maturity of five years or

less from the date of their original issuance may be designated as notes. Bonds shall be subject to such terms of redemption, bear interest at such rate or rates per annum payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority, other than obligations designated as notes, may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to be to such comptroller, or by the state director of the budget, where such sale is to be to the comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

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

(a) pledging all or any part of the revenues of the authority, together with any other moneys or property of the authority to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby, and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand one hundred ninety-nine-i of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the

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

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then

may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled.

§ 1199-i. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision four of section one thousand one hundred ninety-nine-h of this title:

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

2. Such trustee may and, upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding, shall in his, her or its own name:

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 1199-j. State and county not liable on authority bonds. Neither the state nor the county shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, or the county, and such bonds shall contain, on the face thereof, a statement to such effect.

§ 1199-k. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1199-l. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 1199-m. Agreement of the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1199-n. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and other properties and activities of the authority shall be exempt from taxes and governmental fees or charges, whether imposed by the state or any municipality, including real estate taxes, franchise taxes, sales taxes or other excise taxes.

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

§ 1199-o. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

§ 1199-p. Contracts. 1. All contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the authority.

2. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the authority, and the sufficiency of such security shall, in addition to the justification and acknowledgement, be approved by the authority. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal, or if he accepts but does not execute the contract and give proper security, the authority shall have the right to declare his deposit forfeited. In case any work shall be abandoned by any contractor, the authority may, if it determines that the public interest is thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from, or any contract awarded to, any person or corporation who is in arrears to the authority or the county upon any obligation of the authority or of the county. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be

delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the county with respect to any proposed project, and the authority may adopt, utilize, accept and confirm any bids or proposals submitted to the county and heretofore or hereafter received and publicly opened by the county. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, any other general, special or local law, or the charter of the county.

§ 1199-q. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 1199-r. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the county executive. The authority shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two, and two thousand five hundred three of title one of article nine of this chapter.

§ 1199-s. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 1199-t. Environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

§ 1199-u. County may levy tax within district. Should it appear to the county legislature at any time that the revenue of the authority is or will be insufficient to provide for the payment of any bonds issued under this title and to reimburse the county for any moneys that it may have advanced to the authority, the county legislature shall determine the amount of money necessary to be raised for such purpose, and shall levy a tax on the territory of the district located within the county and upon the several parcels of real estate in the district located within the county in an amount sufficient to produce the amount necessary to be raised as aforesaid; provided that such tax shall not be levied to pay any bonds of the authority unless the authority with the consent of the county legislature has pledged such tax prior to the issuance of such bonds. Such tax shall be levied and apportioned upon such territory located within the county and collected from the several parcels of real estate in the district located within the county in like manner as other county taxes. It is hereby determined that the liability imposed upon the territory included in the district located within the county is based upon the special benefit to such territory accruing under this title and that the tax to be levied because of such liability and in proportion to the taxable value of real estate in such territory will be in proportion to such benefits.

§ 1199-v. Authority, water board and city to take affirmative action. 1. Each contracting agency which awards contracts for design, construction, services or materials for water projects authorized by this title shall require that such contracts and documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue programs of affirmative action to insure that minority group persons and women are afforded equal employment opportunity without discrimination. Such action shall be taken with reference, but not be limited to recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) At the request of the contracting agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which he has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, in performance of the contract that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of paragraphs (a) through (c) of this subdivision in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its working connection with a contract.

2. Each contracting agency shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action as required by this section. Such procedures may require, after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. Such procedures and guidelines shall be consistent with the guidelines promulgated by the office of federal contract compliance programs of the United States department of labor pursuant to presidential executive order eleven thousand two hundred forty-six, as amended, and any state statutory or regulatory requirements. A contracting agency shall, in the promulgation of procedures and guidelines pursuant to this section, cooperate with any federal, state or local agency established for the purpose of implementing affirmative action compliance programs.

3. Any contracting agency empowered to award contracts for design, construction, services or materials shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such

enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, American Indian or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

4. In the implementation of subdivisions two and three of this section, the contracting agency shall consider compliance by any contractor with the requirements of any federal, state or local law concerning minority business enterprises or equal employment opportunity, which may effectuate the requirements of this section. If the contracting agency determines that by virtue of the imposition of the requirements of any such law, in respect to contracts affected by this section, that the provisions thereof duplicate or conflict with such law, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. In order to implement the requirements and objectives of this section, contracting agencies shall be responsible for monitoring the contractors' compliance with the provisions hereof, for advising contractors on the availability of competing qualified minority business enterprises to perform contracts proposed to be awarded and for making recommendations to contractors to improve the access of minority business enterprises to such contracts.

§ 1199-w. Separability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1199-x. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of the county, or other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

* TITLE 8-E

WAYNE COUNTY WATER AND SEWER AUTHORITY

* NB There are 2 Title 8-E's

*** § 1199-aa. Short title.** This title shall be known and may be cited as the "Wayne county water and sewer authority act".
* NB There are 2 § 1199-aa's

*** § 1199-bb. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section one thousand one hundred ninety-nine-dd of this title.

2. "Board" shall mean the members of the authority constituting and acting as the governing board of the authority.

3. "Board of supervisors" shall mean the board of supervisors of Wayne county.

4. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

5. "Civil service commission" shall mean the civil service commission of the county of Wayne.

6. "Comptroller" shall mean the comptroller of the state of New York.

7. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement,

extension, reconstruction, interconnection, renovation or rehabilitation of a water, sewerage or water and sewerage facility, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

8. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures made by them that would be costs of the project hereunder.

9. "County" shall mean the county of Wayne.

10. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

11. "District" shall mean the Wayne county water and sewer authority

district created by section one thousand one hundred ninety-nine-cc of this title.

12. "Governing body" shall mean:

(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law;

(b) In the case of a public benefit corporation, the members thereof.

13. "Members" shall mean the members of the board.

14. "Municipality" shall mean any county, city, town, village, improvement district under the town law, any other such instrumentality, including any agency or public corporation of the state, or any of the foregoing or any combination thereof.

15. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

16. "Real property" shall mean lands, structures, franchises, rights and interests in land, waters, lands underwater, groundwater, riparian rights and air rights and any and all things and rights included within said term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also shall be considered "sewage" within the meaning of this title.

19. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, ground water recharge basins, back-flow prevention devices sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

20. "State" shall mean the state of New York.

21. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

22. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

23. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived by the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

24. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

25. "Treasurer" shall mean the treasurer of the authority.

26. "Water facility" or "water facilities" shall mean any plants, structures or other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, approaches, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

27. "Water project" shall mean any sewerage facility, water facility or water and sewerage facility, as the case may be, including the planning, development, financing or construction thereof.

28. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

* NB There are 2 § 1199-bb's

*** § 1199-cc. Wayne county water and sewer authority district.** There is hereby defined and established a district to be known as the "Wayne county water and sewer authority district" which shall embrace all of the territory located within the county of Wayne.

* NB There are 2 § 1199-cc's

*** § 1199-dd. Wayne county water and sewer authority.** 1. A public corporation known as the "Wayne county water and sewer authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board consisting of nine members, who shall be residents of the county and be appointed by the chairman of the board of supervisors and confirmed by the board of supervisors. The first members appointed shall be appointed for the following terms: three for a term ending on December thirty-first of the year following the year in which this title shall have become law; three for a term ending on December thirty-first of the second year following the year in which this title shall have become law; and three for a term ending on December thirty-first of the third year following the year in which this title shall have become law. Subsequent appointment of members shall be made in the same manner and for terms of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and have qualified. Vacancies shall be filled in the manner provided for original appointment. Vacancies occurring otherwise than by expiration of terms of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. In addition, members may be removed from office by the board of supervisors for inefficiency, neglect of duty or misconduct in office, after the board of supervisors has given such member a copy of the charges against him or opportunity to be heard in person or by counsel in his defense, upon not less than ten days notice. If a member fails to attend three consecutive regular meetings of the authority, unless such absence is for good cause and is excused by the chairperson of the authority or other presiding officer, or in the case of the chairperson of the authority, by the chairman of the board of supervisors, the office may be deemed vacant for purposes of the nomination and appointment of a successor. The members and officers of the authority shall receive from the authority such salary, if any, as shall be determined from time to time by the board of supervisors. In addition, members and officers shall be entitled to reimbursement of their actual and necessary expenses, including travel expenses, incurred in the discharge of their duties.

2. The powers of the authority shall be vested in and shall be exercised by the board at a meeting duly called and held where a quorum of five members is present. No action shall be taken by the authority except pursuant to the favorable vote of at least five members. The board may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

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

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment, and one or more members of the board of supervisors may be appointed to serve as a member of the authority.

5. (a) The chairman of the board of supervisors shall file within one year after the effective date of this title, in the office of the secretary of state, a certificate signed by the chairman of the board of supervisors setting forth: (i) the name of the authority; (ii) the names of the initial members of the board and their terms of office; and (iii) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

6. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations of any power over the regulation of rates fixed or charges collected by the authority.

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

* NB There are 2 § 1199-dd's

*** § 1199-ee. Powers of the authority.** The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable or non-negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law within the district, lease as lessee, hold, and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title and to pay the costs thereof; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. To purchase, in the name of the authority, any water or sewerage facility, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water or sewer mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district and to pay the costs thereof; provided, however, that the authority shall have the power to purchase any source of supply, supply facility, water supply system, or transmission facility or any part thereof situated wholly or partly without the territorial limits of the district, provided the same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties, the authority may

assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. To construct, improve, maintain, develop, expand or rehabilitate water or sewerage facilities and to pay the costs thereof;

8. To operate and manage and to contract for the operation and management of facilities of the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed, owned or operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. To enter into contracts with municipalities or other persons for the collection, treatment and disposal of sewage;

11. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it

by such agencies and officials;

12. To take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

13. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

14. With the consent of the governing body of a municipality, to use officers and employees of such municipality and to pay a proper proportion of the compensation or costs for the services for such officers or employees;

15. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

16. To prepare a water supply emergency plan which may include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule;

Such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

17. To enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

18. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

19. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district or to collect, treat or discharge sewage produced within the district;

20. To purchase water in bulk from any person, private or public

benefit corporation or municipality when necessary or convenient for the operation of such water system;

21. To produce, develop, distribute and sell water or sewerage services within or without the territorial limits of the district; and to purchase water from any municipality, town water district, person, association or corporation; provided, however, that water and sewerage services may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water services in any area which is served by a water system or sewerage services in any area which is served by a sewerage system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water or sewerage services, as the case may be, in such served areas;

22. To make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water or collection of sewage and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision twelve of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county. In addition, the board of supervisors by local law shall have power to prescribe that violation of specific bylaws, rules, or rules and regulations of the authority, published once in a newspaper having general circulation within the county, shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

23. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, notes, or other obligations of the authority together with the maintenance of

proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority;

24. To enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the provision, exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and within the territorial limits of the district to enter into a contract for the construction, operation and maintenance of a water supply and distribution system or sewerage system or facilities by the authority for any municipality having power to construct and develop a water supply and distribution or sewerage system or facilities, upon such terms and conditions as shall be determined to be reasonable including but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

25. To provide for the discontinuance or disconnection of water or sewerage service, or both, as the case may be, for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any water or sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

26. To act as a county water agency in accordance with the provisions of article 5-A of the county law; and

27. To do all things necessary, convenient or desirable to carry out

its purposes and for all exercise of the powers granted in this title.
* NB There are 2 § 1199-ee's

*** § 1199-ff. Advances on behalf of the authority; transfer of property to the authority; acquisition of property by county for authority.** 1. In addition to any powers granted to it by law, the county from time to time may appropriate sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the county may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree.

3. The county may acquire by purchase or by exercise of the power of eminent domain real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.
* NB There are 2 § 1199-ff's

*** § 1199-gg. Transfer of officers and employees.** Any public officer or employee under civil service who is selected by the authority may, with the consent of the commission, board, department or municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority. Any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to any such fund or system to be paid by the employer on account of such officers and employees, shall be paid by the authority. All such officers and employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

* NB There are 2 § 1199-gg's

*** § 1199-hh. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in conformance with the applicable provisions of the uniform commercial code in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority shall be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or nongovernmental insurer or financial institution any insurance, guaranty, or other credit enhancement arrangement, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the authority and to enter into any agreement or contract with respect to any such insurance, guaranty or credit enhancement arrangement, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years of the date of their original issuance and notes and any renewals thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public sale or at private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to the comptroller, or by the state director of the budget, where such sale is to be to the comptroller.

Any bonds or other obligations issued by the Wayne county water authority shall be continued as an obligation by the authority.

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

(a) pledging all or part of its revenues, together with any other moneys, securities, contracts or property of the authority, to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected by the authority and the amounts to be raised in each year thereby, and the use and disposition of revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any water project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand one hundred ninety-nine-ii of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any water facility or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of its properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date;

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or bond resolution of the authority may contain. Such notes may be sold at public sale or, upon the approval of the comptroller of the terms thereof, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

* NB There are 2 § 1199-hh's

*** § 1199-ii. Remedies of bondholders.** Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision four of section one thousand one hundred ninety-nine-hh of this title:

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

2. Such trustee may, and upon written request of the holders of

twenty-five per centum in principal amount of such bonds outstanding shall, in his or its own name:

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

4. The state supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. Venue of any such action or proceeding shall be laid in the county.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such

properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

* NB There are 2 § 1199-ii's

*** § 1199-jj. State and municipalities not liable on authority bonds.** Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality.

* NB There are 2 § 1199-jj's

*** § 1199-kk. Moneys of the authority.** All moneys of the authority from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the board or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of (or guaranteed by) the United States of America or of the state or of the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

* NB There are 2 § 1199-kk's

*** § 1199-ll. Bonds legal investments for fiduciaries.** The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

* NB There are 2 § 1199-ll's

*** § 1199-mm. Agreement with the state.** The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

* NB There are 2 § 1199-mm's

*** § 1199-nn. Exemption from taxes, assessments and certain fees; payments in lieu of taxes.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf provided, however, that any real property owned or acquired by the authority outside of the district shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located.

2. The authority may pay, or may enter into agreements with any municipality not located within the county to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of its water or

sewerage system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

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

* NB There are 2 § 1199-nn's

*** § 1199-oo. Actions against the authority.** 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused;

(c) the action or proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is

based; and
(d) An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.
* NB There are 2 § 1199-oo's

*** § 1199-pp. Interest in contracts prohibited.** It shall be a misdemeanor for any member or any officer, agent, servant or employee of an authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.
* NB There are 2 § 1199-pp's

*** § 1199-qq. Construction and purchase contracts.** The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB There are 2 § 1199-qq's

*** § 1199-rr. Authority to take affirmative action.** The authority shall ensure that, where possible, all employees or applicants for employment are afforded equal employment opportunity without discrimination.

* NB There are 2 § 1199-rr's

*** § 1199-ss. Audit and annual report.** In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the board of supervisors. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two, and two thousand eight hundred three of title one of article nine of this chapter.

* NB There are 2 § 1199-ss's

*** § 1199-tt. Environmental applications, proceedings, approvals and permits.** Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county or any agency thereof with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any agency thereof to the authority, unless such assignment and transfer is prohibited by federal law.

* NB There are 2 § 1199-tt's

*** § 1199-uu. Limited liability.** Neither the members of the authority, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

* NB There are 2 § 1199-uu's

*** § 1199-vv. Governmental capacity of the authority and municipalities.** The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

* NB There are 2 § 1199-vv's

*** § 1199-ww. Separability clause.** If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB There are 2 § 1199-ww's

§ 1199-xx. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, or of any charter or any local law, ordinance or resolution of the county or other municipality, the provisions of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

* TITLE 8-E

ORANGE COUNTY WATER AUTHORITY

* NB There are 2 A5 T8-E's

*** § 1199-aa. Short title.** This title shall be known and may be cited as the "Orange county water authority act".
* NB There are 2 § 1199-aa's

*** § 1199-bb. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section one thousand one hundred ninety-nine-dd of this title.

2. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Civil service commission" means the civil service commission of the county.

4. "Comptroller" means the comptroller of the state.

5. "Construction" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a water system; the inspection and supervision thereof; and the engineering, architectural,

legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedure and other actions preliminary or incidental thereto.

6. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of the demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machines, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of guarantee, bond insurance, other credit support device and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special funds from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

7. "County" means the county of Orange.

8. "County executive" means the county executive of the county.

9. "County legislature" means the county legislature of the county.

10. "District" means the Orange county water district created by section one thousand one hundred ninety-nine-cc of this title.

11. "Distribution system" means the water facility or facilities employed to deliver water from a transmission facility, or where there

is no transmission facility, from a supply facility, to the ultimate consumers of such water.

12. "Governing body" means the members of the authority constituting and acting as the governing body of the authority.

13. "Municipality" means any county, city, town, village, improvement district under the town law, any other such instrumentality, including any agency, or public corporation of the state, or any of the foregoing or any combination thereof.

14. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

15. "Project" means any water facility.

16. "Properties" means the water system or systems of the authority, whether situated within or without the territorial limits of the district, including the plants, works, structures, instrumentalities or part thereof and appurtenances thereto, real property, water facilities, or any other property incidental to and included in such system or systems or part thereof, any improvements, extensions and betterments.

17. "Real property" means lands, structures, franchise, rights and interests in land, waters, land under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

18. "Revenues" means all rates, fees, charges, payments and other income and receipts derived from the operation of the properties of the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sale or other disposition of assets, together with all federal, state or

municipal aid, if any.

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

20. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

21. "Supply facility" means a water facility employed to make groundwater, surface water or water to be purchased from the city of New York, the New York city municipal water finance authority, New York city water board or any agency or instrumentality thereof, available for delivery into a transmission facility or distribution system.

22. "Transmission facility" means a water facility used to carry water from a supply facility to a distribution system.

23. "Water facility" or "water facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, treating or distributing water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, aqueduct taps, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.
* NB There are 2 § 1199-bb's

*** § 1199-cc. Orange county water district.** There is hereby defined and established an area to be known as the "Orange county water district" which shall embrace all the territory located within the county that is not, as of the effective date of this title, located within the United States Military Reservation at West Point. After the establishment of the Orange county water district, such district shall have such powers as are provided in and shall be governed in accordance with the provisions of article five-A of the county law, including, without limitation, the power to enter into contracts, and carry out the terms thereof, with the city of New York, the New York city municipal finance authority, New York city water board, or any agency or instrumentality thereof, for the purchase of water.

* NB There are 2 § 1199-cc's

*** § 1199-dd. Orange county water authority.** 1. A public corporation, to be known as the "Orange county water authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation and shall be a "public district" for purposes of section eighty-nine-l of the public service law, the objects of which in the judgment of the legislature cannot be attained under general laws. It shall consist of seven members, who shall be residents of the county and be appointed by the county executive. All members so appointed shall be subject to confirmation by the county legislature. The first members appointed by the county executive shall be appointed for the following terms of office: two for a term ending on December thirty-first of the second year following the year in which this title shall have become law; three for a term ending on December thirty-first of the third year following the year in which this title shall have become law; one for a term ending on December thirty-first, two thousand thirteen; and one for a term ending on December thirty-first, two thousand fourteen. Subsequent appointments of members shall be made for a term of two years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive no compensation for their services, but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of four members are present. No action shall be taken except pursuant to the favorable vote of at least four members. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

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

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agency or employee be deemed incompatible or in conflict with such office, membership or employment.

4. (a) The county executive shall file on or before December

thirty-first in the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (i) the name of the authority; (ii) the names of the members appointed by the county executive and confirmed by the county legislature and their terms of office; and (iii) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

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

* NB There are 2 § 1199-dd's

*** § 1199-ee. Powers of the authority.** The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue bonds or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law within the district, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purposes of this title; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality. In connection with the acquisition of such properties, the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time, and in the case of an acquisition of properties from a municipality pursuant to this provision, it may assume the primary responsibility for the payment of any bonds or notes issued by such municipality for such properties;

6. To construct, improve, maintain, develop, expand or rehabilitate water facilities;

7. To operate and manage and to contract for the operation and management of properties of the authority;

8. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed, operated or contracted for by the authority, to municipalities and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

9. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

10. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

11. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

12. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

13. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

14. To purchase water in bulk from any person, private corporation or municipality when necessary or convenient for the operation of such water system;

15. To produce, develop, distribute and sell water to the county and to any municipality within the territorial limits of the district;

16. To make by-laws for the management and regulation of its affairs and subject to agreements with bondholders, rules for the sale of water and the collection of rates and charges therefor. A copy of such rules and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county. In addition, the county legislature shall have power to prescribe that violation of specific by-laws of the authority, published once in a newspaper having a general circulation in the county, shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

17. To fix rates and collect charges for the use of the facilities of, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority;

18. To enter into cooperative agreements with other authorities, municipalities, utility companies, individuals, or corporations, within or without the territorial limits of the district, for the interconnection of facilities, the exchange or interchange of water, and, within the territorial limits of the district, to enter into a contract for the construction and operation and maintenance of a water facility by the authority for any municipality having power to construct and develop a water facility, upon such terms and conditions as shall be determined to be reasonable, including but not limited to the

reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

19. To act as a county water agency in accordance with the provisions of article five-A of the county law;

20. With the consent of the county executive, to use officers and employees of the county and to pay a proper portion of compensation or costs for the services of such officers or employees; and

21. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.
* NB There are 2 § 1199-ee's

*** § 1199-ff. Appropriations for purposes of the authority; transfer of property to authority; acquisition of property by the county for authority; con**tracts with county. 1. In addition to any powers granted to it by law, the county legislature may, from time to time, appropriate by resolution sums of money for purposes of the authority to defray project costs or any other costs and expenses of the authority or to pay amounts payable or anticipated to be payable to the authority pursuant to any contract authorized by this title. Subject to the rights of bondholders, the county legislature may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment. In the event there shall remain at the end of any fiscal year of the county an unexpended balance of any such appropriation, such unexpended balance shall remain on deposit in the fund or account and such appropriation shall not lapse.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any properties which are useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be for such term and upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree,

including provision for the authority to assume the primary responsibility for the payment of any bonds or notes issued by the county or such other municipality for such properties.

3. The county may acquire by purchase or by exercise of the power of eminent domain real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

5. The county, one or more of the municipalities within the county, the district, and the authority shall have the power to contract, from time to time, between or among themselves, in relation to the purchase, sale and transmission of water, which contracts may include any or all of the following provisions: (a) requiring the purchase by the county, any such municipality or the district of specified amounts of water; (b) requiring the authority to reserve capacity in its water facility to assure the availability to the county, any such municipality or the district of a specified amount of water; (c) providing for specified minimum periodic payments whether or not water is actually taken and used, subject to such limitations, exceptions and provisions therein; (d) requiring the county, any such municipality or the district to pay to the authority such amounts as shall be necessary to assure the continued operation of the authority; and (e) requiring any such municipality to pay to the county such amount as shall be necessary to assure that the periodic payments by the county to the authority will not result in an undue burden upon the residents of the county. All such payments shall be determined and paid in such manner and at such times as may be provided in such contracts.

6. Any gift, grant, sale, conveyance, loan or contract authorized by this section may be made or entered into by the county and any other municipality without a public hearing being first held therein and no such gift, grant, sale, conveyance, loan or contract shall be subject to

referendum, permissive or otherwise.
* NB There are 2 § 1199-ff's

*** § 1199-gg. Governmental capacity of the authority and municipalities.** The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.
* NB There are 2 § 1199-gg's

*** § 1199-hh. Transfer of officers and employees.** Any public officer or employee under civil service who is selected by the authority may, with the consent of the commission, board, or chief executive officer of the municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are not prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.
* NB There are 2 § 1199-hh's

*** § 1199-ii. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in conformance with the applicable provisions of the uniform commercial code in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority shall be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject only to any agreements with the holders of outstanding bonds pledging any particular revenues, earnings or moneys.

2. The authority is authorized to obtain from any insurer or financial institution any insurance, guaranty or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance, guaranty or other credit support device, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds of the authority.

3. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates per annum, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such time, be in such form, carry such registration privileges, be executed in such manner, shall be subject to tender to the authority, with or without extinction or cancellation, be payable in such medium of payment at such place or

places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no issue of bonds of the authority, other than obligations designated as notes, may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to be to such comptroller, or by the state director of the budget, where such sale is to be to the comptroller.

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

(a) pledging all or part of its revenues, together with any other moneys, securities, contracts or property, to secure the payment of the bonds, subject to such agreements with holders of bonds or notes as then may exist;

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

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

(d) the rates, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby, and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part hereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any of its properties and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or properties and the doing of any act (including refraining from doing any act) which the authority would have to do in the absence of such agreements. The authority shall have power to enter into amendments of

any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge, or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled at a price not exceeding (i) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (ii) if the bonds are not redeemable then redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption, plus accrued interest to interest payment date.

* NB There are 2 § 1199-ii's

*** § 1199-jj. Remedies of bondholders.** Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision four of section eleven hundred ninety-nine-ii of this title:

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

2. Such trustee may and, upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding, shall in his, her or its own name:

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul

such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenue derived from the properties.

* NB There are 2 § 1199-jj's

*** § 1199-kk. State and county not liable on authority bonds.** Neither the state nor the county shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, or the county, and each such bond shall contain, on the face thereof, a statement to such effect.

* NB There are 2 § 1199-kk's

*** § 1199-ll. Moneys of the authority.** All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

* NB There are 2 § 1199-ll's

*** § 1199-mm. Bonds legal investments for fiduciaries.** The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are not or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

* NB There are 2 § 1199-mm's

*** § 1199-nn. Agreement of the state.** The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

* NB There are 2 § 1199-nn's

*** § 1199-oo. Exemption from taxes, assessments and certain fees; payments in lieu of taxes.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf; provided, however, that any real property owned or acquired by the authority outside of the district shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located.

2. An authority may pay, or may enter into agreements with any municipality to pay, a sum or sums, annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of a water or sewerage system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes. Notwithstanding the foregoing provision of this subdivision, any real property owned or acquired by the authority outside the district shall be subject to subdivision one of this section. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant

to this title and the income therefrom shall be exempt from such taxation as aforestated herein, and that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxes as aforestated herein.

* NB There are 2 § 1199-oo's

*** § 1199-pp. Actions against authority.** 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

* NB There are 2 § 1199-pp's

*** § 1199-qq. Construction and purchase contracts.** The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB There are 2 § 1199-qq's

*** § 1199-rr. Equal employment opportunity.** Authorities shall ensure that, where possible, all employees or applicants for employment are afforded equal employment opportunity without discrimination.

* NB There are 2 § 1199-rr's

*** § 1199-ss. Audit and annual report.** In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the county executive. The authority shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two, and two thousand five hundred three of title one of article nine of this chapter.

* NB There are 2 § 1199-ss's

*** § 1199-tt. Limited liability.** Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

* NB There are 2 § 1199-tt's

*** § 1199-uu. Environmental applications, proceedings, approvals and permits.** 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county with the department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

* NB There are 2 § 1199-uu's

*** § 1199-vv. Separability.** If any section, clause or provision in this title shall be held by a court of competent jurisdiction to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB There are 2 § 1199-vv's

*** § 1199-ww. Effect of inconsistent provisions.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of the county, or other municipality, the provisions of this title shall be controlling; provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the state department of environmental conservation or the state department of health.

* NB There are 2 § 1199-ww's

TITLE 8-F

SARATOGA COUNTY WATER AUTHORITY

§ 1199-aaa. Short title. This title shall be known and may be cited as the "Saratoga county water authority act".

§ 1199-bbb. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section one thousand one hundred ninety-nine-ddd of this title.

2. "Board" shall mean the members of the authority constituting and acting as the governing board of the authority.

3. "Board of supervisors" shall mean the board of supervisors of Saratoga county.

4. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the

provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4-a. "Civil service commission" shall mean the personnel officer of the county of Saratoga or any other person or entity acting as the civil service commission of the county of Saratoga.

5. "Comptroller" shall mean the comptroller of the state of New York.

6. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water facility as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

7. "Costs" as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to the county, or any municipality, state agency, the state, the United States government, or

any other person for expenditures made by them that would be costs of the project hereunder.

8. "County" shall mean the county of Saratoga.

9. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of such water.

10. "District" shall mean the Saratoga county water authority district created by section one thousand one hundred ninety-nine-ccc of this title.

11. "Governing body" shall mean:
(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law;
(b) In the case of a public benefit corporation, the members thereof.

12. "Members" shall mean the members of the board.

13. "Municipality" shall mean any county, city, town, village, or county or town acting on behalf of an improvement district, any other instrumentality, including any agency, or public corporation of the state, or any of the foregoing or any combination thereof.

14. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

15. "Real property" shall mean lands, structures, franchises, rights and interests in land, waters, lands underwater, groundwater, riparian rights and air rights and any and all things and rights included within said term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or

equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

16. "Personnel officer" shall mean the personnel officer of the county of Saratoga.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "State" shall mean the state of New York.

19. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

20. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

21. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived by the authority together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority but in no event shall "system revenues" mean an ad valorem levy on real or personal property within the authority or any part thereof.

22. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

23. "Treasurer" shall mean the treasurer of the authority.

24. "Water facility" or "water facilities" shall mean any plants, structures or other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water

distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, approaches, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

25. "Water project" shall mean any water facility, including the planning, development, financing or construction thereof.

26. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

§ 1199-ccc. Saratoga county water authority district. There is hereby defined and established a district to be known as the "Saratoga county water authority district" which shall embrace all of the territory located within the county of Saratoga.

§ 1199-ddd. Saratoga county water authority. 1. A public corporation known as the "Saratoga county water authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board consisting of seven members, who shall be residents of the county and be appointed by the chairman of the board of supervisors and confirmed by the board of supervisors. At least four members shall be elected officials. The first members appointed shall be appointed for the following terms: four for a term ending on December thirty-first, nineteen hundred ninety-six; three for a term ending on December thirty-first, nineteen hundred ninety-seven. Subsequent appointments of board members shall be made in the same manner, except that at least five of the seven members shall each be a resident of a municipality with which the authority has a service or distribution contract, each of the said resident board members shall not be a resident of the same municipality as any other resident board member and may be one or more of the aforementioned elected officials. Subsequent appointments of board members shall be for terms of two years and end, in each case, on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and have qualified. Vacancies shall be filled in the manner provided for original appointment. Vacancies occurring otherwise than by expiration of terms of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. In addition, members may be removed from office by the board of supervisors for inefficiency, neglect of duty or misconduct in office, after the board of supervisors has given such member a copy of the charges against him and opportunity to be heard in person or by counsel in his defense, upon not less than ten days notice. If a member fails to attend three consecutive regular meetings of the authority, unless such absence is for good cause and is excused by the chairperson of the authority or other presiding officer, or in the case of the chairperson of the authority, by the chairperson of the board of supervisors, the office may be deemed vacant for the purposes of the nomination and appointment of a successor. The members of the authority shall receive no salary from the authority. Members and officers shall be entitled to reimbursement of their actual and necessary expenses including travel expenses, incurred in the discharge of their duties.

2. The powers of the authority shall be vested in and shall be exercised by the board at a meeting duly called and held where a quorum of four members is present. No action shall be taken by the authority except pursuant to the favorable vote of at least four members. The board may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper, except the power to vote upon issues as an authority member.

3. The officers of the authority shall consist of a chairperson, vice chairperson, and treasurer who shall be members of the board and a secretary who need not be a member of the board. The officers of the authority shall be appointed by the board and shall serve in such capacities at the pleasure of the board. In addition, the board may appoint and at pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority, which positions shall be in the exempt class of the civil service, and fix and determine the qualifications, duties and compensation of such additional officers and employees, subject to the provisions of the civil service law of the state and such rules and regulations as the personnel officer may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The treasurer shall execute a bond conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board, and the premium therefor shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment.

5. (a) The chairman of the board of supervisors shall file within one year after the effective date of this title, in the office of the secretary of state, a certificate signed by the chairman of the board of supervisors setting forth: (i) the name of the authority; (ii) the names of the initial members of the board and their terms of office and specifying which member is the chairman; and (iii) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and

shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

6. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations, or any power over the regulation of rates fixed or charges collected by the authority.

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

§ 1199-eee. Powers of the authority. Except as otherwise limited by this title, the authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable or non-negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and execute all instruments necessary or

convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law within the district, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title and to pay the costs thereof; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality. Provided, however, notwithstanding any provision of the eminent domain procedure law to the contrary, in any proceeding brought by the authority to condemn real property pursuant to such law, title shall vest in the authority and compensation shall be paid only upon (a) a decision by the supreme court that compensation for the real property condemned shall be determined solely by the income capitalization method of valuation based on the actual net income as allowed by the public service commission, and (b) such supreme court's determination that the amount of such compensation shall be based on the income capitalization method, entry of a final judgment, the filing of the final decree and the conclusion of any appeal or the expiration of the time to file an appeal related to the condemnation proceeding. If any court shall utilize any method of compensation other than the income capitalization method, or if the proposed compensation is more than the rate base of the assets taken in condemnation, as utilized by the public service commission in setting rates and as certified by such commission, then the authority may withdraw the condemnation proceeding without prejudice or costs to any party;

6. To purchase, in the name of the authority, any water facility, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory,

or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district and to pay the costs thereof; provided, however, that the authority shall have the power to purchase any source of supply, supply facility, water supply system, or transmission facility or any part thereof situated wholly or partly without the territorial limits of the district, provided the same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties, and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. To construct, improve, maintain, develop, expand or rehabilitate water facilities and to pay the costs thereof;

8. To operate and manage and to contract for the operation and management of facilities or property of the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed, owned or operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. To apply to the appropriate agencies and officials of the federal,

state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion such licenses, permits or approvals as may be tendered to it by such agencies and officials;

11. To take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state of New York, its agencies and departments with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

12. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

13. With the consent of the governing body of a municipality, to use officers and employees of such municipality and to pay a proper proportion of the compensation or costs for the services for such officers or employees;

14. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

15. To prepare a water supply emergency plan which may include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule. Such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

16. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

17. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

18. To obtain, store, treat, distribute, supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district;

19. To purchase water in bulk from any person, private or public benefit corporation or municipality when necessary or convenient for the operation of such water system;

20. To produce, develop, distribute and sell water or water services within or without the territorial limits of the district; and to purchase water from any municipality, town water district, person, association or corporation, provided, however, that water may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water in any area which is served by a water system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water in such served areas;

21. To make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation, protection and distribution of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county. In addition, the board of supervisors by local law shall have power to prescribe that violation of specific bylaws, rules, or rules and regulations of the authority, published once in a newspaper having general circulation within the county, shall be punishable by fine, not exceeding one hundred dollars, or by imprisonment for not longer than fifteen days, or both;

22. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal of and interest on the bonds, notes, or other obligations of the authority together with the maintenance of

proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority; however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district;

23. To enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the provision, exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality, upon such terms and conditions as shall be determined to be reasonable including, but not limited to, the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

24. To provide for the discontinuance or disconnection of the supply of water for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

25. To act as a county water agency, pursuant to the provisions of article five-A of the county law; and

26. To do all things necessary, convenient or desirable to carry out its purposes and for all exercise of the powers granted in this title.

§ 1199-fff. Advances on behalf of the authority; transfer of property to the authority; acquisition of property by the county for authority. 1. In addition to any powers granted to it by law, the county from time to time may appropriate sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the moneys so appropriated shall be subject to repayment by the authority to the county in such manner and at such time or times as set by the county for such repayment.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree.

3. The county may acquire by purchase or by exercise of the power of eminent domain real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

§ 1199-ggg. Transfer of officers and employees. Any public officer or employee under civil service who is selected by the authority may, with the consent of the commission, board, department or municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to any such fund or system to be paid by the employer on account of such officers and employees, shall be paid by the authority. All such officers and employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

§ 1199-hhh. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in conformance with the applicable provisions of the uniform commercial code in such principal amounts as it may determine to be necessary to pay the cost of any water project or projects or for any other corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority shall be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or nongovernmental insurer or financial institution any insurance, guaranty, or other credit enhancement arrangement, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the authority and

to enter into any agreement or contract with respect to any such insurance, guaranty or credit enhancement arrangement, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years of the date of their original issuance and notes and any renewals thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public sale or at private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to the comptroller, or by the state director of the budget, where such sale is to be to the comptroller.

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

(a) pledging all or part of its revenues, together with any other moneys, securities, contracts or property of the authority, to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected by the authority and the amounts to be raised in each year thereby, and the use and disposition of revenues;

(c) the setting aside of reserves and the creation of sinking funds and the regulation and disposition of revenues;

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

(e) limitations on the right of the authority to restrict and regulate the use of any water project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand one hundred ninety-nine-iii of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any water facility or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of its properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or

further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date; or

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which

they were issued. The notes shall be issued in the same manner as bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or bond resolution of the authority may contain. Such notes may be sold at public sale or, upon the approval of the comptroller of the terms thereof, at private sale. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1199-iii. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision four of section one thousand one hundred ninety-nine-hhh of this title:

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

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

4. The state supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. Venue of any such action or proceeding shall be laid in the county.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all

costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§ 1199-jjj. State and municipalities not liable on authority bonds. Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality.

§ 1199-kkk. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the board or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of (or guaranteed by) the United States of America or of the state or of the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. The authority shall have power, notwithstanding the provisions of this section to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits.

§ 1199-lll. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

§ 1199-mmm. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 1199-nnn. Exemption from taxes, assessments and certain fees; payments in lieu of taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf provided, however, that any real property owned or acquired by the authority outside of the district shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located.

2. The authority may pay, or may enter into agreements with any municipality not located within the county to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of its water system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation, real estate taxes, franchise taxes, sales taxes or other excise taxes.

4. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom shall be exempt from such

taxation as aforestated in subdivision three of this section, and that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from such taxation as aforestated in such subdivision.

§ 1199-ooo. Actions against the authority. 1. No action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and

(c) the action or proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. Venue of any such action shall be in the county.

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

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

4. The rate of interest to be paid by the authority upon any judgment

for which it is liable, other than a judgment against the authority on bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

§ 1199-ppp. Interest in contracts prohibited. It shall be a misdemeanor for any member or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 1199-qqq. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

§ 1199-rrr. Authority to take affirmative action. The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 1199-sss. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the board of supervisors. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two, and two thousand eight hundred three of this chapter.

§ 1199-ttt. Environmental applications, proceedings, approvals and permits. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county or any agency thereof with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any agency thereof to the authority, unless such assignment and transfer is prohibited by federal law.

§ 1199-uuu. Limited liability. Neither the members of the authority, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 1199-vvv. Governmental capacity of the authority and municipalities. The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1199-www. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1199-xxx. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law except the environmental conservation law and the public health law as they exist or as they shall be amended, general, special or local, or of any charter or any local law, ordinance or resolution of the county or other municipality, the provisions of this section shall be controlling and shall supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

* TITLE 8-G
CAYUGA COUNTY WATER AND SEWER AUTHORITY

* NB There are 2 A5 T8-G's

*** § 1199-aaaa. Short title.** This title shall be known and may be cited as the "Cayuga county water and sewer authority act".
* NB There are 2 § 1199-aaaa's

*** § 1199-bbbb. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section one thousand one hundred ninety-nine-dddd of this title.

2. "Board" shall mean the members of the authority constituting and acting as the governing board of the authority.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the

provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Civil service commission" shall mean the civil service commission of the county of Cayuga.

5. "Comptroller" shall mean the comptroller of the state of New York.

6. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water, sewerage or water and sewerage facility, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

7. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance or other credit enhancement associated with bonds of the authority (including notes) and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to the county, or any

municipality, state agency, the state, the United states government, or any other person for expenditures made by them that would be costs of the project hereunder.

8. "County" shall mean the county of Cayuga.

9. "County legislature" shall mean the legislature of Cayuga county.

10. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

11. "District" shall mean the Cayuga county water and sewer authority district created by section one thousand one hundred ninety-nine-cccc of this title.

12. "Governing body" shall mean:

(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law;

(b) In the case of a public benefit corporation, the members thereof.

13. "Members" shall mean the members of the board.

14. "Municipality" shall mean any county, city, town, village, improvement district under the town law, any other such instrumentality, including any agency or public corporation of the state, or any of the foregoing or any combination thereof.

15. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation as defined pursuant to article two-A of the general construction law.

16. "Real property" shall mean lands, structures, franchises, rights and interests in land, waters, lands underwater, groundwater, riparian rights and air rights and any and all things and rights included within

said term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also shall be considered "sewage" within the meaning of this title.

19. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, ground water recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

20. "State" shall mean the state of New York.

21. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

22. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

23. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived by the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

24. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

25. "Treasurer" shall mean the treasurer of the authority.

26. "Water facility" or "water facilities" shall mean any plants, structures or other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, approaches, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

27. "Water project" shall mean any sewerage facility, water facility or water and sewerage facility, as the case may be, including the planning, development, financing or construction thereof.

28. "Watershed rules" shall mean the rules and regulations made by the

department of health pursuant to section eleven hundred of the public health law.

* NB There are 2 § 1199-bbbb's

*** § 1199-cccc. Cayuga county water and sewer authority district.** There is hereby defined and established a district to be known as the "Cayuga county water and sewer authority district" which shall embrace all of the territory located within the county of Cayuga.

* NB There are 2 § 1199-cccc's

*** § 1199-dddd. Cayuga county water and sewer authority.** 1. A public corporation known as the "Cayuga county water and sewer authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board consisting of nine members, who shall be residents of the county and be appointed by the majority of the county legislature and confirmed by the county legislature. The first members appointed shall be appointed for the following terms: three for a term ending on December thirty-first of the year following the year in which this title shall have become law; three for a term ending on December thirty-first of the second year following the year in which this title shall have become law; and three for a term ending on December thirty-first of the third year following the year in which this title shall have become law. Subsequent appointment of members shall be made in the same manner and for terms of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and have qualified. Vacancies shall be filled in the manner provided for original appointment. Vacancies occurring otherwise than by expiration of terms of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. In addition, members may be removed from office by the county legislature for inefficiency, neglect of duty or misconduct in office, after the county legislature has given such member a copy of the charges against him or opportunity to be heard in person or by counsel in his defense, upon not less than ten days notice. If a member fails to attend three consecutive regular meetings of the authority, unless such absence is for good cause and is excused by the chairperson of the authority or other presiding officer, or in the case of the chairperson of the authority, by the majority leader of the county legislature, the office may be deemed vacant for purposes of the nomination and appointment of a successor. The officers of the authority shall receive from the authority such salary, if any, as shall be determined from time to time by the county legislature. In addition, members and officers shall be entitled to reimbursement of their actual and necessary expenses, including travel expenses, incurred in the discharge of their duties.

2. The powers of the authority shall be vested in and shall be exercised by the board at a meeting duly called and held where a quorum of five members is present. No action shall be taken by the authority except pursuant to the favorable vote of at least five members. The board may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

3. The officers of the authority shall consist of a chairperson, vice chairperson, and treasurer who shall be members of the board and a secretary who need not be a member of the board. The officers of the authority shall be appointed by the board and shall serve in such capacities at the pleasure of the board. In addition, the board may appoint and at its pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority and fix and determine the qualifications, duties and compensation of such additional officers and employees, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The treasurer shall execute a

bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board, and the premium therefor shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment, and one or more members of the county legislature may be appointed to serve as a member of the authority.

5. (a) The majority leader of the county legislature shall file within one year after the effective date of this title, in the office of the secretary of state, a certificate signed by the majority leader of the county legislature setting forth: (i) the name of the authority; (ii) the names of the initial members of the board and their terms of office; and (iii) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

6. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations of any power over the regulation of rates fixed or charges collected by the authority.

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

8. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

* NB There are 2 § 1199-dddd's

*** § 1199-eeee. Powers of the authority.** Except as otherwise limited by this title, the authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law within the district, lease as lessee, hold, and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title and to pay the costs thereof; provided, however, that the authority may not condemn real property of a municipality

without the consent of the governing body of such municipality;

6. To purchase or refuse to purchase, in the name of the authority, any water or sewerage facility, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water or sewer mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district and to pay the costs thereof; provided, however, that the authority shall have the power to purchase any source of supply, supply facility, water supply system, or transmission facility or any part thereof situated wholly or partly without the territorial limits of the district, provided the same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties, the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock of any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. To construct, improve, maintain, develop, expand or rehabilitate water or sewerage facilities and to pay the costs thereof;

8. To operate and manage and to contract for the operation and management of facilities of the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed, owned or operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. To enter into contracts with municipalities or other persons for the collection, treatment and disposal of sewage;

11. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

12. To take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

13. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

14. With the consent of the governing body of a municipality, to use officers and employees of such municipality and to pay a proper proportion of the compensation or costs for the services for such officers or employees;

15. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

16. To prepare a water supply emergency plan which may include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule.

Such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

17. To enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

18. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

19. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district or to collect, treat or discharge sewage produced within the district;

20. To purchase water in bulk from any person, private or public benefit corporation or municipality when necessary or convenient for the operation of such water system;

21. To produce, develop, distribute and sell water or sewerage services within or without the territorial limits of the district; and to purchase water from any municipality, town water district, person, association or corporation; provided, however, that water and sewerage services may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by this title, the authority shall not sell water services in any area which is served by a water system or sewerage services in any area which is served by a sewerage system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water or sewerage services, as the case may be, in such served areas;

22. To make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and

protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water or collection of sewage and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision twelve of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county. In addition, the county legislature by local law shall have power to prescribe that violation of specific bylaws, rules, or rules and regulations of the authority, published once in a newspaper having general circulation within the county, shall be punishable by fine, not exceeding fifty dollars per violation;

23. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, notes, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority; provided however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the bounds of the authority;

24. To enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the provision, exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and within the territorial limits of the district to enter into a contract for the construction, operation and

maintenance of a water supply and distribution system or sewerage system or facilities by the authority for any municipality having power to construct and develop a water supply and distribution or sewerage system or facilities, upon such terms and conditions as shall be determined to be reasonable including, but not limited to, the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

25. To provide for the discontinuance or disconnection of water or sewerage service, or both, as the case may be, for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any water or sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

26. To act as a county water agency in accordance with the provisions of article five-A of the county law;

27. For the purposes of article fifteen-A of the executive law only the authority shall be deemed a state agency as that term is defined in such article and its contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article; and

28. To do all things necessary, convenient or desirable to carry out its purposes and for all exercise of the powers granted in this title.
* NB There are 2 § 1199-eeee's

*** § 1199-ffff. Advances on behalf of the authority; transfer of property to the authority; acquisition of property by county for authority.** 1. In addition to any powers granted to it by law, the county from time to time may appropriate sums of money, after approval by the county legislature, to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the county may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree.

3. The county may acquire by purchase or by exercise of the power of eminent domain real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

* NB There are 2 § 1199-ffff's

*** § 1199-gggg. Transfer of officers and employees.** 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the county, may, at the request of the authority and with the consent of the county executive, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

* NB There are 2 § 1199-gggg's

*** § 1199-hhhh. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed seventy-five million dollars ($75,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than seventy-five million dollars ($75,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds (other than notes or other evidence of indebtedness) issued for refunding purposes, which have a final maturity date longer than the maturity of the bonds being refunded, shall be approved by a resolution of the county legislature adopted by a majority vote. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for

or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent not or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

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

(a) pledging all or part of its revenues, together with any other moneys, or property of the authority, to secure the payment of the bonds or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected by the authority and the amounts to be raised in each year thereby, and the use and disposition of revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any water project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand one hundred ninety-nine-iiii of this title or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any water facility or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and to enter into trust indentures, agreements and other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys, or property and the doing of any act, including refraining from doing any act, which the

authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

9. Neither the members nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

10. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date;

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

* NB There are 2 § 1199-hhhh's

*** § 1199-iiii. Remedies of bondholders.** Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision four of section one thousand one hundred ninety-nine-hhhh of this title:

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

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

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates and charges, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

4. The state supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. Venue of any such action or proceeding shall be laid in the county.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public

duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

* NB There are 2 § 1199-iiii's

*** § 1199-jjjj. State and municipalities not liable on authority bonds.** Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality and such bonds shall contain on the face thereof a statement to such effect.

* NB There are 2 § 1199-jjjj's

*** § 1199-kkkk. Moneys of the authority.** All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The monies in such accounts shall be paid out on check of the treasurer upon requisition by such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the authority or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the authority and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provision of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bond holders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

* NB There are 2 § 1199-kkkk's

*** § 1199-llll. Bonds legal investments for fiduciaries.** The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

* NB There are 2 § 1199-llll's

*** § 1199-mmmm. Agreement with the state.** The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any water and sewer project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

* NB There are 2 § 1199-mmmm's

*** § 1199-nnnn. Exemption from taxes, assessments and certain fees; payments in lieu of taxes.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf provided, however, that any real property owned or acquired by the authority outside of the district shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located.

2. The authority may pay, or may enter into agreements with any municipality not located within the county to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority

located within such municipality and constituting a part of its water or sewerage system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

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

* NB There are 2 § 1199-nnnn's

§ 1199-oooo. Actions against the authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and

(c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise

satisfied.

*** § 1199-qqqq. Construction and purchase contracts.** The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards, and working hours. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB There are 2 § 1199-qqqq's

*** § 1199-rrrr. Code of ethics.** 1. Definition. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards. (a) No authority employee should accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.

(b) No authority employee should accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority employee should disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

(e) No authority employee should engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee services or is employed.

(j) If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she should file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

* NB There are 2 § 1199-rrrr's

*** § 1199-ssss. Equal employment opportunity.** The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

* NB There are 2 § 1199-ssss's

*** § 1199-tttt. Audit and annual report.** In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the county legislature, county treasurer, governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county legislature.

* NB There are 2 § 1199-tttt's

*** § 1199-uuuu. Environmental applications, proceedings, approvals and permits.** Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county or any agency thereof with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any agency thereof to the authority, unless such assignment and transfer is prohibited by federal law.

* NB There are 2 § 1199-uuuu's

*** § 1199-vvvv. Limited liability.** Neither the members of the authority, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

* NB There are 2 § 1199-vvvv's

*** § 1199-wwww. Governmental capacity of the authority and municipalities.** The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

* NB There are 2 § 1199-wwww's

*** § 1199-xxxx. Charges by the authority; method of collection.** 1. The authority may fix and collect, on any equitable basis, rates, fees and other charges for the use of its water or sewer facilities or of the services or commodities provided by the authority. Such rates, rentals, fees and other charges may be fixed and collected from any person or corporation to which such facilities, services or commodities are provided or made available from the authority. Such rates, rentals, fees and other charges may be the same or different for each classification of user or service recipient and may, by way of example, reflect the source and composition of the sewage or location of services or system costs and expenses. The authority shall not establish, fix or revise any classification or user or rate, rental or fee or other charge unless and until the authority has held a public hearing at which interested persons shall have an opportunity to be heard concerning the same. Notice of any such public hearing shall be published at least ten days before the date set therefor, in at least one newspaper of general circulation in the boundaries of the authority. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of matters to be considered at such meeting. A copy of such notice shall be available for inspection by the public. At any such hearing, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision by the authority at such public hearing or relating to the matters under consideration at such hearing shall be in writing and made available in the office of the authority for public inspection during regular business hours.

2. All rates, fees and other charges for the use of the facilities or services or commodities provided or made available by the authority and billed directly by the authority to the user or service recipient pursuant to a classification of users or service recipients adopted by the authority as herein provided shall be a lien upon the real property upon which, or in connection with which, services are provided or are made available, as and from the first date fixed for a payment of such rates, rentals, fees and other charges. Any such lien shall take precedent over all other liens, or encumbrances, except taxes or assessments. The treasurer of the authority shall prepare and transmit to the county legislature, on or before the first day of November in each year, a list of those properties using such facilities or for which such services or commodities were provided or made available and from which the payment of rates, rentals, fees and other charges are in arrears for a period of thirty days or more after the last day fixed for payment of such rates, rentals, fees and other charges without penalty. The list shall contain a brief description of such properties, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interest, as applicable, computed to December thirty-first of that year. The county legislature shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of

the county under the heading "water charge" or "sewer disposal charge," as applicable. Such amounts, excluding penalties and interest when collected by the county collector or receiver of taxes, shall be paid over to the treasurer of the authority. Penalties and interest shall be retained by the collector which shall become a part of the general funds of the county. All of the provisions of the tax law of the state governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

* NB There are 2 §1199-xxxx's

*** § 1199-yyyy. Separability clause.** If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB There are 2 § 1199-yyyy's

§ 1199-zzzz. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

* TITLE 8-G

LIVINGSTON COUNTY WATER AND SEWER AUTHORITY

Section 1199-aaaa*2. Definitions.

* NB There are 2 A5 T8-G's

*** § 1199-aaaa. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section one thousand one hundred ninety-nine-cccc of this title.

2. "Board" shall mean the members of the authority constituting and acting as the governing board of the authority.

3. "Board of supervisors" shall mean the board of supervisors of Livingston county.

4. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

5. "Civil service commission" shall mean the personnel officer of the county of Livingston or any other person or entity acting as the civil service commission of the county of Livingston.

6. "Comptroller" shall mean the comptroller of the state of New York.

7. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water, sewerage or water and sewerage facility, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

8. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from

revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance or other credit enhancement associated with bonds of the authority (including notes) and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including the reimbursement to the county, or any municipality, state agency, the state, the United states government, or any other person for expenditures made by them that would be costs of the project hereunder.

9. "County" shall mean the county of Livingston.

10. "Distribution system" shall mean the water facility or facilities employed to deliver water from a transmission facility, or where there is no transmission facility, from a supply facility, to the ultimate consumers of water.

11. "District" shall mean the Livingston county water and sewer authority district created by section eleven hundred ninety-nine-bbbb of this title.

12. "Governing body" shall mean:

(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law;

(b) In the case of a public benefit corporation, the members thereof.

13. "Members" shall mean the members of the board.

14. "Municipality" shall mean any county, city, town, village, improvement district under the county or town law, any other such instrumentality, including any agency or public corporation of the state, or any of the foregoing or any combination thereof.

15. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation as defined pursuant to article two-A of the general construction law.

16. "Real property" shall mean lands, structures, franchises, rights and interests in land, waters, lands underwater, groundwater, riparian rights and air rights and any and all things and rights included within said term "real property" and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "State sanitary code" shall mean regulations adopted pursuant to section two hundred twenty-five of the public health law.

18. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial or other waste also shall be considered "sewage" within the meaning of this title.

19. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, ground water recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment,

neutralizing, storing and disposing of sewage.

20. "State" shall mean the state of New York.

21. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

22. "Supply facility" shall mean a water facility employed to make groundwater or surface water available for delivery into a transmission facility or distribution system.

23. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived by the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

24. "Transmission facility" shall mean a water facility used to carry water from a supply facility to a distribution system.

25. "Treasurer" shall mean the treasurer of the authority.

26. "Water facility" or "water facilities" shall mean any plants, structures or other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, approaches, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful

and convenient for the accumulation, supply, transmission, treatment or distribution of water.

27. "Water project" shall mean any sewerage facility, water facility or water and sewerage facility, as the case may be, including the planning, development, financing or construction thereof.

28. "Watershed rules" shall mean the rules and regulations made by the department of health pursuant to section eleven hundred of the public health law.

* NB There are 2 § 1199-aaaa's

*** § 1199-bbbb. Livingston county water and sewer authority district.** There is hereby defined and established a district to be known as the "Livingston county water and sewer authority district" which shall embrace all of the territory located within the county of Livingston.

* NB There are 2 § 1199-bbbb's

*** § 1199-cccc. Livingston county water and sewer authority.** 1. A public corporation known as the "Livingston county water and sewer authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board consisting of seven members, who shall be residents of the county and be appointed by resolution of the board of supervisors. The first members appointed shall be appointed for the following terms: two for a term ending on December thirty-first of the year following the year in which this title shall have become law; two for a term ending on December thirty-first of the second year following the year in which this title shall have become law; and three for a term ending on December thirty-first of the third year following the year in which this title shall have become law. Subsequent appointment of members shall be made in the same manner and for terms of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and have qualified. Vacancies shall be filled in the manner provided for original appointment. Vacancies occurring otherwise than by expiration of terms of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. In addition, members may be removed from office by the board of supervisors for inefficiency, neglect of duty or misconduct in office, after the board of supervisors has given such member a copy of the charges against him and opportunity to be heard in person or by counsel in his defense, upon not less than ten days notice. If a member fails to attend three consecutive regular meetings of the authority, unless such absence is for good cause and is excused by the chairperson of the authority or other presiding officers, or in the case of the chairperson of the authority, by the chairman of the board of supervisors, the office may be deemed vacant for purposes of the nomination and appointment of a successor. The officers of the authority shall receive from the authority such salary, if any, as shall be determined from time to time by the board of supervisors. In addition, members and officers shall be entitled to reimbursement of their actual and necessary expenses, including travel expenses, incurred in the discharge of their duties.

2. The powers of the authority shall be vested in and shall be exercised by the board at a meeting duly called and held where a quorum of four members is present. No action shall be taken by the authority except pursuant to the favorable vote of at least four members. The board may delegate to one or more of its members, or to one or more of the officers, agents or employees of the authority, such powers and duties as it may deem proper.

3. The officers of the authority shall consist of a chairperson, vice chairperson, and treasurer who shall be members of the board and a secretary who need not be a member of the board. The officers of the authority shall be appointed by the board and shall serve in such capacities at the pleasure of the board. In addition, the board may

appoint and at its pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority and fix and determine the qualifications, duties and compensation of such additional officers and employees, subject to the provisions of the civil service law of the state and such rules as the civil service commission may adopt and make applicable to the authority. The authority may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board, and the premium therefor shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment, and one or more members of the board of supervisors may be appointed to serve as a member of the authority.

5. (a) The chairman of the board of supervisors shall file within one year after the effective date of this title, in the office of the secretary of state, a certificate signed by the chairman of the board of supervisors setting forth: (i) the name of the authority; (ii) the names of the initial members of the board and their terms of office; and (iii) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

6. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations of any power over the regulation of rates fixed or charges collected by the authority.

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

8. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

* NB There are 2 § 1199-cccc's

*** § 1199-dddd. Powers of the authority.** Except as otherwise limited by this title, the authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law within the district, lease as lessee, hold and use and to sell, lease as lessor, transfer or otherwise dispose of, any real or personal property or any interest therein, within or without the district, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title and to pay the costs thereof; provided, however, that the authority may not condemn real property of a municipality without the consent of the governing body of such municipality;

6. To purchase or refuse to purchase in the name of the authority, any water or sewerage facility, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, permits, approaches, connections, dams, wells, pumps, reservoirs, water or sewer mains and pipe lines, pumping stations, treatment facilities, meters, equipment and inventory, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated wholly within the district and to pay the costs thereof; provided, however that prior to the acquisition of any existing water or sewer district, the authority shall discuss and consider the status of current employees of the water or sewer district; and further provided, however, that the authority shall have the power to purchase any source of supply, supply facility, water supply system, or transmission facility or any part thereof situated wholly or partly without the territorial limits of the district, provided same shall be necessary in order to supply water within the district; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such

owner shall become discharged from the performance thereof, and as a means of so acquiring for such purpose, the authority may purchase all of the stock or any existing privately owned water corporation or company and in the case of a sale or other transfer of properties of a public utility corporation pursuant to this provision, upon the purchase of the stock of such corporation or company it shall be lawful to dissolve such corporation within a reasonable time;

7. To construct, improve, maintain, develop, expand or rehabilitate water or sewerage facilities and to pay the costs thereof;

8. To operate and manage and to contract for the operation and management of facilities of the authority;

9. To enter into contracts, and carry out the terms thereof, for the wholesale provision of water produced by supply facilities constructed, owned or operated by the authority, to municipalities and private water companies and to carry out the terms thereof, for the transmission of water from new or existing supply facilities;

10. To enter into contracts with municipalities or other persons for the collection, treatment and disposal of sewage;

11. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

12. To take all necessary and reasonable actions within the district to conserve, preserve and protect the water supply to the district, including the making of plans and studies, the adoption of watershed rules and regulations, the enforcing of compliance with all current and future rules and regulations of the state sanitary code with regard to water supply and usage, the requiring of cross-connection controls, the providing of educational material and programs to the public, and the

cooperating with water suppliers outside the district to conserve, preserve and protect the entire water reserve as it is affected within and outside the authority's supply area;

13. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

14. With the consent of the governing body of a municipality, to use officers and employees of such municipality and to pay a proper proportion of the compensation or costs for the services for such officers or employees;

15. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

16. To prepare a water supply emergency plan which may include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule;

Such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

17. To enter upon such lands, waters, or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

18. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

19. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district or to collect, treat or discharge sewage produced within the district;

20. To purchase water in bulk from any person, private or public benefit corporation or municipality when necessary or convenient for the operation of such water system;

21. To produce, develop, distribute and sell water or sewerage services within or without the territorial limits of the district; and to purchase water from any municipality, town water district, person, association or corporation, provided, however, that water or sewerage services may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by

this title, the authority shall not sell water in any area which is served by a water system or sewerage services in any area which is served by a sewerage system owned or operated by a municipality or special improvement district unless the governing body of such municipality or district shall adopt a resolution requesting the authority to sell water or sewerage services, as the case may be, in such served areas;

22. To make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's water supply and, subject to agreements with bondholders, rules for the sale of water or collection of sewage and the collection of rents and charges therefor. A copy of such rules, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county. In addition, the board of supervisors by local law shall have power to prescribe that violation of specific bylaws, rules, or rules and regulations of the authority, published once in a newspaper having general circulation within the county, shall be punishable by fine, not exceeding fifty dollars per violation;

23. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal of and interest on the bonds, notes, or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due, the expense of operating and maintaining the properties of the authority together with proper maintenance reserves, capital reserves, repair reserves, tax stabilization reserves and other contingency reserves, and all other obligations and indebtedness of the authority; provided however, no such rates or charges shall be changed until a public hearing on such changes shall have been held upon not less than fourteen days notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the bounds of the authority;

24. To enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the provision, exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution system or sewerage system or facilities, upon such terms and conditions as shall be determined to be reasonable including, but not limited to, the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title, including the investment of funds;

25. To provide for the discontinuance or disconnection of the supply of water or sewerage service, or both, as the case may be, for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any water or sewerage service, or both, as the case may be, shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

26. To act as a county water agency in accordance with the provisions of article five-A of the county law;

27. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is defined in such article and its contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article; and

28. To do all things necessary, convenient or desirable to carry out its purposes and for all exercise of the powers granted in this title.

* NB There are 2 § 1199-dddd's

*** § 1199-eeee. Advances on behalf of the authority; acquisition of property by county for authority.** 1. In addition to any powers granted to it by law, the county from time to time may appropriate sums of money, after approval by the board of supervisors, to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the county at the time of the appropriation shall determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree.

3. The county may acquire by purchase or by exercise of the power of eminent domain real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

* NB There are 2 § 1199-eeee's

*** § 1199-ffff. Transfer of officers and employees.** 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the county, may, at the request of the authority and with the consent of the board of supervisors, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

* NB There are 2 § 1199-ffff's

*** § 1199-gggg. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed seventy million dollars ($70,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than seventy million dollars ($70,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds (other than notes or other evidence of indebtedness) issued for refunding purposes, which have a final maturity date longer than the maturity of the bonds being refunded, shall be approved by a resolution of the board of supervisors adopted by a majority vote and approved by the county treasurer. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or

notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent not or hereafter available, in each case for securing its bonds or to provided direct payment of any costs which the authority is authorized to pay.

4. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

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

(a) pledging all or part of its revenues, together with any other moneys, or property of the authority, to secure the payment of the bonds or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected by the authority and the amounts to be raised in each year thereby, and the use and disposition of revenues;

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

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

(e) limitations on the right of the authority to restrict and regulate the use of any water project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or other moneys may be deposited;

(i) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section eleven hundred ninety-nine-hhhh of this title or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any water facility or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

9. Neither the members nor the officers of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance

thereof.

10. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, at a price not exceeding:

(a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date;

(b) if the bonds are not then redeemable, the redemption price then applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

* NB There are 2 § 1199-gggg's

*** § 1199-hhhh. Remedies of bondholders.** Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision five of section eleven hundred ninety-nine-gggg of this title:

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

purposes herein provided.

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

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders including the right to require the authority to collect rents, rates, fees, and charges adequate to carry out any agreement as to, or pledge of, such rents, rates and charges, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of bondholders in the enforcement and protection of their rights.

4. The state supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. Venue of any such action or proceeding shall be laid in the county.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with

holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues there after arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

* NB There are 2 § 1199-hhhh's

*** § 1199-iiii. State and municipalities not liable on authority bonds.** Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or of any municipality, and such bonds shall contain on the face thereof a statement to such effect.

* NB There are 2 § 1199-iiii's

*** § 1199-jjjj. Moneys of the authority.** All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The monies in such accounts shall be paid out on check of the treasurer upon requisition by such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the authority or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the authority and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provision of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bond holders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

* NB There are 2 § 1199-jjjj's

*** § 1199-kkkk. Bonds legal investments for fiduciaries.** The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state all municipalities for any purposes for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized.

* NB There are 2 § 1199-kkkk's

*** § 1199-llll. Agreement with the state.** The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any water or sewer project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

* NB There are 2 § 1199-llll's

*** § 1199-mmmm. Exemption from taxes, assessments and certain fees; payments in lieu of taxes.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any real property owned by it or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf provided, however, that any real property owned or acquired by the authority outside of the district shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located.

2. The authority may pay, or may enter into agreements with any municipality not located within the county to pay, a sum or sums annually or otherwise or to provide other considerations to such municipality with respect to real property owned by the authority located within such municipality and constituting a part of its water system.

3. Any bonds issued pursuant to this title together with the income therefrom shall be exempt from taxation except for transfer and estate taxes. The revenues, moneys and all other property and all activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

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

* NB There are 2 § 1199-mmmm's

*** § 1199-nnnn. Actions against the authority.** 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or any member, officer, agent or employee thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and

(c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based.

An action for wrongful death against the authority shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be

granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

* NB There are 2 § 1199-nnnn's

§ 1199-pppp. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards, and working hours. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

*** § 1199-qqqq. Code of ethics.** 1. Definition. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards. (a) No authority employee should accept other employment which will impair his or her independence of judgment in the exercise of

his or her official duties.

(b) No authority employee should accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority employee should disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

(e) No authority employee should engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee services or is employed.

(j) If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she should file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

* NB There are 2 § 1199-qqqq's

*** § 1199-rrrr. Equal employment opportunity.** The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

* NB There are 2 § 1199-rrrr's

*** § 1199-ssss. Audit and annual report.** In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the board of supervisors, county treasurer, governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the board of supervisors and the county treasurer.

* NB There are 2 § 1199-ssss's

*** § 1199-tttt. Environmental applications, proceedings, approvals and permits.** Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county or any agency thereof with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any agency thereof to the authority, unless such assignment and transfer is prohibited by federal law.

* NB There are 2 § 1199-tttt's

*** § 1199-uuuu. Limited liability.** Neither the members of the authority, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

* NB There are 2 § 1199-uuuu's

*** § 1199-vvvv. Governmental capacity of the authority and municipalities.** The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

* NB There are 2 § 1199-vvvv's

*** § 1199-wwww. Separability clause.** If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB There are 2 § 1199-wwww's

*** § 1199-xxxx. Effect of inconsistent provisions.** In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

* NB There are 2 § 1199-xxxx's

*** § 1199-yyyy. Charges by the authority; method of collection.** 1. The authority may fix and collect, on any equitable basis, rates, fees and other charges for the use of its water or sewer facilities or of the services or commodities provided by the authority. Such rates, rentals, fees and other charges may be fixed and collected from any person or corporation to which such facilities, services or commodities are provided or made available from the authority. Such rates, rentals, fees and other charges may be the same or different for each classification of user or service recipient and may, by way of example, reflect the source and composition of the sewage or location of services or system costs and expenses. The authority shall not establish, fix or revise any classification or user or rate, rental or fee or other charge unless and until the authority has held a public hearing at which interested persons shall have an opportunity to be heard concerning the same. Notice of any such public hearing shall be published at least ten days before the date set therefore, in at least one newspaper of general circulation in the boundaries of the authority. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of matters to be considered at such meeting. A copy of such notice shall be available for inspection by the public. At any such hearing, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision by the authority at such public hearing or relating to the matters under consideration at such hearing shall be in writing and made available in the office of the authority for public inspection during regular business hours.

2. All rates, fees and other charges for the use of the facilities or services or commodities provided or made available by the authority and billed directly by the authority to the user or service recipient pursuant to a classification of users or service recipients adopted by the authority as herein provided shall be lien upon the real property upon which, or in connection with which, services are provided or are made available, as and from the first date fixed for a payment of such rates, rentals, fees and other charges. Any such lien shall take precedent over all other liens, or encumbrances, except taxes or assessments. The treasurer of the authority shall prepare and transmit to the board of supervisors of the county, on or before the first day of November in each year, a list of those properties using such facilities or for which such services or commodities were provided or made available and from which the payment of rates, rentals, fees and other charges are in arrears for a period of thirty days or more after the last day fixed for payment of such rates, rentals, fees and other charges without penalty. The list shall contain a brief description of such properties, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interest, as applicable, computed to December thirty-first of that year. The board of supervisors shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the county under the heading "water charge" or "sewer disposal charge," as applicable. Such amounts, excluding penalties and interest when collected by the county collector or

receiver of taxes, shall be paid over to the treasurer of the authority. Penalties and interest shall be retained by the collector which shall become a part of the general funds of the county. All of the provisions of the tax law of the state governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

* NB There are 2 § 1199-yyyy's

TITLE 9

NEW YORK CITY TRANSIT AUTHORITY

§ 1200. Definitions. Unless expressly otherwise provided, whenever used in this title, the following terms shall mean or include: 1. "Authority." The corporation created by section eighteen hundred one of this title.

2. "Board." The members of the authority.

3. "Board of estimate." The board of estimate of the city.

4. "City." The city of New York.

5. "Comptroller." The comptroller of the city.

6. "Devices and appurtenances." Devices and appurtenances deemed necessary by the authority, to secure the greatest efficiency, public convenience and safety, including the number, location, description and plans and specifications for the stations, suitable supports, turnouts, switches, sidings, connections, landing places, garages, repair shops, buildings, structures, platforms, stairways, elevators, telephone, telegraph and signal devices, facilities for access to the surface, and other suitable appliances incidental and requisite to what such authority may approve as the best and most efficient system of rapid transit in view of the public needs and requirements, including in its discretion, operation of a transit facility or some portion thereof by any device or means, other than separate cars or trains, in the construction of which stationary means for guiding a conveyance in a definite path and means for propelling such conveyance are necessary elements.

7. "Equipment." Rolling stock, omnibuses, vehicles, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements, materials, supplies and devices of every nature whatsoever used for the generation or transmission of motive power and including all power houses, and all apparatus and all devices for signalling and ventilation as may be required for the operation of a transit facility.

8. "Facilities." Routes, tracks, extensions, connections, terminals or facilities.

9. "Fiscal year." A period commencing the first day of January in each year and ending on the succeeding December thirty-first of such year.

10. "Governor." The governor of the state of New York.

11. "Mayor." The mayor of the city.

12. "Person." A natural person, firm or corporation.

13. "Property" or "property rights." Real estate, real property, lands, rights, terms, interests, privileges, franchises or easements of owners, abutting owners or others.

14. "Revenues." All monies received by the authority or its subsidiaries from whatever source, derived directly or indirectly from or in connection with their operations.

15. "Transit facility." A rapid transit railroad, omnibus line or any other facility or any railroad in the city used for local service in the transportation of passengers as common carriers for hire or in the transportation of the United States mail or personal property, and any portion thereof and the rights, leaseholds or other interests therein, together with the devices and appurtenances, facilities and equipment thereof and power plants and other instrumentalities used or useful therefor or in connection therewith.

16. "Street." A public street, marginal street, avenue, road, bridge, viaduct, highway, boulevard, driveway, park, parkway, dock, wharf, pier, ground, river, water, square, place or land within the city.

17. "Metropolitan transportation authority." The corporation created by section twelve hundred sixty-three of this chapter.

18. "Triborough bridge and tunnel authority." The corporation created by section five hundred fifty-two of this chapter.

§ 1201. New York city transit authority.--1. A board, to be known as "New York City Transit Authority" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of seventeen members, all serving ex officio. Those members shall be the persons who from time to time shall hold the offices of chairman and members of metropolitan transportation authority.

2. The chairman of such board shall be the chairman of metropolitan transportation authority, serving ex officio, and, provided that there is an executive director of the metropolitan transportation authority, the executive director of the authority shall be the executive director of the metropolitan transportation authority, serving ex officio. Notwithstanding any provision of law to the contrary, the chairman shall be the chief executive officer of the authority and shall be responsible for the discharge of the executive and administrative functions and powers of the authority. The chairman and executive director, if any, each shall be empowered to delegate his or her functions and powers to one or more officers or employees designated by him or her.

3. The chairman, other members of the board and the executive director shall not be entitled to compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

4. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state or any public corporation, as defined in the general corporation law, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his being a member or the chairman of the authority.

5. A majority of the whole number of members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the authority, the authority shall have the power to act by a majority vote of the members present at any meeting at which a quorum is in attendance. In the event of a tie vote the chairman

shall cast one additional vote. For the purposes of the voting and quorum requirements of this subdivision, the voting and quorum requirements set forth in subdivision three of section twelve hundred sixty-three of this article and in any by-law of the metropolitan transportation authority adopted pursuant to the provisions of such subdivision shall be applicable hereto.

6. The authority and its corporate existence shall continue until terminated by law, provided however, that no such law shall take effect so long as the authority or any of its subsidiaries, the metropolitan transportation authority or the Triborough bridge and tunnel authority shall have outstanding any notes or bonds or lease, sublease or other contractual obligations issued or incurred pursuant to section twelve hundred seven-m of this title or issued or incurred in connection with the transfer of its interest in and the lease from the transferee of any property furnished to it pursuant to chapter twelve of the laws of nineteen hundred seventy-nine or section fifteen of chapter three hundred fourteen of the laws of nineteen hundred eighty-one, or section twelve hundred sixty-six-c or twelve hundred seventy-d of this article, unless adequate provision has been made for the payment or satisfaction of such outstanding notes, bonds, lease, sublease or other contractual obligations.

§ 1202. Purposes of the authority. 1. The purposes of the authority shall be the acquisition of the transit facilities operated by the board of transportation of the city, the operation of transit facilities in accordance with the provisions of this title for the convenience and safety of the public on a basis which will enable the operations thereof, exclusive of capital costs, to be self-sustaining, and, in coordination with the metropolitan transportation authority and the Triborough bridge and tunnel authority, the continuance, further development and improvement of commuter transportation and other services related thereto within the metropolitan commuter transportation district and the development and implementation of a unified mass transportation policy for such district.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the authority shall be regarded as performing a governmental function in carrying out its corporate purpose and in exercising the powers granted by this title.

§ 1203. Transfer of transit facilities by the city to the authority. 1. a. On or before June first, nineteen hundred fifty-three, the city may, by resolution of the board of estimate or by instruments authorized by any such resolution, enter into an agreement with the authority for the transfer to the authority, for use in the execution of its corporate purposes, of the transit facilities now owned or hereafter acquired or constructed by the city and any other materials, supplies and property incidental to or necessary for the operation thereof. Any such agreement shall provide for transfer of such facilities by deed, lease, license or other arrangement, provided the term thereof shall not be less than ten years and authorize the authority to take jurisdiction, control, possession and supervision of such transit facilities, materials, supplies and property on or before June fifteenth, nineteen hundred fifty-three.

b. (i) Such agreement shall provide that capital costs of a nature not heretofore charged as operating expenses shall be paid by the city, or at the option of the authority may be paid in the first instance by the authority but in such event, the authority shall be entitled to recover from the city the amount of such costs; provided, however, that the total amount of such capital costs which the authority may incur without the approval of the mayor in any city fiscal year shall not exceed five million dollars and that no other such capital costs shall be incurred by the authority without such approval. Where the city is required to reimburse the authority for the amount of any capital costs pursuant to such agreement, serial bonds or capital notes may be issued by the city, pursuant to the local finance law, to finance any such reimbursement in the same manner and to the same extent as if such costs were to be paid directly by the city.

The authority shall submit annually to the city planning commission and the mayor of the city on or before October fifteenth in each year an estimate of all such capital costs for inclusion in the capital budget of the city.

(ii) From and after March first, nineteen hundred sixty-eight, the authority shall also have the right to incur capital costs of such nature in its own name to the extent that capital funds are available to it for expenditures of such nature pursuant to the provisions of section twelve hundred nineteen-a of this chapter or of any other provision of law, which capital costs shall not be payable by the city; provided, however, that no project to be financed by the use of such capital funds which is estimated by the authority to involve an expenditure in excess of one million dollars shall be commenced unless the mayor and the board of estimate shall each have been notified in writing by the authority of the intent of the authority to undertake such project and of the nature thereof. No such project shall be commenced if and to the extent that either the mayor or a majority in voting power of the members of the board of estimate shall find that it is incompatible with sound planning for the development or redevelopment of the city, provided such finding, together with the reasons therefor, is set forth in a writing delivered to the authority within thirty days of the receipt by the mayor or the board of estimate, as the case may be, of the notification of the authority relating to such project. If any such project is not so disapproved, it may nevertheless not be commenced unless and until the city shall have been given an opportunity to include the same in the capital budget of the city for the first fiscal year of the city commencing not less than six months after receipt of such notification. If and to the extent that such project is included in such capital budget, the authority may not thereafter incur capital costs for the same in its own name. If or to the extent such project is not included in such capital budget, the authority may incur capital costs for the same in its own name. The operation of sections twenty, twenty-one and twenty-two of the rapid transit law shall be suspended with respect to any project financed with the capital funds referred to in this subparagraph.

c. Such agreement shall provide that the authority shall have the use and possession of all property owned or leased by the city and used or occupied by the board of transportation on March fifteenth, nineteen hundred fifty-three in connection with or incidental to the operation of such transit facilities.

d. No provision in such agreement shall purport to limit or restrict or have the effect of limiting or restricting, the power granted the authority to manage, control or direct the maintenance and operation of such transit facilities or the fares or service thereof.

2. Such agreement shall provide for payment by the city of:

a. Capital costs for projects connected with such transit facilities included in the capital budget of the city for periods prior to December thirty-first, nineteen hundred fifty-three, except that the authority shall not require payment of, and the city shall not pay, capital costs of such projects without prior approval of the board of estimate.

b. Liabilities of the city or the board of transportation for:
(1) Pension or retirement contributions on behalf of persons who were employed on transit facilities heretofore acquired by the city.
(2) Contributions to the New York City employees' retirement system on behalf of officers or employees whose compensation has been paid out of the operating revenues of the board of transportation of the city, which contributions have or shall hereafter become due or payable for fiscal years of the city ending on or before June thirtieth, nineteen hundred fifty-three.

c. All other liabilities of the board of transportation on the date of the conveyance.

d. Ten million dollars derived from any funds of the city (but not from borrowed funds), or from the operating fund of the board of transportation at the time of such transfer, for use by the authority as initial working capital (1) in partial consideration of the acceptance by the authority of the initial transfer, in which case the sum shall not be repaid, or (2) as a loan, in which case such sum shall be repaid in not less than five nor more than ten equal annual installments, commencing July first, nineteen hundred fifty-four.

3. a. Such agreement may contain provisions relating to the use and occupancy by the authority of real property (in addition to that transferred pursuant to subdivision one of this section) now or hereafter owned or leased by the city, on such terms as may be mutually agreed upon by the city and the authority, and may provide for or authorize surrenders to the city of property no longer required by the authority.

b. The authority shall be entitled to utilize the officers, employees, agents, facilities and services of the city on the same terms and conditions as were applicable to or provided to the board of transportation on March fifteenth, nineteen hundred fifty-three.

4. The city and the authority are hereby authorized and empowered to make or enter into any contracts, agreements, deeds, leases, conveyances or other instruments as may be necessary or appropriate to effectuate the purposes of this title and they shall have complete power and authority to do and to authorize the doing of all things, incidental, desirable or necessary to implement the provisions of this section.

5. Upon the filing by the authority with the clerk of the city and the secretary of state of a copy of the instruments or documents effectuating the transfer, the authority shall take possession and control of the transit facilities and other property transferred thereby together with all contracts, books, maps, plans, papers and records of or in the possession of the board of transportation of whatever description, incidental to or necessary for the operation of the facilities transferred by such agreement or the performance of the duties of the authority as provided by this title.

6. When in the discretion of the authority there is available a supply of electric power adequate for the efficient and proper operation of the transit facilities either from a private utility or otherwise at rates and under circumstances deemed by the authority to be reasonable, the

authority may make such provisions for the utilization of such electric power as it may see fit and surrender to the city the power plants presently leased by the authority from the city pursuant to the provisions of this title. The foregoing provisions of this subdivision shall be applicable only to actions of the authority undertaken prior to February first, nineteen hundred and sixty.

7. Notwithstanding the aforesaid provisions of this section the city may transfer to the authority title and ownership to the materials, supplies and property incidental to or necessary for the operation of the transit facilities which were heretofore leased to the authority, and the authority and the city may enter into an agreement, modifying the agreement of lease dated June first, nineteen hundred fifty-three, as amended, renewed and supplemented, to provide for such transfer of title and ownership and containing such further terms and conditions, not inconsistent with law, as may be agreed upon between the parties.

§ 1203-a. Subsidiary corporation. 1. Notwithstanding the provisions of this title or of any general, special or local law to the contrary, the city and the transit authority may enter into an agreement which shall provide that any omnibus lines hereafter acquired by the city may be leased by the city for operation and maintenance to a public benefit corporation which shall be a subsidiary of the transit authority. The status of such officers and employees as shall be taken into the service of such subsidiary corporation, including those who had been employed by the former owner of any such omnibus lines, shall be governed exclusively by the provisions of this section.

2. A public benefit corporation entitled Manhattan and Bronx surface transit operating authority (hereinafter referred to as the subsidiary corporation) is hereby created. The purpose of said subsidiary corporation shall be to operate, pursuant to the powers conferred hereunder and for a temporary period, the omnibus lines hereafter acquired by the city, until the said omnibus lines shall be sold or otherwise disposed of to private or public operation. The directors of such subsidiary corporation shall be the persons holding the offices of

chairman and members of the transit authority or their successors. The provisions of this title concerning the number of members of the authority, the number thereof required for a quorum and to transact business, the powers and functions of the chairman and his authority to delegate the same, and the effect which the tenure of the members and chairman has upon the holding of other public office shall all be applicable with like force and effect to the directors of such subsidiary corporation.

3. The subsidiary corporation shall have all of the powers vested in the transit authority by section twelve hundred four of this title except those contained in subdivisions five, six, eight, nine, fourteen and sixteen thereof. In addition, such subsidiary corporation shall have the following powers:

(a) pursuant to the provisions of this section, to maintain and operate the omnibus lines transferred to it by the city;

(b) to appoint officers and employees, assign powers and duties to them and fix their compensation. Said officers and employees shall not become, for any purpose, employees of the city or of the transit authority and shall not acquire civil service status or become members of the New York city employees' retirement system but, shall, for purposes of subparagraph (i) of paragraph three of subsection (c) of section six hundred twelve of the tax law be deemed to be officers and employees of a subdivision of the state;

(c) to improve, maintain and operate such buildings, structures and facilities as may be necessary or convenient;

(d) with the consent of the transit authority, to use officers, employees, agents and facilities of the transit authority and to reimburse the transit authority therefor;

(e) to utilize business methods and efficient procedures to promote the safety and convenience of the traveling public, in the carrying out of its corporate purposes;

(f) to operate omnibus lines on those routes in the city of New York where on February twenty-eighth, nineteen hundred sixty-two, omnibus lines were operated under franchises or temporary certificates of convenience and necessity which have been revoked, terminated, rescinded or condemned, or acquired by any other means, and to extend such routes so as to provide the complete service operated on February twenty-eighth, nineteen hundred sixty-two; and such operation, together with the necessary extensions, shall be deemed to constitute operation over approved routes with the same force and effect as if the said routes had been duly approved by the board of estimate of the city, as provided by law; and to operate on such other routes as the board may authorize by resolution adopted only after a public hearing held after notice thereof, and of the proposed route, and the proposed resolutions authorizing the same, have been published in full for at least fifteen days, except Sundays and legal holidays, immediately prior thereto in the City Record, and at least twice in two newspapers published in the borough or boroughs affected, to be designated by the board.

4. Such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the transit authority.

5. The agreement between the city and the subsidiary corporation by which the said omnibus lines are leased shall provide as follows:

(a) for the rate or rates of fare to be charged on such omnibus lines, provided, however, that from and after March first, nineteen hundred sixty-eight, the subsidiary corporation shall have full and exclusive control over the setting of such rate or rates of fare;

(b) the subsidiary corporation shall be entitled to utilize the officers, employees, agents, facilities and services of the city on the same terms and conditions as are applicable to or provided to the transit authority;

(c) capital costs not now charged by the transit authority as operating expenses shall be paid by the city; provided, however, that from and after March first, nineteen hundred sixty-eight, the subsidiary corporation shall also have the right to incur capital costs in its own name to the extent that capital funds are available to it pursuant to the provisions of sections twelve hundred nineteen-a and twelve hundred three-b of this chapter or of any other law, which capital costs shall not be payable by the city; and provided, further, that no project to be financed by the use of such capital funds which is estimated by the subsidiary corporation to involve an expenditure in excess of one million dollars shall be commenced unless the mayor and the board of estimate shall each have been notified in writing by the subsidiary corporation of the intent of the subsidiary corporation to undertake such project and of the nature thereof. No such project shall be commenced if and to the extent that either the mayor or a majority in voting power of the members of the board of estimate shall find that it is incompatible with sound planning for the development or redevelopment of the city, provided such finding, together with the reasons therefor, is set forth in a writing delivered to the subsidiary corporation within thirty days of the receipt by the mayor or the board of estimate, as the case may be, of the notification of the subsidiary corporation relating to such project. Where the city is required to pay the capital costs of the subsidiary corporation pursuant to such agreement, serial bonds or capital notes may be issued by the city, pursuant to the local finance law, to finance any such costs. The subsidiary corporation shall submit timely requests for the necessary capital funds to the city planning commission and the mayor of the city;

(d) The initial working capital of the subsidiary corporation shall be advanced by the city from any funds of the city (but not from borrowed funds) in the form of a grant or a loan in such amount as the parties shall deem necessary but in no event shall the said amount exceed five million dollars. If in the form of a grant, the advance shall be deemed to be in partial consideration of the acceptance by the subsidiary corporation of the initial transfer, in which case the sum shall not be repaid, but if in the form of a loan, the amount of the advance shall be repaid under such terms and conditions as shall be mutually agreed upon by the parties.

6. The provisions of section twelve hundred seven, subdivision one, sections twelve hundred eight, twelve hundred nine, twelve hundred eleven, twelve hundred twelve, twelve hundred twelve-a, twelve hundred thirteen, twelve hundred fifteen, twelve hundred sixteen, twelve hundred twenty and twelve hundred twenty-one of this title, shall apply to the subsidiary corporation in the same manner as to the transit authority and the term "authority", as used in such sections shall be deemed to apply to the subsidiary corporation.

7. Upon the written request of the mayor the subsidiary corporation shall permit reduced fares for one or more classes of omnibus line users designated by the mayor upon the agreement of the city to assume the burden of the resulting differential, together with the attendant administrative costs of the subsidiary corporation, pursuant to procedures satisfactory to the subsidiary corporation.

8. From and after March first, nineteen hundred sixty-eight, no substantial or general change in the levels of service furnished upon the facilities of the subsidiary corporation shall be instituted except upon not less than thirty days' written notice to the mayor and to the board of estimate.

9. The subsidiary corporation shall establish and publish or cause to be published schedules for all passenger transportation services under its operation. Such schedules shall include the estimated departure and arrival time at each terminal point of each route except that, on lines where the headway time during the period between six A.M. and seven P.M. is less than ten minutes, such headway time alone may be listed for that period. Such schedules shall also show the elapsed running time between the terminal and each station. Schedules shall be made available on each omnibus operated on the line to which the schedule applies.

10. No acts or activities taken or proposed to be taken by the subsidiary corporation pursuant to the provisions of paragraph (a) of subdivision five or subdivision seven of this section shall be deemed to be "actions" for the purposes or within the meaning of article eight of the environmental conservation law.

11. The subsidiary corporation and its corporate existence shall continue until terminated by law, provided however, that no such law shall take effect so long as the subsidiary corporation or the transit authority or any other of its subsidiaries shall have outstanding any notes or bonds or lease, sublease or other contractual obligations issued or incurred pursuant to section twelve hundred seven-m of this title or issued or incurred in connection with the transfer of its interest in and the lease from the transferee of any property furnished

to it pursuant to chapter twelve of the laws of nineteen hundred seventy-nine or section fifteen of chapter three hundred fourteen of the laws of nineteen hundred eighty-one, unless adequate provision has been made for the payment or satisfaction of such outstanding notes, bonds, lease, sublease or other contractual obligations.

§ 1203-b. Transfer of funds. The authority and its subsidiary corporation, the Manhattan and Bronx surface transit operating authority, may each transfer to the other from time to time such available funds as they may jointly determine to be necessary or desirable, including funds accepted by the authority pursuant to the provisions of section twelve hundred nineteen-a of this title. Subject to the rights of the holders of any outstanding bonds, notes or other obligations of the authority, metropolitan transportation authority and Triborough bridge and tunnel authority, and to facilitate the efficient financial management of the authority, its subsidiary corporations, metropolitan transportation authority and its subsidiary corporations, and Triborough bridge and tunnel authority (the "affiliated entities"), the authority may, and shall at the direction of metropolitan transportation authority, transfer revenues, subsidies and other monies or securities to one or more funds or accounts of another affiliated entity for use by such other affiliated entity, provided at the time of such transfer it is reasonably anticipated that the monies and securities so transferred will be reimbursed, repaid or otherwise provided for by the end of the next succeeding calendar year if reimbursement or repayment is required by law or by any agreement to which any of the affected affiliated entities is subject. Any revenues of an affiliated entity that are transferred to another affiliated entity, which transfer was not authorized by a provision of law other than this section, shall be considered to be required to be repaid to the affiliated entity which was the source of such revenues by the end of the next succeeding calendar year following such transfer.

§ 1204. General powers of the authority. 1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

* 3. To acquire, hold, use and dispose of equipment, devices and appurtenances, and other property for its corporate purposes, including, the power to dispose of personal property with a value of five hundred thousand dollars or less by public auction in accordance with guidelines adopted by the metropolitan transportation authority pursuant to section twelve hundred sixty-five of this article and title five-A of article nine of this chapter.

* NB Effective until June 30, 2028

* 3. To acquire, hold, use and dispose of equipment, devices and appurtenances, and other property for its corporate purposes.

* NB Effective June 30, 2028

3-a. To acquire by purchase or condemnation pursuant to the provisions of the condemnation law real property or rights or easements therein necessary or convenient for the corporate purposes of the authority, and to use the same so long as its corporate existence shall continue.

3-b. To apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person, government or agency whatever, which it may use to meet capital or operating expenses and for any other use within the scope of its powers, and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable.

4. To make rules and regulations for its organization and internal management.

5. To appoint officers, assign powers and duties to them, and fix their compensation.

5-a. To make, amend and repeal rules governing the conduct and safety of the public as it may deem necessary, convenient or desirable for the use and operation of the transit facilities under its jurisdiction, including without limitation rules relating to the protection or maintenance of such facilities, the conduct and safety of the public, the payment of fares or other lawful charges for the use of such facilities, the presentation or display of documentation permitting free passage, reduced fare passage or full fare passage on such facilities and the protection of the revenue of the authority. Violations of such rules shall be an offense punishable by a fine of not exceeding twenty-five dollars or by imprisonment for not longer than ten days, or both, or may be punishable by the imposition by the transit adjudication bureau established pursuant to the provisions of this title of a civil penalty in an amount for each violation not to exceed one hundred dollars or, in the case of certain repeat violations relating to the payment of fares in accordance with subdivision eleven of section twelve hundred nine-a of this title, not to exceed one hundred fifty dollars (in each case exclusive of supplemental penalties, interest or costs assessed thereon), in accordance with a schedule of such penalties as may from time to time be established by rules of the authority. Such schedule of penalties may provide for the imposition of supplemental penalties, not to exceed a total of fifty dollars for each violation, upon the failure of a respondent in any proceeding commenced with respect to any such violation to make timely response to or appearance in connection with a notice of violation of such rule or to any subsequent notice or order issued by the authority in such proceeding. There shall be no penalty or increment in fine by virtue of a respondent's timely exercise of their right to a hearing or appeal. The rules may provide, in addition to any other sanctions, for the confiscation of tokens, tickets, cards or other fare media that have been forged, counterfeit, improperly altered or transferred, or otherwise used in a manner inconsistent with such rules. The authority shall not use, or arrange for the use, of biometric identifying technology, including but not limited to facial recognition technology, to enforce rules relating to the payment of fares.

6. To appoint employees and fix their compensation subject to the provisions of the civil service law and to grant, in its discretion, cash payments to the surviving spouse or to the legal representatives of its deceased employees, equal to the current monetary value of accumulated and unused vacation time, if any, and the monetary value of accumulated and unused overtime, if any, for overtime which was worked and credited subsequent to June fifteenth, nineteen hundred fifty-three,

computed at the rate of salary in effect at the time the overtime was worked, standing to the credit of its employees as of the time of their death and, notwithstanding the provisions of section one hundred thirty-five of the civil service law or any other state or local law to the contrary, to grant, in its discretion, severance pay to surplus employees on separation from service.

7. To retain and employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice.

8. Pursuant to the provisions of this title, to construct, reconstruct, improve, maintain and operate any transit facility, whether now existing, or constructed, acquired or provided in the future, and to fix fares on any such transit facilities.

9. To construct, reconstruct, improve, maintain and operate buildings, structures and facilities as may be necessary or convenient and to maintain and operate, directly or enter into contracts or leases for the acquisition, maintenance, and operation of areas for the parking of motor vehicles in the vicinity of its transit facilities, and in its discretion to fix and charge for such parking a combination fee which shall include the established rate of fare for use of its transit facilities.

9-a. To post signs notifying the public of the maximum fine for throwing, dumping, or causing to be thrown, dumped, deposited or placed any refuse, trash, garbage, rubbish, litter, or any nauseous or offensive matter on subway tracks or the right-of-way of a subway, pursuant to section fifty-two-e of the railroad law, to the extent that funds for such signs are available.

10. With the consent of the city to use officers, employees, agents and facilities of the city paying to the city an agreed proportion or amount of the compensation or costs involved.

11. To make or enter into contracts, agreements, deeds, leases,

conveyances or other instruments necessary or convenient, and to assist and cooperate with the metropolitan transportation authority to carry out the powers of the metropolitan transportation authority in furtherance of the purposes and powers of the authority as provided in this article, including, without limitation, the transactions described in sections twelve hundred sixty-six-c, twelve hundred sixty-nine and twelve hundred seventy-d of this article. This power shall include the power to make contracts with other persons operating transit facilities for combined fares for the use of such facilities and the transit facilities operated by the authority and for the division of such fares, and the power to make contracts for the transportation of the United States mail or personal property.

12. To surrender to the city property no longer required by the authority.

13. To rent space and grant concessions on or in any transit or other facility under its jurisdiction, to fix and collect rentals, fees or other charges therefor, and to contract for the sale or disposition of waste, products or by-products incidental to its operations or in excess of its requirements.

13-a. Notwithstanding the provisions of section fourteen hundred twenty-three of the penal law or the provisions of any general, special or local law, code, ordinance, rule or regulation to the contrary the authority may erect signs or other printed, painted or advertising matter on any property, including elevated structures, leased or operated by it or otherwise under its jurisdiction and control and may rent, lease or otherwise sell the right to do so to any person, private or public.

14. To make plans, surveys and studies of transit facilities in the city and prepare recommendations in regard thereto.

15. To exercise all requisite and necessary authority to manage, control and direct the maintenance and operation of transit facilities transferred to it for the convenience and safety of the public with

power, in its discretion, to extend, modify, discontinue, curtail, or change routes or methods of transportation where the convenience and safety of the public would be served thereby or where existing routes or methods are inefficient or uneconomical; provided, however, that (except in cases of emergencies) at least thirty days prior to any proposed modification, discontinuance, curtailment or change of any transit route or method of transportation, the authority shall give notice of its intention to the board of estimate and shall, upon request of such board within such period, conduct a public hearing thereon.

16. In its discretion to provide and maintain a transit police department and a uniformed transit police force. Such department and force shall have the power and it shall be their duty, in and about transit facilities, to preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, mobs and insurrections, disperse unlawful or dangerous assemblages and assemblages which obstruct free passage; protect the rights of persons and property; guard the public health; regulate, direct, control and restrict pedestrian traffic; remove all nuisances; enforce and prevent violation of all laws and ordinances; and for these purposes to arrest all persons guilty of violating any law or ordinance. Appointments to such transit police force shall be made in accordance with applicable provisions of the civil service law and only persons who shall be less than twenty-nine years of age at the date of the filing of an application for civil service examination, who have never been convicted of a felony, and who are citizens of the United States shall be appointed transit patrolmen on the transit police force. Each member of such force shall be a police officer as defined by paragraph (e) of subdivision thirty-four of section 1.20 of the criminal procedure law and shall possess all the powers of a police officer of a city in the execution of criminal process; and criminal process issued by any court or magistrate of a city may be directed to and executed by a member of such force, notwithstanding the provisions of any local or special act, ordinance or regulation.

The authority may appoint a chief and a deputy chief of the transit police department who, in the discretion of the authority, may be selected from the ranks of the transit police force, and assign powers and duties to them and fix their compensation. The chief shall be the head of such department. During the absence or disability of the chief, the deputy chief shall possess all the powers and perform all the duties of the chief. The transit police force shall consist of captains, lieutenants, sergeants and police officers. The authority may detail persons in the rank of captain of the transit police force to serve in higher ranks. A captain when so detailed to serve in a higher rank may be granted an increase in salary above the grade established for the rank of captain in the uniformed force. The authority may maintain a division for detective purposes to be known as the detective division and may, from time to time, detail to service in said division as many members of the force as it may deem necessary, and may at any time revoke any such detail. Any member of the force while so detailed may be granted an increase in salary above the grade established for his or her rank in the uniformed force, but shall retain his or her rank in the force and shall be eligible for promotion the same as if serving in the uniformed force, and the time during which he or she serves in such division shall count for all purposes as if served in his or her rank or grade in the uniformed force.

16-a. The authority shall establish and publish or cause to be published schedules for all passenger transportation services under its operation. Such schedules shall include the estimated departure and arrival time at each terminal point of each route except that, on lines where the headway time during the period between six A.M. and seven P.M. is less than ten minutes, such headway time alone may be listed for that period. Such schedules shall also show the elapsed running time between the terminal and each station. Schedules shall be made available at each facility on the applicable route at which tokens or tickets are sold and shall be posted at each appropriate station operated by the authority.

17. To do all things necessary or convenient to carry out its purposes and for the exercise of the powers granted in this title.

18. A copy of any report submitted by the authority pursuant to sections twenty-eight hundred, twenty-eight hundred one and twenty-eight

hundred two of this chapter shall be submitted contemporaneously to the mayor.

19. To invest any funds, accounts or other monies not required for immediate use or disbursement, at the discretion of the authority, in any of the investments in which the metropolitan transportation authority is permitted to invest its monies pursuant to subdivision four of section twelve hundred sixty-five of this article.

§ 1204-a. Rapid transit noise code. 1. As used in this section, unless another meaning is indicated by the context:

a. "Authority" means the New York City Transit Authority.

b. "Subways" means all rail rapid transit systems operated by the authority including but not limited to rolling stock, track and track beds, passenger stations, tunnels, elevated structures, yards, depots, and shops.

c. "New cars" means all those cars the purchase and/or construction of which is contracted for subsequent to the enactment of this section.

d. "Screech" means any noise generated by wheel-track interactions on curves or by brake application and which is a prominent discreet tone above 1000 Hertz as defined by the American National Standards Institute specifications (ANSIS1.13--1971).

e. "Sound pressure level" means twenty times the logarithm to the base ten of the ratio of the root mean squared pressure of a sound to a reference pressure of twenty micropascals. The unit applied to this measure shall be the decibel (dB).

f. "A-weighted sound level or (dBA)" means the sound pressure level measured by the use of an instrument with the metering characteristics and A-weighting frequency response prescribed for sound level meters. The sound level measurement system must meet or exceed the requirements of the American National Standard Institute Specification for Sound Level Meters ANSI S1.4--1971, approved April twenty-seventh, nineteen hundred seventy-one, throughout the applicable frequency range for either:

(a) A Type 1 sound level meter; or

(b) A Type 2 sound level meter; or

(c) A Type S sound level meter which has:

(1) an A-weighting frequency response; and

(2) a fast dynamic characteristic which complies with section 5.3 of ANSI S1.4--1971; and

(3) a relative response level tolerance consistent with that of either a Type 1 or Type 2 sound level meter, as specified in section 3.2 of ANSI S1.4--1971.

g. "Equivalent sound level" means the energy-average of the integrated A-weighted sound level over a specified observation time T and is identified by the symbol Leg.

2. The authority shall undertake a rail rapid transit noise abatement study, incorporating a comprehensive review of the results of noise abatement studies and projects done for or by the Urban Mass Transportation Administration of the United States Department of Transportation and other mass transit systems. Such study shall evaluate the range of strategies available for meeting the sound levels set forth in the following sound level table, propose strategies and indicate the approximate time and necessary cost for meeting such sound levels, and indicate the expected dBA reduction of each proposed strategy. Such study shall be submitted to the governor and the legislature, and made available to the public, within one year of enactment of this section.

SOUND LEVEL TABLE

a.

EQUIVALENT SOUND LEVEL	PERCENT COMPLIANCE		
	within 4 years of the effective date of this section	within 8 years of the effective date of this section	within 12 years of the effective date of this section

I. CAR INTERIOR					
A. new cars	80dBA	100%	100%	100%
B. old cars	85dBA	20%	40%	70%
II. CURVE AND BRAKE SCREECH				
A. new cars	No Screech	100%	100%	100%
B. old cars	No Screech	20%	60%	100%
III. STATION TRAINS ENTERING, LEAVING OR PASSING THROUGH	105dBA	85%	90%	100%
	90dBA	70%	80%	95%
	85dBA	50%	60%	80%
	80dBA	5%	15%	60%
IV. ELEVATED STRUCTURES	Sound level to be established	10%	30%	60%

b. In all cases noise levels shall be measured so as to reflect accurately the worst case of noise exposure at a specific location where a noise abatement strategy has been implemented, to which a subway passenger, employee, or any person who is within range of subway noise could reasonably be exposed under normal operating conditions. Noise measurements shall be made under the following conditions:

Car interior: when the car is in motion at a speed of forty miles per hour during normal operation with measurements in the center of the car and the microphone five feet above the floor.

Station: (express) when the train is in motion and passing in front of the on-platform measuring point.
(local) when the train is in motion and any part of it is within the station.

Car exterior (elevated tracks) when the train is in motion and is passing in front of the point from which noise measurements are being made.

c. All measurements shall be taken with fast dynamic characteristic of the sound level measurement system. Energy equivalent measurements shall normally be used; provided, however, alternative measures may be proposed to incorporate new instrumentation or analyses that may become available.

3. Within six months of the completion of the study conducted pursuant to subdivision two of this section, the authority shall report to the governor and the legislature which strategies or portions of strategies proposed by such study it has chosen to implement, and the schedule for such implementation.

To the extent, if any, that the authority's plan fails to meet the standards specified in the sound table, the authority shall so state and provide the reasons for its inability to meet such standards.

4. The authority shall submit to the governor and the legislature annual reports detailing the authority's progress to date in abating subway noise. The report shall include, but not be limited to an itemized summary of all monies spent, bids requested and received, contracts let, and actual work done on noise abatement programs during the previous period. Any and all subway noise measurements made during the previous period shall be included, with, whenever possible, analyses of such measurements.

Such annual report shall also include a detailed analysis of all future noise abatement activities planned for the upcoming twelve months. These reports shall also include comprehensive statements of progress made on all planned noise abatement activities included in the previous annual report.

Nothing herein shall preclude such report from being incorporated in the authority's annual capital report submitted pursuant to the "capital financing and services system act of nineteen hundred eighty-one," so long as it is maintained as a separate, distinct and identifiable component in such report.

§ 1204-c. Receipt of line of duty pay. 1. A member of the New York city transit authority police force in the rank of police officer or a member of such force who is detailed or designated as a detective or who holds the position of sergeant or any position of higher rank, shall be entitled pursuant to this section to the full amount of his or her regular salary for the period of any incapacity due to illness or injury incurred in the performance and discharge of duty as a member of the force, as determined by the authority, only in the event that a collective bargaining agreement granting such entitlement pursuant to this section has been entered into by the authority and the certified employee organization representing such member. The first entitlement of any such member of the New York city transit authority police force to the full amount of regular salary under this section shall commence on the date of execution of the collective bargaining agreement providing for such entitlement with respect to such member.

2. Nothing in this section shall be construed to affect the rights, powers and duties of the authority pursuant to any other provision of law, including, but not limited to, the right to discipline a police officer by termination, reduction of salary, or any other appropriate measure; the power to terminate an appointee who has not completed his or her probationary term; and the power to apply for ordinary or accident disability retirement for a police officer.

3. Nothing in this section shall be construed to require payment of salary to a member of the New York city transit authority police force who has been terminated, retired, suspended or otherwise separated from service by reason of death, retirement or any other cause.

4. A decision as to eligibility for benefits pursuant to this section shall not be binding on the medical board or the board of trustees of any pension fund in the determination of eligibility for an accident disability or accidental death benefit.

5. As used in this section the term "incapacity" shall mean the inability to perform full, limited, or restricted duty.

§ 1204-d. Special powers of the authority. 1. The authority may enter into a joint service arrangement with a bi-state agency, the state of New Jersey, any state agency, authority, municipality or instrumentality of the state of New Jersey, the federal government and any common carrier for the purpose of establishing bus transportation between the borough of Staten Island and locations in the state of New Jersey. A joint service arrangement between the authority and such entities shall mean an agreement or agreements relating to property, buildings, structures, facilities, services, rates, classifications, fares, divisions, allowances, charges, rules and regulations pertaining to or incidental to establishing and maintaining such bus transportation.

2. Any such joint service arrangement shall be authorized only by resolution of the authority approved by not less than a majority vote of the whole number of members of the board of the authority then in office, except that in the event of a tie vote the chairman shall cast one additional vote.

3. All general powers of the authority shall be applicable to joint service arrangements.

§ 1204-e. New York city transit authority advisory council. 1. There is hereby created the New York city transit authority advisory council, to study, investigate, monitor and make recommendations with respect to the maintenance and operation of the New York city transit authority, its subsidiaries and the Staten Island rapid transit operating authority. Such council shall study and investigate all aspects of the day to day operations of such authority, its subsidiaries and the Staten Island rapid transit operating authority, monitor their performance and recommend changes to improve the efficiency of the operation thereof. Such council shall study and make recommendations in regard to improving bicycle and pedestrian access on trains and buses, and at bridges, stations and other facilities operated by the authority, its affiliates and subsidiaries and the Staten Island rapid transit operating authority and submit such recommendations to the metropolitan transportation authority on or before June first, two thousand twenty-two and every five years thereafter.

2. Such council shall consist of sixteen members who shall be commuters who regularly use the transportation services of such authorities. Six of such members shall be appointed by the governor upon the recommendation of the mayor of the city of New York; five upon the recommendation of the president of the city council of the city of New York; and five other members appointed upon the recommendation one by each of the borough presidents of the boroughs of the city of New York. Provided, however, that one member recommended by the mayor of New York shall have a demonstrated expertise or interest in the promotion and development of improved bicycle and pedestrian access at bridges, stations and other facilities operated by the metropolitan transportation authority, as created by section twelve hundred sixty-three of this article, and such authority's affiliates and subsidiaries. The chairman shall be a member selected by the membership of the committee. Each of the members shall serve for a term of two years, provided, however, that of the first appointments, two appointed upon the recommendation of the mayor and two appointed upon the recommendation of the president of the city council shall serve for a term of one year. Vacancies occurring other than by expiration of term shall be filled in the same manner as the original appointments for the balance of the unexpired term.

3. The members of the council shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

4. The council may request and shall receive from any department, division, board, bureau, commission, agency, public authority of the state or any political subdivision thereof such assistance and data as will enable it properly to carry out its activities hereunder and

effectuate the purposes set forth herein.

§ 1204-f. Subway track safety. The authority shall include instructions on how to react safely, timely, and effectively when a person falls onto the subway tracks as part of its ongoing safety education campaigns.

§ 1205. Rates of fare and levels of service. 1. Notwithstanding the provisions of any other law, the terms of any contract or franchise, the authority shall have the power at all times to fix or adjust the rate or rates of fare to be charged for the use of any transit facility operated by the authority as may in the judgment of the authority be necessary to maintain the operations of the authority on a self-sustaining basis. The operations of the authority shall be deemed to be on a self-sustaining basis, as required by this title, when the authority is able to pay from revenue, from any funds granted or transferred to the authority pursuant to any provision of law, including funds granted pursuant to the provisions of section ninety-eight-b of the general municipal law, and from any other funds actually available to the authority, including the proceeds of borrowings for working capital purposes, the expenses of operation of the authority as the same shall become due.

2. Upon the written request of the mayor the authority shall permit reduced fares for one or more classes of transit facility users designated by the mayor upon the agreement of the city to assume the burden of the resulting differential, together with the attendant administrative costs of the authority, pursuant to procedures satisfactory to the authority.

3. Notwithstanding the provisions of subdivision one of this section, no zonal system of fares proposed to be instituted on or after March first, nineteen hundred sixty-eight for the use of the whole or any part of a rapid transit facility or of an omnibus line facility operated by the authority and no general revision of the system of transfers applicable to the use of all such facilities in effect as of that date

shall be established without the written approval of the mayor. For the purposes of this subdivision the term "zonal system of fares" shall mean any system whereby the fare payable for the use of a rapid transit facility or an omnibus line facility or of any part thereof varies according to distance traveled or to the location of the point of entry or departure by the user, but the creation or elimination of free transfer points shall not be regarded as the institution of such a system.

4. From and after March first, nineteen hundred sixty-eight, no substantial or general change in the levels of service furnished upon the rapid transit facilities or the omnibus line facilities of the authority shall be instituted except upon not less than thirty days' written notice to the mayor and to the board of estimate.

5. (a) Any complete or partial closing of a passenger station within the city of New York, or any means of public access to such facility, except for purposes of repair or renovation or in case of emergency shall be accomplished only if approved by resolution of the authority adopted by not less than a majority of the whole number of members of the authority then in office, and only after a public hearing. Such hearing shall be held not less than thirty days after notice of such proposed closing has been given to, and comments solicited from, the community board as established pursuant to section eighty-four of the New York city charter whose area of jurisdiction includes the station proposed to be closed or otherwise affected.

(b) In the case of a planned complete closure of a passenger station for purposes of repair or renovation, where such station will be out of service for sixty days or longer the MTA board shall adopt a policy, within ninety days of the effective date of the chapter of the laws of two thousand nineteen which amended this subdivision, that will ensure adequate communication of such work to impacted stakeholders where such passenger station is located including but not limited to: elected representatives, senate and assembly representatives, and community boards at least forty-five days prior to such closure. Such policy shall require the authority to notify the community board or boards whose district contains a passenger station subject to a planned complete closure or is contiguous to a district that contains a passenger station subject to a planned complete closure located on the same line of service as the passenger station subject to closure in writing. Such written notice shall provide such board or boards with an option to request a presentation from the authority regarding such planned complete closure. Upon request from such board or boards the authority shall, at a date convenient to such board or boards prior to such closure, present information regarding such closure and related service alternatives and also allow for public comment. The policy shall also require that the authority provide notice to the public at least thirty days prior to such closure by: (i) posting notice in the passenger stations that are scheduled for closure; and (ii) posting notice on the authority's website and social media accounts; providing information about the planned complete closure, service alternatives, and directions on how the public can provide comment to the authority regarding such closure. This subdivision shall not apply to emergency station closures resulting from unforeseen circumstances where such closure is necessary to ensure public health, safety and welfare.

6. No acts or activities taken or proposed to be taken by the authority pursuant to the provisions of subdivision one or two of this section shall be deemed to be "actions" for the purposes or within the meaning of article eight of the environmental conservation law.

7. Whenever the authority causes notices of hearings on proposed changes in services or fares to be posted pursuant to this section or any statute, regulation, or authority policy, or where it voluntarily posts such notices, such notices shall: (a) be written in a clear and coherent manner using words with common and every day meaning; (b) be captioned in large point type bold lettering with a title that fairly and accurately conveys the basic nature of such change or changes; (c) where such change involves a proposed change in levels of fare, include in its title the range of amounts of fare changes under consideration; (d) contain, to the extent practicable, a concise description of the specific nature of the change or changes, including but not limited to a concise description of those changes that affect the largest number of passengers; (e) where such change involves a change in the nature of a

route, contain, to the extent practicable, a clear graphic illustration of such change or changes; and (f) where such change involves a partial or complete station closing, such notice shall be posted at the affected station with a clear graphic illustration depicting the nature of any closing for such station.

8. Notwithstanding any other provision of law, the authority and any of its subsidiary corporations shall establish and implement a half fare rate program for persons with serious mental illness who are eligible to receive supplemental security income benefits as defined pursuant to title sixteen of the federal social security act and section two hundred nine of the social services law. The half fare rate program established and implemented pursuant to this subdivision shall be in operation during all hours in which such authority provides railroad, subway and/or omnibus services, and such program shall not be limited in operation to off-peak hours or to any other hours designated by the authority or its subsidiary corporations.

§ 1205-a. Surrender of power plants. Notwithstanding any other provision of law, in the event the authority shall surrender power plants to the city in connection with the sale thereof by the city to a third party, the city shall establish a fund out of the purchase price or the installments of purchase price, from which it shall pay to the authority for a period of ten years the sum of five million dollars a year in semi-annual installments of two million five hundred thousand dollars each. The first such payment shall be made six months after the date when possession of the power plants is transferred to the purchaser of such plants. Such moneys shall be used by the authority to pay, in part, for the cost of electricity purchased by the authority for the operation of transit facilities.

Notwithstanding the foregoing provisions, the city may, from time to time, at the request of the authority, prepay to the authority any and all of the remaining semi-annual installments due it as aforesaid, when the city and the authority have determined that such prepayment will serve the financial needs of the authority. In the event that said fund is not sufficient for the prepayment of any such installments, then the city may make up any insufficiency through a budgetary appropriation or may issue serial bonds and notes, pursuant to the local finance law, to finance such insufficiency. The maximum period of probable usefulness for such object or purpose is hereby determined to be three years.

§ 1206. Omnibus operations. 1. The authority, as soon as practicable and not later than July first, nineteen hundred fifty-five, shall prepare a plan for the sale and transfer of omnibus facilities under its jurisdiction to private ownership. Any such plan shall provide that the proceeds of such sale and transfer shall be paid to the city. No such plan shall apply or relate to, or have any effect upon, any facilities, property or franchises, used and usable in the operation of omnibus lines, acquired by condemnation under subdivision two of section twenty or section twenty-d of the general city law.

2. The authority shall have power to take such action and execute such instruments as may be required of it to execute such plan or any modification thereof.

§ 1206-a. Transit construction fund. In addition to the powers provided elsewhere in this title, and to effectuate the purposes of the transit construction fund act, constituting title nine-a of article five of this chapter, the authority or any subsidiary may: (a) acquire and use any transit facility in accordance with the terms and conditions of any sublease or other agreement with the transit construction fund; (b) authorize the use by the transit construction fund, either with or without compensation to the authority, of the agents, employees and facilities of the authority; (c) make and execute contracts, leases, subleases and all other instruments or agreements deemed necessary or convenient including agreements with the metropolitan transportation authority and the transit construction fund; and (d) do any and all other things deemed necessary or convenient.

§ 1207. Notes and equipment trusts. 1. The authority may issue notes in conformity with applicable provisions of the uniform commercial code in anticipation of the receipt of revenues provided that the aggregate principal amount of such revenue anticipation notes outstanding at any time shall not exceed ten per cent of the average annual revenues of the authority. All such revenue anticipation notes shall mature within two years of the date of issue and an installment or installments of not less than fifty per cent of the principal amount of such notes shall mature in the first fiscal year succeeding the fiscal year in which such notes are issued. Such notes may be sold at public or private sale and the city shall have power to purchase the same from any revenues or funds of the city other than moneys derived from borrowings.

2. The authority shall have power to purchase pursuant to conditional sales agreements or equipment trust agreements, to lease and otherwise to acquire subject to a lien for the purchase price, such equipment as it deems desirable including cars and rolling stock, electric and other motive power vehicles, automobiles, buses, and other motor vehicles, provided, however, that the amount of liabilities which the authority may incur under this subdivision shall be governed by the limitations contained in paragraph b of subdivision one of section eighteen hundred three of this law and shall in no event exceed such sum of five million dollars in any one fiscal year without the approval of the mayor. Payment for such equipment, or rentals therefor, may be made in installments to a trustee in trust to secure payment of equipment trust certificates, and provision may be made that title to such equipment shall not vest in the authority until the equipment trust certificates are paid, or that such equipment shall be subject to a lien to secure equipment trust certificates. Any such agreements, leases and equipment trust certificates shall contain such covenants, conditions and provisions as it deems necessary or desirable to insure payment of the equipment trust certificates.

3. The authority may also issue its promissory notes from time to time in conformity with applicable provisions of the uniform commercial code for the purpose of raising working capital to pay its expenses of operation. Such promissory notes shall be general obligations of the

authority, may be secured or unsecured as the authority shall determine, subject to the prior rights, if any, of the holders of other obligations of the authority, shall mature not later than five years from the date of issue and shall at no time be outstanding in an unpaid principal amount in excess of two hundred million dollars. Such promissory notes may be sold at public or private sale.

§ 1207-a. Purchase of cars by the authority and disposition thereof. 1. Notwithstanding the provisions of sections twelve hundred through twelve hundred twenty-one, inclusive, of this title or of any other provisions of law to the contrary, but subject to the provisions of section twelve hundred seven-j of this title, the authority shall have power to purchase no more than seven hundred twenty-four cars for the rapid transit lines under the jurisdiction of the authority and to finance the purchase price thereof by the issuance of bonds and notes of the authority in accordance with the provisions of section twelve hundred seven-b of this title. Any purchase contract for the purchase of such cars shall be made by the authority only upon public letting founded on sealed bids in accordance with the requirements of subdivision two of section twelve hundred nine of this title.

2. Title to all cars purchased by the authority pursuant to subdivision one of this section shall vest in the authority; provided, that, subject to such agreements with the holders of bonds and notes of the authority as may then exist, the authority may from time to time sell at negotiated sale and transfer to the city, for such consideration as the authority shall determine and approve, any or all of such cars so purchased by the authority as provided in section twelve hundred seven-k.

§ 1207-b. Issuance of bonds and notes by the authority. 1. Notwithstanding the provisions of sections twelve hundred through twelve hundred twenty-one, inclusive, of this title or of any other provisions of law to the contrary, but subject to the provisions of section twelve hundred seven-j of this title, the authority shall have the power and is hereby authorized to borrow money and to issue negotiable bonds and notes therefor in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the authority, shall be necessary to provide funds sufficient to pay the purchase price of no more than seven hundred twenty-four cars for the rapid transit lines under the jurisdiction of the authority purchased pursuant to section twelve hundred seven-a of this title, to pay interest on the bonds and notes of the authority, to establish reserves to secure such bonds and notes, and to pay all other expenditures of the authority incident to or incurred in connection with the purchase of such cars and the authorization, issuance and sale of said bonds and notes. In no event shall there be outstanding at any one time more than ninety-two million dollars ($92,000,000) in such bonds and notes.

1-a. The authority may also issue its bonds, notes or other obligations in such principal amounts as shall be necessary to finance the construction, purchase, lease or acquisition of, or an equity interest in, an office building located or to be constructed in the borough of Brooklyn in the city, provided that (i) all or a portion of such building is intended to be occupied by the authority and that the board shall, by resolution, have made findings that the sum of the capitalized value of all payments due from the authority under such bonds, notes or other obligations (not including any amounts attributable to principal repayment) together with any rent payments for the space in such building to be occupied by the authority and of all payments required of the authority under any related agreement does not exceed the capitalized value of those payments which would be made in a conventional commercial lease transaction for comparable space with an unrelated party and (ii) not more than an insubstantial portion of any real property so financed with the proceeds of bonds, notes, or other obligations is utilized by other than the New York city transit authority or its designated subsidiary. The term "capitalized value" for the purposes of this subdivision shall be computed in the manner set forth in subdivision four of section twelve hundred seven-m of this title. The metropolitan transportation authority is hereby additionally authorized from time to time to issue bonds for the purposes of refunding, redeeming or otherwise paying, including paying by purchase or tender, bonds issued by the authority for such purposes and to secure such bonds in the manner set forth in section twelve hundred sixty-nine of this article.

2. The authority shall have the power from time to time to renew notes or to issue renewal notes for such purpose, to issue bonds to pay notes, and whenever it deems refunding expedient, to refund bonds by the issuance of new bonds and to issue bonds partly to refund bonds and notes then outstanding and partly for the purposes authorized by subdivision one of this section. The refunding bonds may be exchanged for bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In no event shall the maturity date of the refunding bonds be a date beyond thirty-five years from the date the first bond was issued.

3. Every issue of bonds and notes of the authority shall be special obligations of the authority payable solely from the moneys and revenues of the authority derived from the operation of the transit facilities under its jurisdiction, subject to any agreement with the holders of particular bonds or notes pledging any particular moneys or revenues.

4. The bonds and notes shall be authorized by resolution of the authority and shall bear such date or dates and shall mature at such time or times as such resolution or resolutions may provide, except that no note or any renewal thereof shall mature more than five years after the date of issue of the original note and no bond shall mature more than thirty-five years from the date of issue. Bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption and to such other terms and conditions as such resolution or resolutions may provide. The bonds and notes may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of definitive bonds, the authority may issue interim receipts which shall be exchanged for such bonds.

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

(a) pledging all or any part of the revenues or other monies of the authority to secure the payment of the bonds or notes or of any issue of the bonds or notes, subject to such agreements with bondholders or noteholders as may then exist;

(b) the rate or rates of fare to be charged and the amounts to be raised in each year from revenues and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the rights of the authority with respect to the use and disposition of the cars for which such bonds or notes are issued and with respect to all other transit facilities of the authority;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds or notes then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue of the bonds or notes;

(f) limitations on the issuance of additional bonds and notes; the terms upon which additional bonds and notes may be issued and secured, and the funding or refunding of outstanding or other bonds and notes;

(g) the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;

(h) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders or noteholders pursuant to section twelve hundred seven-h hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under section twelve hundred seven-h hereof, or limiting the rights, duties and powers of such trustee;

(i) defining the acts or omissions to act which shall constitute a default in the duties of the authority to the holders of its bonds and notes and providing the rights and remedies of such holders in the event of default;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds and notes.

6. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

7. Neither the members of the board nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

8. Subject to such agreements with bondholders or noteholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds or notes. The authority may hold, cancel or resell such bonds and notes, subject to and in accordance with agreements with bondholders and noteholders.

§ 1207-c. Required redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of bonds, either the state of New York or the city may, upon furnishing sufficient funds therefor, require the authority to redeem as a whole any issue of the bonds at the time or times and at the place or places and in accordance with the terms upon which such bonds are redeemable.

§ 1207-d. Agreement of the state. The state of New York does hereby pledge to and agree with the holders of the bonds and notes of the authority that the state will not limit or alter the rights and powers hereby vested in the authority by this title to fulfill the terms of any contract made by the authority with such holders or in any way impair the rights and remedies of such holders until such bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any contract with the holders of bonds or notes.

§ 1207-e. State and city not liable on bonds or notes. The bonds and notes of the authority shall not be a debt of the state of New York or the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1207-f. Bonds and notes legal investments for fiduciaries. The bonds and notes of the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds and notes of the authority are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1207-g. Exemptions from taxation. 1. It is hereby found, determined and declared that the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, and the authority will be performing an essential governmental function in the exercise of the powers conferred by this title, and the state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds and notes of the authority issued pursuant to this title, in consideration of the acceptance of any payments for such bonds and notes, that such bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds, fares and other revenues pledged to pay or secure the payment of such bonds and notes, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

2. Nothing herein shall be construed to repeal or supersede any tax exemptions heretofore or hereafter granted by general or other laws.

§ 1207-h. Remedies of bondholders and noteholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of New York, or Queens or the Bronx or Kings and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes then outstanding shall, in his or its own name

(a) by a proceeding under article seventy-eight of the civil practice act or other suit, action or proceeding at law or in equity enforce all rights of the bondholders or noteholders, including the right to require the authority and the board to collect fares and revenues adequate to carry out any agreement as to, or pledge of, such fares and revenues, and to require the authority and the board to carry out any other agreements with the holders of such bonds or notes and to perform its and their duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

3. The Supreme Court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county of New York, Queens, the Bronx, or Kings.

4. Before declaring the principal of all such bonds or notes due and payable the trustee shall first give thirty days' notice in writing to the authority and the city.

5. Any such trustee, whether or not the issue of bonds or notes represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the fares or other revenues which are pledged for the security

of the bonds or notes of such issue, and such receiver may enter and take possession of such part or parts of the transit facilities of the authority and, subject to any pledge or agreement with bondholders or noteholders, shall take possession of all moneys and other property derived from or applicable to the maintenance and operation of the transit facilities operated by the authority and operate, maintain and reconstruct such part or parts of said transit facilities and collect and receive all fares and other revenues thereafter arising therefrom, subject to any pledge thereof or agreement with bondholders or noteholders relating thereto, and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any fares and other revenues derived from such transit facilities.

6. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

§ 1207-i. Rates of fare while bonds, notes and other obligations are outstanding. Notwithstanding the provisions of section twelve hundred five of this title or the provisions of any other law to the contrary, so long as the authority shall have outstanding and unpaid bonds, notes or other obligations issued pursuant to section twelve hundred seven-b of this title, or the metropolitan transportation authority or Triborough bridge and tunnel authority shall have outstanding and unpaid bonds, notes or other obligations secured by or payable from, in whole or in part, the revenues, assets or other monies of the authority or its subsidiary corporations, the authority shall have the power at all times to fix or adjust the rate or rates of fare to be charged for the use of any transit facility operated by the authority as may, in the judgment of the board, be necessary to produce sufficient revenues to pay, as the same shall become due, the principal of and interest on such bonds, notes and other obligations of the authority, metropolitan transportation authority and Triborough bridge and tunnel authority, together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expenses of operation of the authority. The authority, metropolitan transportation authority and Triborough bridge and tunnel authority, shall be authorized to contract with the holders of such bonds notes and other obligations with respect to the exercise of the power authorized by this section. In furtherance of the mandate of the metropolitan transportation authority to develop and implement a unified mass transportation policy for the metropolitan commuter transportation district and the exercise of its powers, including the power to issue notes, bonds and other obligations secured in whole or in part by the revenues of the authority and its subsidiaries, metropolitan transportation authority and its subsidiaries, and the Triborough bridge and tunnel authority, the authority shall join with the metropolitan transportation authority in connection with the establishment, levy and collection of fares, tolls, rentals, rates, charges and other fees for the transportation of passengers on any transit facilities operated by authority and its subsidiaries, including any changes thereto.

§ 1207-j. Limitation on the exercise of powers by authority and lease renewal. 1. The powers granted and conferred upon the authority by section twelve hundred seven-a of this title to purchase cars for the rapid transit lines of the authority, and by section twelve hundred seven-b of this title to issue bonds and notes of the authority, shall not be exercised by the authority unless and until the authority and the city shall have entered into an agreement for the renewal and extension of the existing agreement of lease between the city and the authority, dated June first, nineteen hundred fifty-three, for a term of years. Any such renewal agreement may contain such revisions of the existing agreement and such additional terms and conditions, not inconsistent with law, as may be approved by the city and the authority.

2. The city, by resolution of the board of estimate or by instruments

authorized by such resolution, and the authority shall be authorized to enter into an agreement for the renewal and extension of the existing agreement of lease between the city and the authority for such term of years as shall be agreed upon and in any such renewal and extension agreement the authority may agree to such limitations upon the exercise of the powers conferred upon it by sections twelve hundred seven-a through twelve hundred seven-i, inclusive, as the authority in its discretion shall approve.

§ 1207-k. Purchase, financing and lease of cars and rolling stock by city. 1. Notwithstanding the provisions of any other law, the city may purchase from the authority, by negotiation and without competitive bidding, from time to time, all or any part of the cars acquired by the authority pursuant to section twelve hundred seven-a of this title, and to pay therefor such price or prices as shall be agreed upon by the city and the authority provided, however, that such funds paid to the authority by the city shall be used only for the reimbursement of principal and interest on the bonds and notes issued by the authority to finance the cost of such cars.

2. Serial bonds and notes may be issued by the city, pursuant to the local finance law, to finance the cost of all cars purchased from the authority pursuant to subdivision one of this section. The maximum period of probable usefulness of such object or purpose is hereby determined to be twenty-five years.

3. All cars purchased by the city from the authority pursuant to subdivision one of this section may be leased by the city to the authority under the then existing agreement of lease.

§ 1207-l. Inconsistent provisions of other acts superseded. Insofar as the provisions of section twelve hundred seven-a through twelve hundred seven-k, inclusive, are inconsistent with any other provisions of this title or of any other act, general or special, or of any local law of the city, the provisions of sections twelve hundred seven-a through twelve hundred seven-k, inclusive, shall be controlling.

§ 1207-m. Transit projects. 1. The term "transit project" as used in this section shall have the meaning given to such term from time to time in section twelve hundred sixty-six-c of this article. The provisions of this section shall be controlling and the authority and its subsidiaries shall have the powers provided in this section notwithstanding any contrary provision of this title or of local law or of any lease or other agreement with the city.

2. (a) The authority is hereby authorized to request the metropolitan transportation authority to undertake any transit project and the authority and its designated subsidiaries are each hereby authorized (i) to enter into agreements with the metropolitan transportation authority concerning transit projects; (ii) to acquire in its own name by gift, purchase or condemnation any real or personal property (or any interest therein) which is needed or useful for or in connection with such project, and to surrender the use, occupancy, control or possession of or to transfer the same, or any other such real or personal property (or any interest therein) which it owns, leases, operates or controls, to the metropolitan transportation authority or its designee; (iii) to accept a transfer, transfer back, lease or sublease of any such project or part thereof upon its completion; and (iv) to make its agents, employees and facilities available to the metropolitan transportation authority in connection therewith.

(b) The authority and its subsidiary corporation is each hereby authorized to sell or transfer, without regard as to how or from whom acquired, all or part of its interest in any equipment which is deemed to be a mass commuting vehicle under the United States internal revenue code or the regulations thereunder, including, without limitation, any of the same obtained as transit projects or obtained from or financed with money received from the Triborough bridge and tunnel authority, for such consideration and on such terms or conditions as it may deem appropriate, and to obtain a lease from the transferee on such terms and conditions and for such period as it may deem appropriate pursuant to which it may operate, use, control or possess such mass commuting vehicle in furtherance of the statutory purposes of the authority and its subsidiaries, provided (i) such lease contains an option to the authority or its subsidiary corporation to repurchase its interest at the expiration of the scheduled lease term for nominal consideration, and (ii) the aggregate of the regularly scheduled rental payments which the authority or its subsidiary corporation is obligated to make pursuant to such lease during each twelve month period of the lease term shall not exceed the aggregate amount receivable, whether by principal or interest, by the authority or its subsidiary corporation from its transferee during each such twelve month period. Without limitation of the foregoing, any lease entered into pursuant hereto may also contain provisions requiring the authority or its subsidiary corporation to indemnify the transferee for any loss resulting from the loss or destruction of any mass commuting vehicle which is the subject of such lease, or any loss arising out of any misrepresentation, act, or omission of the authority or its subsidiary in connection with such lease, and requiring the authority or its subsidiary corporation to undertake to replace, repair or restore any such mass commuting vehicle, but such obligations shall not be deemed regularly scheduled rental payments for purposes of the preceding sentence. Rental payments and other payments or costs incurred by the authority or its subsidiary corporation in discharge of its obligations under any lease entered into as hereinabove provided shall not be deemed capital costs for the purposes of section twelve hundred three or twelve hundred three-a of this title, and the considerations received by the authority or its subsidiary corporation in connection with any transactions entered into pursuant to the authorization of this paragraph may be expended free of any restriction set forth in subparagraph (ii) of paragraph (b) of subdivision one of section twelve hundred three or in paragraph (c) of subdivision five of section twelve hundred three-a of this title.

(c) Neither the authority nor its subsidiary shall enter into any transaction authorized by paragraph (b) of this subdivision unless the following standards and procedures have been met:

(i) notice of intention to negotiate shall be published in at least one newspaper of general circulation, and a copy thereof shall be mailed to all parties who have requested notification from the authority or its subsidiary to engage in transactions of this type. Such notice shall describe the nature of the proposed transaction and the factors subject to negotiation, which shall include, but not be limited to, the price to be paid to the authority or its subsidiary;

(ii) the authority or its subsidiary shall negotiate with those respondents whose response complies with the requirements set forth in the notice;

(iii) the board of the authority or its subsidiary shall resolve on the basis of particularized findings relevant to the factors negotiated that such transaction will provide maximum available financial benefits, consistent with other defined objectives and requirements.

(d) The authority and its subsidiary shall provide to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, notice of each lease entered into pursuant to paragraph (b) of this subdivision and supporting documentation of compliance by the authority and its subsidiary with subparagraphs (i), (ii) and (iii) of paragraph (c) of this subdivision.

(e) Paragraphs (c) and (d) of this subdivision shall be of no force and effect with respect to any lease transaction entered into pursuant to a commitment approved prior to January first, nineteen hundred eighty-five by the board of the authority or its subsidiary or the board of the metropolitan transportation authority.

3. The authority and its designated subsidiaries are hereby authorized, in connection with any transit project, to pay or agree to pay, in a manner and on terms and conditions satisfactory to the metropolitan transportation authority, any portion of the costs to the metropolitan transportation authority of such transit project and the financing thereof which is not paid to the metropolitan transportation authority from any federal, state or local aid or assistance or from any other moneys made available or payable to the metropolitan transportation authority by others for such project.

4. (a) Such agreements with the metropolitan transportation authority may, without limitation, contain provisions obligating the authority or its designated subsidiary to:

(i) issue its notes or bonds, or execute and deliver its lease, sublease and other such contractual obligations, in payment for a transfer, lease or sublease of a transit project to any of them, provided, however, that in no event shall the aggregate principal amount of all notes and bonds together with the capitalized value of all lease, sublease and other such contractual obligations, exceed the sum of one billion six hundred million dollars, excluding from such limitation (A) the principal amount of any bonds or notes of the authority to the extent the amount thereof is paid, is payable or has been agreed to be paid by the federal government or any agency or instrumentality thereof to the authority or to the holders of such bonds or notes, (B) the principal amount of any bonds or notes of the authority issued to refund or otherwise repay other obligations issued for such transit projects, (C) the principal amount of any bonds or notes and the capitalized value of any lease, sublease or other such contractual obligation, to the extent such obligations are paid or agreed to be paid, subject to annual appropriation, under service contracts issued by the state to the metropolitan transportation authority for the benefit of the authority or its subsidiaries pursuant to the provisions of section sixteen of the transportation systems assistance and financing act of 1981, or under any similar contract of the metropolitan transportation authority or the authority with any other governmental entity for the benefit of the authority or its subsidiaries, (D) the principal amount of any bonds or notes of the authority issued to the metropolitan transportation authority in connection with the funding of any debt service reserve fund required by any resolution of the metropolitan transportation authority pursuant to which special obligation bonds of that authority to fund a transit project were issued, and (E) a principal amount of any bonds or notes of the authority equal to the amount of any original issue discount from the principal amount of the special obligation bonds or notes issued by the metropolitan transportation authority in connection with the financing of a transit project by that authority;

(ii) give security for the payment of such notes, bonds, lease, sublease or other contractual obligations, including a pledge of all or any part of its revenues or other moneys, which pledge may contain covenants with respect to the charging and fixing of fares, fees and rentals, the use and disposition of such fares, fees, rentals and other charges, and the setting aside of reserves therefrom.

(b) Such agreements, and any notes, bonds, lease, sublease or other contractual obligations issued or entered into by the authority or its designated subsidiary pursuant thereto, may, without limitation, also contain provisions as to:

(i) limitations with respect to the use and disposition of transit projects and with respect to any other transit facilities;

(ii) limitations on the issuance of additional bonds, notes, lease, sublease or other contractual obligations, the terms upon which they may be secured and the funding or refunding thereof;

(iii) with respect to bonds or notes, vesting in a trustee or trustees such property rights, powers and duties in trust as it may determine, which rights, powers and duties may include, but shall not be limited to, those set forth in section twelve hundred seven-h of this title;

(iv) defining the acts or omissions to act which shall constitute a default and providing rights and remedies in the event of default;

(v) any other matters, of like or different character, which in any way affect the security or protection of the metropolitan transportation authority or any lessor; and

(vi) consenting to the extending or assignment by the metropolitan transportation authority or by any lessor to the holders of any of its bonds, notes or lease obligations of all of the benefits and rights of the metropolitan transportation authority or of such lessor provided by any such agreement or other instrument.

(c) The term "revenues" as used in this subdivision shall include all those moneys referred to in section twelve hundred of this article, as well as all operating subsidies provided by any public benefit corporation or by any governmental entity, federal, state or local.

(d) The term "capitalized value" as used in this subdivision shall mean the present value of all future payments required under a lease, sublease and other such contractual obligation discounted at a rate of interest determined on the basis of the net interest cost of the last metropolitan transportation authority's special obligation bonds issued prior to the execution of any such lease, sublease or other contractual obligation or, if no such bonds have been issued, on the basis of the net interest cost of the last bonds issued by the Triborough bridge and tunnel authority, issued in payment for the transfer, lease or sublease of any such transit projects.

5. It is the intention hereof that, subject to such agreements with bondholders or noteholders as may then exist, any pledge of revenues or other moneys made by the authority or its subsidiaries shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority or its subsidiaries shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority or its subsidiaries irrespective of whether such parties have notice thereof. Neither the agreement nor any other instrument by which a pledge is created need be recorded.

6. So long as the authority or any of its subsidiaries shall have any outstanding and unpaid obligation in connection with a transit project, the authority and such subsidiaries shall have the power at all times to fix or adjust the rate or rates of fares, fees, rentals or other charges to be charged for the use of their transit facilities as may, together with all other lawfully available moneys, be necessary in their judgment to produce sufficient revenues to pay such obligations as the same become due, in addition to paying as the same shall become due expenses of operation of the transit facilities and satisfying all other obligations of the authority and such subsidiaries. No acts or activities taken or proposed to be taken by the authority pursuant to this subdivision shall be deemed to be "actions" for the purposes or within the meaning of article eight of the environmental conservation law.

7. (a) In connection with (i) the lease between the city and the authority dated June first, nineteen hundred fifty-three, and (ii) the lease between the city and the Manhattan and Bronx surface transit operating authority dated March twentieth, nineteen hundred sixty-two (such leases, as heretofore supplemented, amended or renewed, and the tenancies originally created thereby, being referred to in this section as "the existing leases"), the city, acting either by the mayor alone or by resolution of the board of estimate, or by instruments authorized by

such resolution, and the authority are authorized to enter into agreements for renewal or extension of the existing leases, or for new leases, for such terms of years and upon such other terms and conditions as the parties thereto shall agree and the metropolitan transportation authority shall approve, provided that under the terms thereof, the rights, privileges and obligations of the parties are not inconsistent with the provisions of, or in derogation of the powers of the authority all as provided in title nine of article five of this chapter, and provided further that such agreements shall in no way impair the rights or powers of the authority or the Manhattan and Bronx surface transit operating authority to fulfill the terms of any contract made by either of them with the holders of any of their then outstanding bonds or notes, and such agreements shall provide that such leases may not be terminated or permitted to expire or be amended in any way inconsistent with the provisions of any agreement, bond, note, lease, sublease or other contractual obligation given or made by either of them in connection with a transit project. Neither the provisions of section one hundred ninety-seven-c of the New York city charter, relating to a uniform land use review procedure, nor the provisions of any other local law of like or similar import shall apply to the renewal or extension of the existing leases or to the making of new leases as herein provided.

(b) Notwithstanding the provisions of any other law, general, special or local, or the provisions of the existing leases, if either of the agreements authorized by paragraph (a) above is not entered into, but a note, bond, lease, sublease or other contractual obligation for a transit project has been issued or entered into, then (i) no party to an existing lease may terminate the same, serve any notice of termination pursuant thereto, exercise any option to terminate reserved therein or permit the expiration thereof, (ii) the city shall not in any way limit or disturb any right of the tenant to use, occupy, control and possess any of the properties, facilities or revenues which are the subject of such existing lease, and (iii) the city shall not seek to enforce such existing lease in any way inconsistent with or contrary to the manner in which such existing lease had been administered prior to the enactment of this section or inconsistent with or contrary to the interests of the metropolitan transportation authority or any lessor under any agreement, notes, bonds, lease, sublease or other contractual obligations of the authority or any of its subsidiaries issued or entered into in connection with a transit project (and to the extent the provisions of such leases conflict at any time or in any manner with the provisions of any such note, bond, lease, sublease or other contractual obligation, the provisions of such note, bond, lease, sublease or other contractual obligation shall be controlling and conflicting provisions of the leases with the city shall be disregarded), unless prior thereto the city has satisfied all of such outstanding notes, bonds or other contractual obligations and provided for the termination of all such agreements, leases and subleases, all in accordance with their terms. If and to the extent moneys are paid by the city to the authority or its subsidiaries to satisfy their obligations to the metropolitan transportation authority under such instruments, the authority and such subsidiaries shall remit such moneys to the metropolitan transportation authority, which shall, in turn, apply the same to the satisfaction and termination of its own notes, bonds and leases issued or entered into in connection with a transit project in accordance with their terms.

(c) Upon termination or expiration of a new lease or of a renewed or extended existing lease as permitted in paragraph (a) of this subdivision, or upon satisfaction of the requirements of paragraph (b) of this subdivision, title to any real or personal property (or any interest therein) constituting all or any part of a transit project then vested in the authority or any of its subsidiaries or the metropolitan transportation authority pursuant to the provisions of this chapter shall be transferred without further consideration or payment to the city.

8. The state of New York does hereby pledge to and agree with the authority and its subsidiaries and the metropolitan transportation authority and the holders of bonds or notes or lease, sublease or other contractual obligations issued by any of them in connection with a transit project or in connection with the transfer of the interest of any of them in and the lease from the transferee of any property furnished to it pursuant to chapter twelve of the laws of nineteen hundred seventy-nine or section fifteen of chapter three hundred fourteen of the laws of nineteen hundred eighty-one, or in connection with any transaction entered into pursuant to the authorization of

paragraph (b) of subdivision two of this section, that the state will not limit or alter the denial of authority under subdivision eleven of this section, or the rights and powers vested in the authority and its subsidiaries by this title to fulfill the terms of any agreement made by any of them with the metropolitan transportation authority or with such holders, or in any way impair their rights and remedies until such agreements, bonds, notes, and obligations, together with the interest thereon and all costs and expenses in connection with any action or proceedings by or on behalf of the metropolitan transportation authority or such holders, are fully met and discharged. The authority and its subsidiaries are each authorized to include this pledge and the agreement of the state in any agreement with the holders of such bonds or notes or lease, sublease or other obligations and in any agreement with the metropolitan transportation authority relating to a transit project which may extend the same to the holders of its bonds, notes and lease obligations.

9. The provisions of this section and of all agreements undertaken by the authority or any of its subsidiaries in accordance therewith shall in all respects be subject to the rights of the holders of any outstanding bonds or notes of the authority and its subsidiaries.

10. In connection with the negotiation, award and implementation of contracts of the authority relating to transit projects, the provisions of paragraphs (a), (b), (c) and (d) of subdivision thirteen of section twelve hundred sixty-six-c of this article shall apply to the authority as if it were the "authority" referred to therein, and the officer designated by the metropolitan transportation authority pursuant to paragraph (e) of such subdivision shall perform the duties therein described with respect to such contracts of the authority.

11. So long as the authority or any of its subsidiaries, or metropolitan transportation authority, shall have outstanding any notes, bonds, lease, sublease or other contractual obligations authorized by this section or section twelve hundred sixty-six-c or twelve hundred sixty-nine of this article, or which have been issued or incurred in connection with the transfer of the interest of any of them in and the

lease from the transferee of any property furnished pursuant to chapter twelve of the laws of nineteen hundred seventy-nine or section fifteen of chapter three hundred fourteen of the laws of nineteen hundred eighty-one, neither the authority nor any of its subsidiaries shall have the authority to file a voluntary petition under chapter nine of the federal bankruptcy code, or such corresponding chapter, chapters, or sections as may, from time to time, be in effect, and neither any public officer nor any organization, entity or other person shall authorize the authority or any of its subsidiaries to be or become a debtor under said chapter nine or said corresponding chapter, chapters or sections during any such period.

12. A project financed by the authority's issuance of its bonds, notes or other obligations, pursuant to subdivision one-a of section twelve hundred seven-b of this title shall be deemed to constitute a transit project for the purposes of this section and any notes, bonds, lease, sublease or other contractual obligations with respect to such project shall, for purposes of this section, be deemed to have been authorized by this section; provided, however, that such project shall not be deemed to constitute part of any capital program plan for the purposes of section twelve hundred sixty-nine-b of this article nor shall the principal amounts of any bonds or notes, nor the capitalized value of any lease, sublease, or other contractual obligation of the authority, issued or entered into by the authority pursuant to such subdivision one-a, be included in any computation pursuant to subdivision four of this section.

§ 1208. Revenue and accounts. 1. The authority shall establish and maintain a system of accounts to show at all times the cost of the several classes of property used in operation and the sources of funds used in the acquisition of such property; the several classes of operating revenue and other income; maintenance expenses, interest, and all other charges. To the extent consistent with this title, such accounts shall be kept in accordance with the appropriate uniform system of accounts prescribed by the public service commission and shall be published monthly in the city record.

2. The moneys of the authority shall be deposited daily in banks to be designated by the authority. Deposits may be secured by obligations of or guaranteed by the United States, the state, or any municipal corporation of the state or in such other manner as the authority may provide, and all banks and trust companies are authorized to give such security for such deposits. The comptroller shall have the power from time to time, to examine the accounts, books and any other records or papers relating to the financial condition of the authority, which examination shall not preclude examination of such matters by any other authorized officer or body.

3. Payments or withdrawals of moneys of the authority shall be made by checks drawn and signed by a member or an officer of the authority, duly authorized by resolution of the board.

§ 1209. Contracts. 1. Any contract for public work, except where there is an emergency involving danger to life or property, the estimated cost of which exceeds twenty thousand dollars shall be made by the authority only upon public letting founded on sealed bids. Notice of the invitation for such bidding shall state the time and place of the receipt and opening of bids and shall be published once a week for two successive weeks in two of the daily newspapers published in the city, and in the city records. The authority may reject all such bids and readvertise for new bids if it shall deem it for the public interest so to do. If not, it shall award the contract to the lowest responsible bidder.

2. Any purchase contract, including but not limited to contracts for the purchase of equipment, materials or supplies, the estimated cost of which exceeds the sum of ten thousand dollars, shall be made by the authority only upon public letting founded on sealed bids, except in a case where the authority, by resolution, declares the existence of an emergency or the existence of other circumstances making competitive bidding impracticable or inappropriate, except in no instance other than in circumstances such as described in paragraph (g) hereof, shall the

authority declare that competitive bidding is inappropriate with respect to purchase contracts for omnibuses. In each instance when the authority declares competitive bidding inappropriate it shall state the reasons therefor. Competitive bidding may be declared inappropriate by the authority in instances (a) where the item to be purchased is available only from a single source; or (b) where professional engineering or architectural services are solicited; or (c) where only a single bid is received in response to an invitation for competitive bids; or (d) where the authority has chosen to standardize a component on the basis of compatibility or maintenance reliability; or (e) where the apparent low bidder is declared by the authority to be not qualified to perform the terms of the contract; or (f) where the authority wishes to experiment with or test a new product or technology or evaluate the service or reliability of a new source for a particular product or component; or (g) where the authority by a vote of two-thirds of its members then in office determines that its prior experience with a potential source or contractor has been such as to require, in the public interest, that such source or contractor not be considered eligible to bid and that after the elimination of said source or contractor from the bidding process there would effectively remain only a single source for the item to be purchased and the authority purchases the item from such source; or (h) where the authority by a two-thirds vote of its members determines, on the basis of its analysis of the competitive situation among potential sources for the item to be purchased, is such that it is in the public interest to encourage new sources of manufacture or supply by awarding a contract by negotiation and without competitive bidding. Notice of the invitation for such bidding shall state the time and place of the receipt and opening of bids and shall be published in the city record in five successive issues at least ten days preceding such opening. The authority may reject all such bids and readvertise for new bids if it shall deem it for the public interest so to do. If not, it shall award the contract to the lowest responsible bidder unless the authority, by unanimous vote, shall determine that it is for the public interest that a bid other than that of the lowest responsible bidder shall be accepted.

* 3. A contract for the purchase of rapid transit cars or components of rapid transit cars in furtherance or implementation of a capital

program plan approved pursuant to section twelve hundred sixty-nine-b of this article may also be awarded by the authority by negotiation without competitive bidding provided the following standards and procedures are complied with:

(a) The authority, by a vote of not less than eleven of its members, shall issue a notice of intention to negotiate for the purchase of rapid transit cars or components thereof. Such notice shall be published in at least one newspaper of general circulation, and a copy thereof shall be mailed to all known vendors of such cars or components. Such notice shall describe or identify the cars or particular components so to be purchased, the factors subject to negotiation, insofar as practicable prior to such negotiation, the form and content of the response, and any other matter which the authority deems relevant. The factors subject to negotiation shall include, but need not be limited to, financing, cost, delivery schedules, and performance of all or a portion of the contract at sites within the state of New York or using goods produced and services provided within the state of New York. Such notice shall require a respondent to submit as part of the response and in such detail as the authority may require, information relating to the experience of the respondent on the basis of which said respondent purports to be qualified to fulfill a contract relating to the subject matter and including the factors identified in the notice.

(b) The authority shall evaluate the responses to such notice, and shall negotiate with those respondents whose responses comply with all the requirements set forth in the notice, including the qualification requirements.

(c) A public hearing shall be held by the authority upon not less than fifteen days notice. Such notice shall state the purpose of the hearing, and shall be published in at least one newspaper of general circulation and shall be mailed to all vendors from whom offers to negotiate were received. At such hearing, summaries of all offers received and of all negotiations shall be presented. Public comment shall be heard with respect to such offers and negotiations after which the authority by a vote of not less than eleven of its members, shall resolve, on the basis of particularized findings relevant to the factors negotiated, that the award of the contract on the basis of negotiation for the purchase of rapid transit cars or any components thereof will result in savings or other benefits to the authority, and that such award is in the public interest.

As soon as practicable after the adoption of such resolution, the authority shall file such resolution and the contract which is the subject thereof with the New York State Public Authorities Control Board, created by section fifty of this chapter, and with the individual members thereof, and no such contract shall be awarded by the authority if within fifteen days following such filing the Public Authorities Control Board has disapproved the award of such contract. Provided if the contract is not approved by the board within the fifteen day period and no individual member of the board has certified to the authority in writing of his disapproval within such period, the contract shall be deemed to have been approved.

(d) Except with respect to a contract to be awarded pursuant to paragraph (i) of subdivision two of this section, the notice provided in paragraph (c) of this subdivision shall not be issued until forty-five days after issuance of the notice of intention to negotiate referred to in paragraph (a) of this subdivision.

* NB Expired December 31, 1982

4. Notwithstanding the provisions of subdivision two of this section, a contract for the purchase of omnibuses or components of omnibuses in furtherance or implementation of a capital program plan approved pursuant to section twelve hundred sixty-nine-b of this article may also be awarded by the authority by negotiation without competitive bidding provided the following standards and procedures are complied with:

(a) The authority, by a vote of not less than two-thirds of its members then in office, shall issue a notice of intention to solicit competitive offerings to furnish omnibuses or components thereof, and to negotiate the conditions of a final purchase award. Such notice shall be published in at least one newspaper of general circulation, and a copy thereof shall be mailed to all known vendors of such omnibuses or components. Such notice shall describe or identify the omnibuses or particular components so to be purchased, the factors subject to negotiation, insofar as practicable prior to such negotiation, the form and content of the response, and any other matter which the authority deems relevant. The factors subject to negotiation shall include, but need not be limited to, financing, cost, delivery schedules, and performance of all or a portion of the contract at sites within the state of New York or using goods produced and services provided with the state of New York. Such notice shall require a respondent to submit as part of the response and in such detail as the authority may require, information relating to the experience of the respondent on the basis of which said respondent purports to be qualified to fulfill a contract relating to the subject matter and including the factors identified in the notice.

(b) The authority shall evaluate the responses to such notice, and shall negotiate with those respondents whose responses comply with all the requirements set forth in the notice, including the qualification requirements.

(c) A public hearing shall be held by the authority upon not less than fifteen days notice. Such notice shall state the purpose of the hearing, and shall be published in at least one newspaper of general circulation and shall be mailed to all vendors from whom offers to negotiate were received. At such hearing, summaries of all final offers received and of all negotiations shall be presented. Public comment shall be heard with respect to such offers and negotiations after which the authority by a vote of not less than eleven of its members, shall resolve, on the basis of particularized findings relevant to the factors negotiated, that the award of the contract on the basis of negotiation for the purchase of omnibuses or any components thereof will result in savings or other benefits to the authority, and that such award is in the public interest.

In no event, however, shall the authority award a contract for omnibuses to a manufacturer whose final offer, as expressed in unit cost per omnibus, is more than ten per cent higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York or the use of goods produced or services provided within the state of New York. Provided, however, the authority's directors to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle cost, reliability, or any other factor the authority deems relevant to its operation.

As soon as practicable after the adoption of such resolution, the authority shall file such resolution and the contract which is the subject thereof with the New York state public authorities control board, created by section fifty of this chapter, and with the individual members thereof. The authority shall provide the public authorities control board with any information concerning the decision to award the contract as such board may request, including, but not limited to financing, delivery schedule, life cycle cost, and reliability of the omnibus offers made by all manufacturers competing for the award. No such contract shall be awarded by the authority if within fifteen days following such filing the public authorities control board has disapproved the award of such contract; provided, however, if the contract is not approved by the board within the fifteen day period and no individual member of the board has certified to the authority in writing of his disapproval within such period, the contract shall be deemed to have been approved.

(d) The notice provided in paragraph (c) of this subdivision shall not be issued until forty-five days after issuance of the notice of intention to negotiate referred to in paragraph (a) of this subdivision.

5. (a) Notwithstanding that funds of the authority may be used therefor, a contract for all or a portion of work involving the alteration, expansion or rehabilitation of a passenger station may be awarded by the authority, by negotiation without competitive bidding, to a private entity or the designee of a private entity where the authority by vote of not less than eleven of its members approves written findings that such award is expected to permit the alteration, expansion or rehabilitation to be carried out in the most efficient and cost effective manner, that such private entity has agreed to pay at least one million dollars toward the cost of the work, that such payment represents not less than fifty percent of the total cost of the work, and that the authority has complied with the procedures provided in paragraph (b) of this subdivision. Notwithstanding the foregoing, a

contract for all or a portion of work involving the alteration, expansion or rehabilitation of the passenger station located at the western terminus of the forty-second street shuttle may be awarded by the authority, by negotiation without competitive bidding, to a private entity or the designee of a private entity where the authority by vote of not less than eleven of its members approves written findings that such award is expected to permit the alteration, expansion or rehabilitation to be carried out in the most efficient and cost effective manner, and that the authority has complied with the procedures provided in paragraph (b) of this subdivision.

(b) Not less than fifteen days prior to the consideration by the board of the authority of a contract to be let pursuant to this subdivision, a notice shall be published in at least one newspaper of general circulation. Such notice shall identify the parties to the proposed contract and summarize its terms and conditions. Such notice shall also invite written public comment concerning the proposed contract, including, to the extent appropriate, the submission of alternatives for the authority's consideration. Such information shall be considered by the board of authority prior to the approval of any contract proposed to be awarded pursuant to this subdivision.

(c) Any contract entered into pursuant to this subdivision shall comply with the requirements of subdivision thirteen of section twelve hundred sixty-six-c of this article.

6. The provisions of subdivisions one, two, three and four of this section shall not be applicable to any procurement by the authority commenced during the period from the effective date of this subdivision until December thirty-first, nineteen hundred ninety-one or during the period from December sixteenth, nineteen hundred ninety-three until June thirtieth, two thousand twenty-eight; and the provisions of subdivisions seven, eight, nine, ten, eleven, twelve and thirteen of this section shall only apply to procurements by the authority commenced during such periods. The provisions of such subdivisions one, two, three and four shall apply to procurements by the authority commenced during the period from December thirty-first, nineteen hundred ninety-one until December sixteenth, nineteen hundred ninety-three, and to procurements by the authority commenced on and after July first, two thousand twenty-eight.

Notwithstanding the foregoing, the provisions of such subdivisions one, two, three and four shall apply to (i) the award of any contract of the authority if the bid documents for such contract so provide and such bid documents are issued within sixty days of the effective date of this subdivision or within sixty days of December sixteenth, nineteen hundred ninety-three, or (ii) for a period of one hundred eighty days after the effective date of this subdivision, or for a period of one hundred eighty days after December sixteenth, nineteen hundred ninety-three, the award of any contract for which an invitation to bid, solicitation, request for proposal, or any similar document has been issued by the authority prior to the effective date of this subdivision or during the period from January first, nineteen hundred ninety-two until December fifteenth, nineteen hundred ninety-three.

* 7. (a) Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of one million dollars and all contracts for public work involving an estimated expenditure in excess of one million dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth. The aforesaid shall not apply to contracts for personal, architectural, engineering or other professional services. The authority may reject all bids and obtain new bids in the manner provided by this section when it is deemed in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such bidders or obtain new bids from such bidders. Nothing in this paragraph shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, and inspection services so long as the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

(b) Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided that (i) a contract for services in the actual or estimated amount of one million dollars or less shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for services in the actual or estimated amount in excess of one million dollars shall require approval by the board of the authority regardless of the length of the period over which the services are rendered unless such a contract is awarded to the lowest responsible bidder after obtaining sealed bids and (ii) the board of the authority may by resolution adopt guidelines that authorize the award of contracts to small business concerns, to service disabled veteran owned businesses certified pursuant to article seventeen-B of the executive law, or minority or women-owned business enterprises certified pursuant to article fifteen-A of the executive law, or purchases of goods or technology that are recycled or remanufactured, in an amount not to exceed one million five hundred thousand dollars without a formal competitive process and without further board approval. The board of the authority shall adopt guidelines which shall be made publicly available for the awarding of such contract without a formal competitive process.

* NB Effective until June 30, 2028

* 7. (a) Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of fifteen thousand dollars and all contracts for public work involving an estimated expenditure in excess of twenty-five thousand dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth. The aforesaid shall not apply to contracts for personal, architectural, engineering or other professional services. The authority may reject all bids and obtain new bids in the manner provided by this section when it is deemed in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such bidders or obtain new bids from such bidders. Nothing herein shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, and inspection services so long as

the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

(b) Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided that a contract for personal services in the actual or estimated amount of less than twenty thousand dollars shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for personal services in the actual or estimated amount of twenty thousand dollars or more shall require approval by the board of the authority regardless of the length of the period over which the services are rendered.

* NB Effective June 30, 2028

8. (a) Advertisement for bids, when required by this section, shall be published at least once in a newspaper of general circulation in the area served by the authority and in the procurement opportunities newsletter published pursuant to article four-C of the economic development law provided that, notwithstanding the provisions of article four-C of the economic development law, an advertisement shall only be required when required by this section. Publication in a newspaper of general circulation in the area served or in the procurement opportunities newsletter shall not be required if bids for contracts for supplies, materials or equipment are of a type regularly purchased by the authority and are to be solicited from a list of potential suppliers, if such list is or has been developed consistent with the provisions of subdivision eleven of this section. Any such advertisement shall contain a statement of: (i) the time and place where bids received pursuant to any notice requesting sealed bids will be publicly opened and read; (ii) the name of the contracting agency; (iii) the contract identification number; (iv) a brief description of the public work, supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term; (v) the address where bids or proposals are to be

submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement; (ix) any other information deemed useful to potential contractors; and (x) the name, address, and telephone number of the person to be contacted for additional information. At least fifteen business days shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids.

(b) The authority may designate any officer or employee to open the bids at the time and place bids are to be opened and may designate an officer to award the contract to the lowest responsible bidder. Such designee shall make a record of all bids in such form and detail as the authority shall prescribe. All bids received shall be publicly opened and read at the time, place and in the manner specified in the advertisement or specified at the time of solicitation, or to which the opening and reading or posting have been adjourned by the authority, provided that any sealed bid may be received and secured through an electronic platform as permitted by the authority, and that any sealed bid received electronically is made public at the same time as any competing paper bid. The authority shall, at minimum, provide the same opportunity and time for submitting sealed bids physically as for sealed bids submitted electronically, and shall provide the opportunity for bidders to submit sealed bids physically any time that it provides the opportunity to submit sealed electronic bids. In addition, the authority shall establish a process for accommodating force majeure events that prevent the submission of a sealed electronic bid, including but not limited to internet and power outage events, and for automatically confirming receipt of any sealed electronic bid received. All bidders shall be notified of the time and place of any such adjournment.

9. Notwithstanding the foregoing, the authority may, by resolution approved by a two-thirds vote of its members then in office or by a majority vote of its members with respect to contracts proposed to be let pursuant to paragraph (a) of this subdivision, declare that competitive bidding is impractical or inappropriate because of the

existence of any of the circumstances hereinafter set forth and thereafter the authority may proceed to award contracts without complying with the requirements of subdivision seven or eight of this section. In each case where the authority declares competitive bidding impractical or inappropriate, it shall state the reason therefor in writing and summarize any negotiations that have been conducted. Except for contracts awarded pursuant to paragraphs (a), (b), (c) and (e) of this subdivision, the authority shall not award any contract pursuant to this subdivision earlier than thirty days from the date on which the authority declares that competitive bidding is impractical or inappropriate. Competitive bidding may only be declared impractical or inappropriate where: (a) the existence of an emergency involving danger to life, safety or property requires immediate action and cannot await competitive bidding or the item to be purchased is essential to efficient operation or the adequate provision of service and as a consequence of an unforeseen circumstance such purchase cannot await competitive bidding;

(b) the item to be purchased is available only from a single responsible source, provided that if bids have not been solicited for such item pursuant to subdivision seven of this section within the preceding twelve months, public notice shall first be given pursuant to subdivision eight of this section;

(c) the authority receives no responsive bids or only a single responsive bid in response to an invitation for competitive bids;

(d) the authority wishes to experiment with or test a product or technology or new source for such product or technology or evaluate the service or reliability of such product or technology;

(e) the item is available through an existing contract between a vendor and (i) another public authority provided that such other authority utilized a process of competitive bidding or a process of competitive requests for proposals to award such contract, (ii) the United States general services administration provided that such administration utilized a process of competitive bidding or a process of competitive requests for proposals to award such contract, (iii) Nassau county or (iv) the state of New York or the city of New York, provided that in any case when the authority under this paragraph determines that obtaining such item thereby would be in the public interest and sets forth the reasons for such determination. Such rationale shall include, but need not be limited to, a determination of need, a consideration of the procurement method by which the contract was awarded, an analysis of alternative procurement sources including an explanation why a competitive procurement or the use of a centralized contract let by the commissioner of the office of general services is not in the best interest of the authority, and the reasonableness of cost. The authority shall accept sole responsibility for any payment due the vendor as a result of the authority's order; or

(f) the authority determines that it is in the public interest to award contracts pursuant to a process for competitive request for proposals as hereinafter set forth. For purposes of this section, a process for competitive request for proposals shall mean a method of soliciting proposals and awarding a contract on the basis of a formal evaluation of the characteristics, such as quality, cost, delivery schedule and financing of such proposals against stated selection criteria. Public notice of the requests for proposals shall be given in the same manner as provided in subdivision eight of this section and shall include the selection criteria. In the event the authority makes a material change in the selection criteria from those previously stated in the notice, it will inform all proposers of such change and permit proposers to modify their proposals.

* (i) Except for a contract with a value of one hundred million dollars or less that is awarded pursuant to this paragraph to the proposer whose proposal is the lowest cost, the authority may award a contract pursuant to this paragraph only after a resolution approved by a two-thirds vote of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made provided however that for purposes of this subparagraph the board may, at its discretion, require such a resolution be approved for contracts with a value of one hundred million dollars or less.

* NB Effective until June 30, 2028

* (i) The authority may award a contract pursuant to this paragraph

only after a resolution approved by a two-thirds vote of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

* NB Effective June 30, 2028

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals, or (B) the rejection of any or all proposals at any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

(g) the authority issues a competitive request for proposals pursuant to the procedures of paragraph (f) of this subdivision for the purchase or rehabilitation of rapid transit cars and omnibuses. Any such request may include among the stated selection criteria the performance of all or a portion of the contract at sites within the state of New York or the use of goods produced or services provided within the state of New York, provided however that in no event shall the authority award a contract to a manufacturer whose final offer, as expressed in unit cost is more than ten percent higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York or the use of goods produced or services provided within the state of New York, and further provided that the authority's discretion to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle, reliability, or any other factor the authority deems relevant to its operations.

* (i) Except for a contract with a value of one hundred million dollars or less that is awarded pursuant to this paragraph to the proposer whose proposal is the lowest cost, the authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of not less than two-thirds of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing

the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made provided however that for purposes of this subparagraph the board may, at its discretion, require such a resolution be approved for contracts with a value of one hundred million dollars or less.

* NB Effective until June 30, 2028

* (i) The authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of not less than two-thirds of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

* NB Effective June 30, 2028

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals, or (B) the rejection of any or all proposals at any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

10. Upon the adoption of a resolution by the authority stating, for reasons of efficiency, economy, compatibility or maintenance reliability, that there is a need for standardization, the authority may establish procedures whereby particular supplies, materials or equipment are identified on a qualified products list. Such procedures shall provide for products or vendors to be added to or deleted from such list and shall include provisions for public advertisement of the manner in which such lists are compiled. The authority shall review such list no less than once a year for the purpose of making modifications thereto. Contracts for particular supplies, materials or equipment identified on a qualified products list may be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in accordance with this section or without competitive sealed bids in instances when the item is available from only a single source, except that the authority may dispense with advertising provided that it mails copies of the

invitation to bid to all vendors of the particular item on the qualified products list.

11. The authority shall compile a list of potential sources of supplies, materials or equipment regularly purchased. The authority shall, by resolution, set forth the procedures it has established to identify new sources and to notify such new sources of the opportunity to bid for contracts for the purchase of supplies, materials or equipment. Such procedures shall include, but not be limited to: (a) advertising in trade journals; (b) cooperation with federal, state and local agencies within its area of operations; (c) publication in the state register quarterly; and (d) procedures established pursuant to subdivision thirteen of section twelve hundred sixty-six-c of this article.

12. The provisions of this section shall not supersede any other provisions of law relative to purchases of products or devices manufactured or provided by the blind or other severely handicapped persons, to the invitation and acceptance of bids from small or minority business enterprises or to the purchases of supplies, materials or equipment through the office of general services. Except as may otherwise be provided by law or as more restrictively defined in the official policy or bid specifications of the authority, the term "small business" means a small business or similar term, under federal regulations applicable to projects of the authority which are federally assisted.

* 13. Notwithstanding any other provisions in this section, the authority shall be allowed to use an electronic bidding system for the purchase of goods, materials, and commodities that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure of bids in violation of section twenty-eight hundred seventy-eight of this chapter.

* NB Effective until June 30, 2028

* 13. The provisions of this section shall not apply to any procurement made by any other public entity not otherwise required by law to award contracts for such purchases to the lowest responsible

bidder if such purchases are made at the sole cost and expense of such entity.

* NB Effective June 30, 2028

* 14. The provisions of this section shall not apply to any procurement made by any other public entity not otherwise required by law to award contracts for such purchases to the lowest responsible bidder if such purchases are made at the sole cost and expense of such entity.

* NB Repealed June 30, 2028

15. (a) Whenever the comptroller pursuant to section twenty-eight hundred seventy-nine-a of this chapter intends to require supervision in the form of prior review and approval of a contract or contract amendment to be awarded by the authority pursuant to this section, then such contract or contract amendment shall be submitted to the comptroller by the authority for approval and shall not be a valid enforceable contract unless it shall first have been approved by the comptroller but only if the comptroller has notified the authority of such determination within thirty days of having received written notice of such contract or contract amendment either in the authority's annual report or any revised report;

(b) If the comptroller has timely notified the authority as provided in paragraph (a) of this subdivision that any contract or contract amendment shall be subject to comptroller prior review and approval, and such contract or contract amendment has been submitted to the comptroller, it shall become valid and enforceable without such approval if the comptroller has not approved or disapproved it within thirty days of submission to the comptroller.

§ 1209-a. Transit adjudication bureau. 1. Establishment. There is hereby created in the authority a transit adjudication bureau. The head of such bureau shall be the executive director, who shall be appointed by the president of the authority. The executive director may delegate the powers and duties conferred upon the executive director by this section to such qualified officers and employees of the bureau as he may designate.

2. Hearing officers. The president of the authority shall appoint hearing officers who shall preside at hearings for the adjudication of charges of transit or railroad infractions, as hereinafter defined and the adjudication of allegations of liability for violations of the rules and regulations of the triborough bridge and tunnel authority in accordance with section two thousand nine hundred eighty-five of this chapter, and who, as provided below, may be designated to serve on the appeals board of the bureau. Every hearing officer shall have been admitted to the practice of law in this state for a period of at least three years, and shall be compensated for their services on a per diem basis determined by the bureau.

3. Jurisdiction. The bureau shall have, with respect to acts or incidents in or on the transit or railroad facilities of the authority or the metropolitan transportation authority or a subsidiary thereof committed by or involving persons who are sixteen years of age or over, and with respect to violation of toll collection regulations of the triborough bridge and tunnel authority as described in section twenty-nine hundred eighty-five of this chapter, non-exclusive jurisdiction over violations of: (a) the rules which may from time to time be established by the authority under subdivision five-a of section twelve hundred four of this chapter; (b) article one hundred thirty-nine of the health code of the city of New York, as it may be amended from time to time, relating to public transportation facilities; (c) article four of the noise control code of the city of New York, as it may be amended from time to time, insofar as it pertains to sound reproduction devices; (d) the rules and regulations which may from time to time be established by the triborough bridge and tunnel authority in accordance with the provisions of section twenty-nine hundred eighty-five of this chapter; and (e) rules and regulations which may from time to time be established by the metropolitan transportation authority or a subsidiary thereof in accordance with the provisions of section twelve hundred sixty-six of this chapter. Matters within the jurisdiction of the bureau except violations of the rules and regulations of the triborough bridge and tunnel authority shall be known for purposes of this section as transit or railroad infractions, as applicable. Nothing herein shall be

construed to divest jurisdiction from any court now having jurisdiction over any criminal charge or traffic infraction relating to any act committed in a transit or toll facility, or to impair the ability of a police officer to conduct a lawful search of a person in a transit or railroad facility. The criminal court of the city of New York shall continue to have jurisdiction over any criminal charge or traffic infraction brought for violation of the rules of the authority, the triborough bridge and tunnel authority or the metropolitan transportation authority or a subsidiary thereof, as well as jurisdiction relating to any act which may constitute a crime or an offense under any law of the state of New York or any municipality or political subdivision thereof and which may also constitute a violation of such rules. The bureau shall have concurrent jurisdiction with the environmental control board and the administrative tribunal of the department of health over the aforesaid provisions of the health code and noise control code of the city of New York.

4. General powers. The bureau shall have the following functions, powers and duties:

a. To accept pleas (whether made in person or by mail) to, and to hear and determine, charges of transit and railroad infractions and allegations of civil liability pursuant to section two thousand nine hundred eighty-five of this chapter within its jurisdiction;

b. To impose civil penalties and to issue warnings for any transit or railroad infraction within its jurisdiction, in accordance with a penalty schedule established by the authority or the metropolitan transportation authority or a subsidiary thereof, as applicable, and the conditions set forth in subdivisions eleven and twelve of this section and subdivision four of section twelve hundred sixty-six of this article, except that penalties for violations of the health code of the city of New York shall be in accordance with the penalties established for such violations by the board of health of the city of New York, and penalties for violations of the noise code of the city of New York shall be in accordance with the penalties established for such violations by law, and civil penalties for violations of the rules and regulations of the triborough bridge and tunnel authority shall be in accordance with the penalties established for such violations by section twenty-nine hundred eighty-five of this chapter;

c. In its sole discretion, to suspend or forgive penalties or any portion of penalties imposed on the condition that the respondent voluntarily agrees to perform and actually does satisfactorily perform unpaid services on transit or railroad facilities as assigned by the authority, such as, without limitation, cleaning of rolling stock;

d. To adopt, amend and rescind rules and regulations not inconsistent with any applicable provision of law to carry out the purposes of this section, including but not limited to rules and regulations prescribing the internal procedures and organization of the bureau, the manner and time of entering pleas, the conduct of hearings, and the amount and manner of payment of penalties;

e. To enter judgments and enforce them, without court proceedings, in the same manner as the enforcement of money judgments in civil actions, as provided below;

f. To compile and maintain complete and accurate records relating to all warnings, charges and dispositions, which records shall be deemed exempt from disclosure under the freedom of information law as records compiled for law enforcement purposes, and provided that, in the absence of an additional violation, records of a warning issued to an individual in accordance with paragraph a of subdivision eleven of this section shall be sealed or expunged as of the date that is four years after the date that such warning was issued;

g. To apply to a court of competent jurisdiction for enforcement of any decision or order issued by such bureau or of any subpoena issued by a hearing officer as provided in paragraph d of subdivision seven of this section;

h. To enter into contracts with other government agencies, with private organizations, or with individuals to undertake on its behalf such functions as data processing, debt collections, mailing, and general administration, as the executive director deems appropriate, except that the conduct by hearing officers of hearings and of appeals may not be performed by outside contractors, and that biometric identifying technology, including but not limited to facial recognition technology, may not be used or arranged for use by outside contractors to enforce or process transit and railroad infractions relating to the payment of fares;

i. To accept payment of penalties and to remit same to the authority or the metropolitan transportation authority or a subsidiary thereof, as applicable; and

j. To adjudicate the liability of motor vehicle owners for violations of rules and regulations established in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter.

5. Notices of violation. The bureau shall prepare and distribute notices of violation in blank to the transit police and any other person empowered by law, rule and regulation to serve such notices. The form and wording of the notice of violation shall be prescribed by the executive director, and it may be the same as any other notice of violation or summons form already in use if said form meets the requirements hereof. The notice of violation may include provisions to record information which will facilitate the identification and location of respondents, including but not limited to name, address, telephone numbers, date of birth, social security number if otherwise permitted by law, place of employment or school, and name and address of parents or guardian if a minor. Notices of violation shall be issued only to persons who are sixteen years of age or over, and shall be served by delivering the notice within the state to the person to be served. A copy of each notice of violation served hereunder shall be filed and retained by said bureau, and shall be deemed a record kept in the ordinary course of business, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein. Said notice of violation shall contain information advising the person charged of the manner and the time within which such person may either admit or deny

the offense charged in the notice. Such notice of violation shall also contain a warning to advise the person charged that failure to plead in the manner and within the time stated in the notice may result in a default decision and order being entered against such person, and the imposition of supplemental penalties as provided in subdivision five-a of section twelve hundred four or subdivision four of section twelve hundred sixty-six of this chapter. A notice of violation shall not be deemed to be a notice of liability issued pursuant to section two thousand nine hundred eighty-five of this chapter.

6. Defaults. Where a respondent has failed to plead to a notice of violation or to a notice of liability issued pursuant to section two thousand nine hundred eighty-five of this chapter within the time allowed by the rules of said bureau or has failed to appear on a designated hearing date or a subsequent date following an adjournment, such failure to plead or appear shall be deemed, for all purposes, to be an admission of liability and shall be grounds for rendering a default decision and order imposing a penalty in such amount as may be prescribed by the authority or the metropolitan transportation authority or a subsidiary thereof.

7. Hearings. a. (1) A person charged with a transit or railroad infraction returnable to the bureau or a person alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter who contests such allegation shall be advised of the date on or by which such person must appear to answer the charge at a hearing. Notification of such hearing date shall be given either in the notice of violation or in a form, the content of which shall be prescribed by the executive director or in a manner prescribed in section two thousand nine hundred eighty-five of this chapter. Any such notification shall contain a warning to advise the person charged that failure to appear on or by the date designated, or any subsequent rescheduled or adjourned date, shall be deemed for all purposes, an admission of liability, and that a default judgment may be rendered and penalties may be imposed. Where notification is given in a manner other than in the notice of violation, the bureau shall deliver such notice to the person charged, either personally or by registered or certified

mail.

(2) Whenever a person charged with a transit or railroad infraction or alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter returnable to the bureau requests an alternate hearing date and is not then in default as defined in subdivision six of this section, the bureau shall advise such person personally, or by registered or certified mail, of the alternate hearing date on or by which such person must appear to answer the charge or allegation at a hearing. The form and content of such notice of hearing shall be prescribed by the executive director, and shall contain a warning to advise the person charged or alleged to be liable that failure to appear on or by the alternate designated hearing date, or any subsequent rescheduled or adjourned date, shall be deemed for all purposes an admission of liability, and that a default judgment may be rendered and penalties may be imposed.

(3) Whenever a person charged with a transit or railroad infraction or alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter returnable to the bureau appears at a hearing and obtains an adjournment of the hearing pursuant to the rules of the bureau, the bureau shall advise such person personally, or by registered or certified mail, of the adjourned date on which such person must appear to answer the charge or allegation at a continued hearing. The form and content of such notice of a continued hearing shall be prescribed by the executive director, and shall contain a warning to advise the person charged or alleged to be liable that failure to appear on the adjourned hearing date shall be deemed for all purposes an admission of liability, and that a default judgment may be rendered and penalties may be imposed.

b. Every hearing for the adjudication of a charge of a transit or railroad infraction or an allegation of liability under section two thousand nine hundred eighty-five of this chapter hereunder shall be held before a hearing officer in accordance with the rules and regulations promulgated by the bureau.

c. The hearing officer shall not be bound by the rules of evidence in the conduct of the hearing, except rules relating to privileged communications.

d. The hearing officer may, in their discretion, or at the request of the person charged or alleged to be liable on a showing of good cause and need therefor, issue subpoenas to compel the appearance of any person to give testimony, and issue subpoenas duces tecum to compel the production for examination or introduction into evidence of any book, paper or other thing relevant to the charges.

e. In the case of a refusal to obey a subpoena, the bureau may make application to the supreme court pursuant to section twenty-three hundred eight of the civil practice law and rules, for an order requiring such appearance, testimony or production of materials.

f. The bureau shall make and maintain a sound recording or other record of every hearing.

g. After due consideration of the evidence and arguments, the hearing officer shall determine whether the charges or allegations have been established. No charge may be established except upon proof by clear and convincing evidence except allegations of civil liability for violations of triborough bridge and tunnel authority rules and regulations will be established in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter. Where the charges have not been established, an order dismissing the charges or allegations shall be entered. Where a determination is made that a charge or allegation has been established or if an answer admitting the charge or allegation has been received, the hearing officer shall set a penalty in accordance with the penalty schedule established by the authority or the metropolitan transportation authority or its subsidiaries, or for allegations of civil liability in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter and an appropriate order shall be entered in the records of the bureau. The respondent shall be given notice of such entry in person or by certified mail. This order shall constitute the final determination of the hearing officer, and for purposes of review it shall be deemed to incorporate any intermediate determinations made by said officer in the course of the proceeding. When no appeal is filed this order shall be the final order of the bureau.

8. Administrative and judicial review. a. There shall be appeals boards within the bureau which shall consist of three or more hearing officers, as the executive director shall determine. The executive director shall select a chairman for each appeals board from the members so appointed. No hearing officer may sit on an appeals board considering an appeal from a determination made by said hearing officer.

b. A party aggrieved by a final determination of a hearing officer may obtain a review thereof by serving upon the bureau, within thirty days of the bureau's service of its notice of entry of such order a notice of appeal setting forth the reasons why the determination should be reversed or modified. There shall be no interlocutory appeals.

c. An appeal from a final determination of a hearing officer shall be submitted to the appeals board, which shall have power to review the facts and the law, but shall not consider any evidence which was not presented to the hearing officer, and shall have power to reverse or modify any judgment appealed from for error of fact or law.

d. Appeals shall be made without the appearance of the appellant and appellant's attorney unless the presence of either or both are requested by the appellant, appellant's attorney, appellant's parent or guardian if appellant is a minor, or the appeals board. Within twenty days after a request for an appearance, made by or for the appellant, appellant's attorney or the board, the bureau shall advise the appellant, either personally or by registered or certified mail, of the date on which he or she shall appear. The appellant shall be notified in writing of the decision of the appeals board.

e. A party may request and obtain a record of the proceedings resulting in a determination for which an appeal is sought, but the party shall pay to the bureau the cost of providing such record. When a record is timely requested for the purpose of preparing an appeal, the bureau shall not thereafter cause the appeal to be heard or submitted less than ten days after the delivery or mailing of the record to appellant or appellant's attorney.

f. The service of a notice of appeal shall not stay the enforcement of an order appealed from unless the appellant shall have posted a bond in, or shall have paid, the amount of penalties imposed in the order appealed from within the time period established by rule of the bureau for payment of penalties following entry of such an order.

g. No determination of a hearing officer which is appealable under the provisions of this section shall be reviewed in any court unless an appeal has been filed and determined in accordance with this subdivision. When an appeal has been filed, the order of the appeals board shall be the final order of the bureau. Judicial review may be sought pursuant to article seventy-eight of the civil practice law and rules.

9. Enforcement of judgments. a. The bureau shall have the power to enforce its final decisions and orders imposing civil penalties for violations of laws, rules and regulations enforced by it as if they were money judgments, without court proceedings, in the manner described herein.

b. Any final order of the bureau imposing a civil penalty, whether the adjudication was had by hearing or upon default or otherwise, shall constitute a judgment rendered by the bureau which may be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state, and, provided that no proceeding for judicial review shall then be pending, may be enforced without court proceedings in the same manner as the enforcement of money judgments entered in civil actions. A final order against any person or persons shall be a bar to the criminal prosecution of, and in the case of a minor, juvenile offender proceedings against, said person or persons for conduct upon which the order was based.

c. Notwithstanding the foregoing provisions: (1) Before a judgment based upon a default may be so entered the bureau must have attempted to notify the respondent by first class mail, in such form as the bureau may direct: (i) of the default decision and order and the penalty imposed; (ii) that a judgment will be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state; and (iii) the entry of such judgments may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of the bureau within thirty days of the mailing of such notice.

(2) Upon receipt by the bureau of a copy of an order to show cause in lieu of a notice of petition, or of a notice of petition, served upon it in a proceeding for judicial review of any final order of the bureau which constitutes a judgment which may be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state, the bureau shall forthwith serve by first-class mail the attorney for the petitioner in such proceeding, or if the petitioner has initiated the proceeding pro se, the petitioner, with a notice stating whether or not a judgment was entered in any such court or other place provided for the entry of civil judgments within the state prior to the pendency of such proceeding for judicial review. If a judgment was so entered, such notice from the bureau also shall contain: (i) the name and address of the court or other place in which the judgment was entered, and (ii) identification of the judgment book, index number, docket number, date of entry, other information or combination of the foregoing, sufficient for the petitioner's attorney in such proceeding, or for the petitioner pro se, to locate such entry of judgment according to the indexing system utilized by the court or other place in which the judgment was entered. Proof of service of such notice from the bureau shall be filed by the bureau with the court in which the proceeding for judicial review is pending at the same time as the filing with the court of the bureau's first legal papers in such proceeding. The court in which the proceeding for judicial review is pending shall not accept for filing the bureau's first legal papers in such proceeding unless such legal papers are accompanied by such proof of service.

10. Funds. All penalties collected pursuant to the provisions of this section shall be paid to the authority to the credit of a transit crime

fund which the authority shall establish. Any sums in this fund shall be used to pay for programs selected by the board of the metropolitan transportation authority, in its discretion, to reduce the incidence of crimes and infractions on transit and railroad facilities, or to improve the enforcement of laws against such crimes and infractions. Such funds shall be in addition to and not in substitution for any funds provided by the state or any political subdivision within the metropolitan commuter transportation district as established by section twelve hundred sixty-two of this article for such purposes.

11. Civil penalties relating to payment of transit fare violations. Civil penalties imposed by the bureau in connection with a violation by a respondent of the rules of the authority or the MTA bus company relating to the payment of fares shall adhere to the following conditions:

a. A violation that is the first such violation by a respondent committed in any four year period shall, absent exceptional circumstances including a concurrent violation or violations by such individual of the penal law or the rules of conduct of the New York city transit authority or the MTA bus company which causes or may tend to cause harm to oneself or to any other person, or to the safe operation of the transit system, be punishable only by an official written warning issued according to and governed by the rules of the authority in all respects; provided that such warning shall not be used for any purpose other than as a predicate to the imposition by the transit adjudication bureau of a civil penalty on such respondent pursuant to this subdivision in the event of a subsequent violation, and provided further that such information shall not be open to the public, nor subject to civil or criminal process or discovery, nor used by any court or administrative or adjudicatory body in any action or proceeding therein except that which is necessary for the adjudication of the notice of violation pursuant to this subdivision or for inspection and copying and use by the respondent.

b. A penalty for a violation that is the second such violation by a respondent committed in any four year period shall not exceed one hundred dollars (exclusive of supplemental penalties, interest or costs assessed thereon). Upon payment by such respondent of the penalty in full by the date due for such payment, absent exceptional circumstances as set forth in paragraph a of this subdivision, the bureau shall issue a farecard to the respondent for use on transit facilities in an amount not to exceed one-half of the penalty amount.

c. A penalty for a violation that is the third or subsequent such violation by a respondent committed in any four year period shall not exceed one hundred fifty dollars (exclusive of supplemental penalties, interest or costs assessed thereon).

d. In the case of a violation by a respondent who at the time of such violation is enrolled in the fair fares program administered by the city of New York and provides to the bureau proof of such enrollment, the penalty amount for such violation shall not exceed fifty percent of the penalty amount applicable to such violation pursuant to the schedule of such penalties as may from time to time be established by rules of the authority in accordance with paragraphs a through c of this subdivision (exclusive of supplemental penalties, interest or costs assessed thereon).

e. Notwithstanding paragraphs a through d of this subdivision, the bureau shall forgive penalties or any portion of penalties imposed on a respondent for a violation of the rules of the authority or of the MTA bus company relating to the payment of fares on the condition that the respondent enrolls in the fair fares program administered by the city of New York and provides to the bureau proof of such enrollment.

12. Civil penalties relating to payment of railroad fare violations. Civil penalties imposed by the bureau in connection with a violation by a respondent of the rules of the authority or the metropolitan transportation authority or any of its subsidiaries relating to the payment of fares to the Metro-North railroad and Long Island rail road shall adhere to the following conditions:

a. In the case of a violation by a respondent who at the time of such violation is enrolled in the fair fares program administered by the city of New York and provides to the bureau proof of such enrollment, the penalty amount for such violation shall not exceed fifty percent of the penalty amount applicable to such violation pursuant to the schedule of such penalties as may from time to time be established by rules of the authority or metropolitan transportation authority or any of its subsidiaries.

b. Notwithstanding the rules of the authority or the metropolitan transportation authority or any of its subsidiaries, the bureau shall forgive penalties or any portion of penalties imposed on a respondent for a violation of the rules of the authority or of the metropolitan transportation authority or any of its subsidiaries relating to the payment of fares to the Metro-North railroad or Long Island rail road on the condition that the respondent enrolls in the fair fares program administered by the city of New York and provides to the bureau proof of such enrollment.

13. Reporting. Within two years of the effective date of this subdivision, the metropolitan transportation authority shall begin publishing through the open data website established under section twelve hundred seventy-nine-i of this article, data regarding fare evasion infractions adjudicated by the bureau, including without limitation the number of transit and railroad infractions issued by location including, to the extent ascertainable, the subway stop, bus route and/or stop if applicable, the number and percentage of transit or railroad infractions for which a written warning was issued broken down by location including, to the extent ascertainable, the subway stop, bus route and/or stop if applicable, the date and time of day of each infraction, the number and percentage of transit and railroad infractions issued wherein the infraction was a second or subsequent infraction alleged against the respondent, and such other information as the authority or bureau deem appropriate. No identifiable information about individual violations shall be published in such reporting.

§ 1210. Employees. 1. Employees in the competitive and labor classes of the classified service in the employ of the board of transportation and performing services in respect to subjects or matters, jurisdiction of which was transferred to the authority, with the approval of the authority shall be transferred to comparable positions in the employ of the authority; and, any officers and other employees of such board of transportation may be so transferred and appointed by the authority.

2. The appointment, promotion and continuance of employment of all employees of the authority shall be governed by the provisions of the civil service law and the rules of the municipal civil service commission of the city. Employees of any board, commission or department of the city may be transferred to positions of employment under the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to such positions of employment. Employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to positions of employment under the authority as they had under their original appointments. Employees of the authority shall be subject to the provisions of the civil service law.

3. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as if they had continued in their city offices or employments. Employment by the authority shall constitute city service for the purposes of title B of chapter three of the administrative code of such city and the contributions required to be made by the authority pursuant to section B 3-20.0 of such code shall be an operating expense of the authority.

4. No assignment of, or power of attorney to collect or other instrument affecting, the whole or any part of his salary or earnings by an officer or employee of the authority, shall in any way operate to prevent the payment of such salary or earnings directly to such officer or employee unless approved in writing by a person duly designated by

the authority for such purpose. In the event of the payment of such salary or earnings directly to such officer or employee, notwithstanding the existence of an assignment of, or power of attorney to collect or other instrument affecting, the whole or part thereof, not approved by such designated person, no person shall have any cause of action therefor against such authority for the recovery of any moneys by virtue of such unapproved assignment, power of attorney to collect or other instrument. Any such assignment, power of attorney or other instrument filed hereafter with the authority shall contain the name of the officer or employee affected thereby and his title or the position in which he is employed. The authority shall be entitled to receive a fee of two dollars upon the filing of such assignment, power of attorney or other instrument. In the event that such assignment, power of attorney or other instrument contains a provision to the effect that the same shall be ineffective unless subsequent written notice is given to the authority to make deductions, the filing fee shall be fifty cents; and the filing fee of any such subsequent written notice to make deductions in accordance with the terms of any such assignment, power of attorney or other instrument shall be one dollar and fifty cents. The filing fee of any other notice or paper relating to any such assignment, power of attorney or other instrument shall be one dollar.

§ 1210-a. Flexible benefits program. 1. For purposes of this section, the following terms shall have the following meanings:

a. "Code" shall mean the United States internal revenue code of nineteen hundred eighty-six, as amended, and regulations promulgated thereunder.

b. "Authority" shall mean (1) the New York city transit authority, (2) the Manhattan and Bronx surface transit operating authority, or (3) the Staten Island rapid transit operating authority.

c. "Employee" shall mean any officer or employee of any of the entities set forth in paragraph c of this subdivision who is not eligible to receive benefits from the New York city employee benefits program.

For purposes of this section, an independent contractor shall not be considered an employee.

d. "Flexible benefits program" shall mean the program established pursuant to this section, qualifying as a cafeteria plan as defined in section one hundred twenty-five of the code or any successor section thereto providing similar benefits, and provided as a part of an employee benefits program administered by the authority.

e. "Program administrator" shall mean that agent, as determined by the authority, responsible for the maintenance and management of the flexible benefits program as authorized in subdivision two of this section.

2. The authority is authorized to establish and implement a flexible benefits program for its employees who are not eligible to receive benefits from the New York city employee benefits program, consistent with applicable provisions of the code. It may enter into agreements with persons or entities to act as program administrators of the flexible benefits program. It shall establish regulations for the appropriate administration of such flexible benefits program.

3. At the request of an employee, the chief fiscal officer of the authority, or the officer responsible for the administration of the authority's payroll, shall, by payroll deduction, adjust the payment of the compensation of such employee as provided in a written statement by the employee in connection with the establishment and maintenance of the flexible benefits program as authorized by subdivision two of this section, and shall transfer the amount so adjusted to the authorized program administrator.

4. Moneys held for employees in any accounts established pursuant to the flexible benefits program, as authorized in subdivision two of this section, shall be held by the program administrator as agent for the participating employee, shall be accounted for separately and shall

remain the property of the authority to the extent required by the code. Notwithstanding any law to the contrary, moneys may be paid out of such accounts without any appropriation by law. Any unexpended balances in such accounts at the end of a plan year as that term is defined by the United States internal revenue service shall be returned to the control of the authority to the extent required by the code.

5. To the extent permitted by the code, any salary deduction or deferral to an employee under the flexible benefits program established pursuant to this section shall be considered part of such employee's annual compensation for the purpose of computing pension contributions and retirement benefits by any retirement system or plan to which the authority contributes on behalf of said employee. However, this subdivision shall in no way be construed to supersede the provisions of sections four hundred thirty-one, five hundred twelve and six hundred eight of the retirement and social security law or any other similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

§ 1211. Members and employees not to be interested in contracts. It shall be a misdemeanor for any member, officer or employee of the authority to be in any way or manner interested, directly or indirectly, in any contract made by the authority.

§ 1212. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, its general manager or other officer designated for such purpose and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the

authority founded on tort shall not be commenced more than one year and ninety days after the happening of the event upon which the claim is based, nor unless a notice of claim shall have been served on the authority within the time limited, and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

3. The authority shall be liable for, and shall assume the liability to the extent that it shall save harmless any duly appointed officer or employee of the authority for the negligence of such officer or employee, in the operation of a vehicle or other facility of transportation under the jurisdiction and control of the authority, upon the public streets, highways or railroads within the city, in the discharge of a duty imposed upon such officer or employee at the time of the accident, injury or damages complained of, while acting in the performance of his duties and within the scope of his employment.

4. No action shall be maintained against the authority or against such officer or employee on account of such negligence unless a notice of claim shall have been made and served on the authority within the time limited and in compliance with all the requirements of section fifty-e of the general municipal law; nor unless it shall appear by and as an allegation in the complaint that at least thirty days have elapsed since the service of such notice upon a member of the authority, its general manager or other officer designated for such purpose and that the authority has neglected or refused to make an adjustment or payment of the claim for thirty days after the service of such notice; nor unless such action shall be commenced within one year after the cause of action therefor shall have accrued.

5. The authority may require any person, presenting for settlement an account or claim for any cause whatever against the authority, to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose, touching such account or claim and when so sworn to answer orally as to any facts relative to

such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

6. The rate of interest to be paid by the authority, or by its officers or employees whose liability has been assumed by the authority pursuant to subdivision three of this section, upon any judgment or accrued claim against the authority or such officer or employee, shall not exceed three per centum per annum.

§ 1212-a. Security by authority. 1. Each provision of statute or rule requiring a party to give security for the purpose of procuring an order of arrest, an injunction order, or a warrant of attachment, or as a condition of obtaining any other relief, or taking any proceeding; or allowing the court or a judge to require such security to be given, is to be construed as excluding an action brought by the authority; except where the security to be given in such an action is specially regulated by the provision in question.

2. In any action in which the authority shall be excused by statute from giving security on procuring an order of arrest, an order of injunction or a warrant of attachment, the authority shall be liable for all damages that may be sustained by the opposite party by reason of such order of arrest, attachment or injunction, in the same case and to the same extent as sureties to an undertaking would have been if such an undertaking had been given.

3. Upon an appeal taken by the authority, the service of the notice of appeal perfects the appeal and stays the execution of the judgment or order appealed from, without an undertaking or other security.

§ 1213. Report. Copies of the annual report required to be made and submitted pursuant to section twenty-eight hundred of this chapter also shall be submitted to the mayor, comptroller and board of estimate.

§ 1214. Rapid transit law. During any period when the transfer, or any renewal thereof, authorized by section eighteen hundred three of this title shall be in effect: 1. Articles five and eight and sections ten, eleven, twelve, thirteen, fourteen, fifteen, seventeen, thirty, thirty-two, thirty-six, thirty-six-a, thirty-seven, and thirty-eight of the rapid transit law shall be suspended.

2. Articles one, three, six, seven and nine and sections sixteen, sixteen-a, thirty-one, thirty-three, thirty-four and thirty-five of the rapid transit law shall continue in force and effect and the authority shall have and exercise all the functions, powers and duties heretofore exercised by the board of transportation, or any members or officers thereof, under such articles and sections, provided, however, that where the provisions of this title shall be inconsistent with any of the provisions of such articles or sections of such law, the provisions of this title shall govern and control.

§ 1215. Construction of terms. Whenever the term public service commission, or board of rapid transit railroad commissioners, or transit construction commissioner, or transit commission or board of transportation, occurs in any law, contract or document relating to facilities conveyed to the authority or their operation or any other duty imposed upon the authority pursuant to this title, or when in any law, contract or document reference is made to such commission, board, commissioner, or board of transportation in connection with such facilities, operations or duties whereof was so conveyed, such term or reference shall be deemed to refer to and include the authority, to the extent consistent with the provisions of such law, contract or document. For the purposes of subdivision four of section fifty of the workers' compensation law, the term other political subdivision of the state shall be deemed to refer to and include the authority. For the purposes of section three hundred twenty-one of the vehicle and traffic law, the term any political subdivision shall be deemed to refer to and include the authority. For the purposes of subparagraph (i) of paragraph three of subsection (c) of section six hundred twelve of the tax law, the term subdivisions, referring to subdivisions of the state, shall be deemed to refer to and include the Manhattan and Bronx surface transportation authority.

§ 1216. Exemption from taxation and fees. It is hereby found, determined and declared that the creation of the authority and the carrying out of its purposes is in all respects for the benefit of the people of the state of New York and for the improvement of their health, welfare and prosperity and is a public purpose, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. Without limiting the generality of the following provisions of this section, property owned by the authority, and property leased by the authority and used for any of its authorized purposes shall be exempt from taxation and special ad valorem levies. The authority shall be required to pay no fees, taxes or assessments, whether state or local, including but not limited to fees, taxes or assessments on real estate, franchise taxes, sales taxes or other excise taxes, upon any of its property, or upon the use thereof, or upon its activities in the operation and maintenance of its facilities or on any fares, tolls, rentals, rates, charges or other fees, revenues or other income received by the authority and the bonds and notes of the authority and the income therefrom shall at all times be exempt from taxation, except for gift and estate taxes and taxes on transfers. This section shall constitute a covenant and agreement with the holders of all bonds and notes issued by the authority. The terms "taxation" and "special ad valorem levy" shall have the same meanings as defined in section one hundred two of the real property tax law.

§ 1217. Records; prima facie evidence. The record of the proceedings of the authority and of the board of transportation, the records and printed minutes of the transit commission, of the former transit construction commissioner, of the former public service commission for the first district, and of the former board of rapid transit railroad commissioners, transferred to the authority, or certified copies thereof, shall be prima facie evidence of the proceedings of the authority, of the board of transportation, of the transit commission, of the former transit construction commissioner, of the former public service commission for the first district, or of the former board of rapid transit railroad commissioners, as the case may be, in respect to matters concerning which such records or minutes relate. Certified copies of such records or papers shall in like manner constitute prima facie evidence.

§ 1218. Pending actions and proceedings. 1. Provision shall be made in the agreement described in section eighteen hundred three of this title for the assumption by the city of the payment of judgments or claims based upon a cause of action arising prior to the date of transfer of transit facilities.

2. This title shall not affect any action or proceeding brought by or against the board of transportation, transit commission, or the former transit construction commissioner, public service commission for the first district, or the board of rapid transit railroad commissioners, and, upon application by the authority to the court, the authority shall be substituted as a party in such pending action or proceeding and such action or proceeding may be prosecuted or defended in the name of the authority. Any investigation, examination or hearing undertaken, commenced or instituted by the board of transportation, transit commission or the former transit construction commissioner or the public service commission for the first district or the board of rapid transit railroad commissioners before the time this title takes effect, and relating to a subject or matter, jurisdiction whereof was conveyed to the authority, may be conducted to final determination by the authority.

§ 1219. Continuity of jurisdiction. The authority shall be deemed and held to constitute a continuation, as to matters within its jurisdiction, of the board of transportation for the purpose of succession to the rights, powers, duties and obligations of the board of transportation transferred to such authority. Upon the termination of the agreement of transfer provided for in section eighteen hundred three of this title or of any renewal thereof, all the rights and properties of the authority shall pass to the city and the city shall succeed to the rights, powers, duties and obligations of the authority.

§ 1219-a. Transfer and receipt of surplus funds. 1. Notwithstanding any provision of this title or any other provision of law, general, special or local, the authority may from time to time transfer and pay over to metropolitan transportation authority or triborough bridge and tunnel authority all or any part of its surplus funds; and may accept and use any moneys transferred and paid over to it by metropolitan transportation authority or triborough bridge and tunnel authority.

2. Notwithstanding the provisions of the preceding subdivision of this section:

(a) If the city shall have provided in its capital budget for its fiscal year beginning July first, nineteen hundred sixty-eight the amount of one hundred million dollars, or such lesser amount as shall have been requested by the authority for inclusion in such budget, for the payment of the capital cost of projects requested by the authority pursuant to section twelve hundred three of this title, then upon the written request of the mayor made within thirty days after the commencement of such fiscal year, triborough bridge and tunnel authority shall transfer to the authority, by lump sum payment or installments at such time or times and in such amounts as the mayor shall elect, all or such part of the surplus funds of triborough bridge and tunnel authority on hand as of the last day of its last fiscal year ending prior to such request as the mayor shall specify, which funds shall be applied by the authority solely to the payment of its expenses of operation. If the city shall have provided in its capital budget for any of its next four fiscal years, commencing with the fiscal year beginning July first, nineteen hundred sixty-nine, the amount of one hundred million dollars, or such lesser amount as shall have been requested by the authority for inclusion in such budget, for the payment of the capital cost of projects requested by the authority pursuant to section twelve hundred three of this title, then upon the written request of the mayor made within thirty days after the commencement of such fiscal year, triborough bridge and tunnel authority shall transfer to the authority solely for application to the payment of expenses of operation of the authority the operating surplus of triborough bridge and tunnel authority for its last fiscal year ending prior to such request, which transfer shall also be by lump sum payment or installments at such time or times and in such amounts as the mayor shall elect. Projects shall be eligible for inclusion in a computation made hereunder only if included in a capital budget on the first day of the fiscal year for which it is adopted. A carry-over project shall not be eligible for inclusion unless it was first included in a capital budget by way of an amendment thereto, in which event it shall be eligible for inclusion in a computation made hereunder with respect to the first fiscal year of the city commencing after the adoption of the amendment.

(b) Promptly upon the making of the certification of its operating surplus, if any, for its fiscal year ending December thirty-first, nineteen hundred seventy-two and for each of its subsequent fiscal years, triborough bridge and tunnel authority, at the direction of metropolitan transportation authority, shall transfer such operating surplus (1) to the metropolitan transportation authority for deposit into one or more funds or accounts to be used as contemplated by section twelve hundred seventy-d of this article, or (2) to the authority and the metropolitan transportation authority solely for application to the payment of the expenses of operation. For purposes of determining the proportional allocation of the operating surplus as between the authority and the metropolitan transportation authority, the following formula shall apply: (i) twenty-four million dollars plus fifty percentum of the balance of such operating surplus shall be allocable to the authority, and (ii) the remainder shall be allocable to metropolitan transportation authority on behalf of the commuter railroads operated by it, by its subsidiary corporations or by others under joint arrangements.

(c) Triborough bridge and tunnel authority is authorized, at the direction of the metropolitan transportation authority, from time to time to make advances from available funds on account of the operating surplus it anticipates will or may be certified and transferred as provided in this subdivision to (1) the metropolitan transportation authority for deposit into one or more funds or accounts to be used as contemplated by section twelve hundred seventy-d of this article, or (2) the authority and the metropolitan transportation authority solely for application to the payment of the expenses of operation. In the event that advances so made in respect of any fiscal year including the year in which the surpluses are being earned exceed the amounts required to be transferred to the authority and metropolitan transportation authority pursuant to the provisions of this subdivision, then the amount of any such excess shall be refunded to triborough bridge and tunnel authority by the authority or metropolitan transportation authority, as the case may be, within thirty days of the making by triborough bridge and tunnel authority of its certification of operating surplus for such fiscal year.

(d) For the purposes of this subdivision, the existence and the amount of surplus funds and operating surplus of triborough bridge and tunnel authority shall be determined in accordance with the provisions of subdivision twelve of section five hundred fifty-three of this chapter.

(e) Triborough bridge and tunnel authority shall certify to the mayor and to the chairman of metropolitan transportation authority within ninety days after the end of its fiscal year ending December thirty-first, nineteen hundred sixty-seven, and within forty-five days after the end of each of its subsequent fiscal years, the amount of its operating surplus for that year and, in the case of the fiscal year ending December thirty-first, nineteen hundred sixty-seven, the amount of all of its surplus funds on hand as of the last day of such fiscal year.

(f) No transfer of funds shall be made to the authority pursuant to any provision of this section at any time when there shall have been pending and not acted upon by the mayor for ninety days any request of the authority for permission to expend or contract to expend funds for a project included in a capital budget for transit facility purposes. There shall be excluded from such ninety-day period any time during which the mayor is prevented from acting by order of court or by operation of law.

3. Notwithstanding the preceding subdivisions of this section, for purposes of determining the proportional allocation of the operating surplus of the Triborough bridge and tunnel authority between the authority and the metropolitan transportation authority the following

formula shall be used: An amount equal to the debt service incurred in such year as a result of the bonds issued to provide facilities pursuant to paragraphs (m), (n), (o), (p) and (r) of subdivision nine of section five hundred fifty-three of this chapter shall be added to the operating surplus of the Triborough bridge and tunnel authority, as certified by that authority. The sum of these figures shall then be allocated to the authority and the commuter railroads operated by metropolitan transportation authority or by its subsidiary corporations, pursuant to the formula contained in paragraph (b) of subdivision two of this section as if this amount were the operating surplus of the Triborough bridge and tunnel authority. The amounts so allocated to the authority and the commuter railroads operated by metropolitan transportation authority or by its subsidiary corporations, shall then be reduced respectively by the proportional amount of the debt service, incurred in such year by the Triborough bridge and tunnel authority pursuant to paragraphs (m), (n), (o), (p) and (r) of subdivision nine of section five hundred fifty-three of this chapter, reasonably attributable to the payments for transit projects undertaken for the authority and its subsidiaries and transportation facility projects undertaken for the commuter railroads operated by the metropolitan transportation authority or by its subsidiary corporations. The remaining amounts shall constitute the respective allocation of operating surplus for the authority and the commuter railroads operated by the metropolitan transportation authority or by its subsidiary corporations.

§ 1220. Separability. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1221. Inconsistent provisions in other acts superseded. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

TITLE 9-a

TRANSIT CONSTRUCTION FUND

§ 1225-a. Short title. This title may be cited as the transit construction fund act.

§ 1225-b. Definitions. For the purposes of this title:

1. "City" means the city of New York.

2. "Director of management and budget" means the director of management and budget of the city of New York.

3. "Fund" means the transit construction fund as established by this title.

4. "Mayor" means the mayor of the city of New York.

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

6. "Transit authority" means the New York city transit authority created by section twelve hundred one of this article.

7. "Transit facility" means "transit facility" as such term is defined from time to time in section twelve hundred of this article.

8. "Transportation authority" means the metropolitan transportation authority, as created by section twelve hundred sixty-three of this article.

§ 1225-c. Transit construction fund. (a) There is hereby created the transit construction fund. The fund is a corporate governmental agency constituting a public benefit corporation. It has the powers and privileges of a corporation and all of its business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other personal property held under its corporate name.

(b) The fund shall continue until all its liabilities have been met or otherwise discharged and until its existence shall have been terminated by law. Upon the termination of the existence of the fund, all of its rights and property shall pass to and be vested in the city.

§ 1225-d. Purpose of the fund. The purpose of the fund shall be to provide through agreements with the transportation authority transit facilities, to be used by the transit authority or any subsidiary, including the planning, design, construction, acquisition, extension, reconstruction, rehabilitation, modernization, and other improvement of such facilities. Such purpose shall be in all respects a public and governmental purpose.

§ 1225-e. Administration of the fund. (1) The fund shall be administered by three trustees, one of whom shall be the director of the budget. The remaining two trustees shall be appointed by the mayor, no more than one of whom may be a city official. All city officials shall serve ex-officio. Trustees, except ex-officio trustees, shall serve for a term expiring at the end of the term actually served by the officer making the appointment and shall be removable for cause by the mayor after hearing on ten days notice. In the event of a vacancy occurring in the office of a trustee by death, resignation or otherwise, a successor shall be chosen in the same manner as was the trustee whose office became vacant, to serve for the balance of the unexpired term.

(2) The mayor shall designate a chairman and a vice-chairman from among the trustees. The chairman shall preside over all meetings of the trustees and shall have such other duties as the trustees of the fund may direct. The vice-chairman shall preside over all meetings of the trustees in the absence of the chairman and shall have such other duties as the trustees of the fund may direct.

(3) The trustees of the fund shall serve without salary, but each trustee shall be reimbursed for his actual and necessary expenses incurred in the performance of his official duties as a trustee of the fund. The trustees of the fund may engage in private employment or in a profession or business (if not otherwise prohibited from so doing by virtue of any other public office), subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The fund shall, for the purposes of such sections, be a "state agency" and the trustees thereof shall be "officers" of the agency for the purpose of said sections.

(4) Nothwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state of New York, any city, county, town or village, any other political or civil division of the state, any municipality, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit his office or employment by reason of his acceptance of appointment as a trustee, officer or agent of the fund; nor shall service as such trustee, officer or agent of the fund be deemed incompatible or in conflict with such

office or employment.

(5) A majority of the whole number of trustees then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the fund. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the fund, the fund shall have power to act by a majority of the trustees present at any meeting at which a quorum is in attendance. The fund may delegate to one or more of its trustees, or officers, agents and employees, such powers and duties as the trustees may deem proper.

(6) The fund may appoint officers, employees, and agents as it may require and prescribe their duties and fix their compensation, as hereinafter provided.

(7) On or before November fifteenth of each year, the fund shall submit to the city comptroller, the director of management and budget, and the chairman of the finance committee of the city council, a financial statement for the preceding city fiscal year, a report of its activities during that year, and a report on its program for both the current and next succeeding city fiscal years including but not limited to: (i) the estimated cost of the administration of the fund in the succeeding city fiscal year and (ii) the amounts, if any, of all rentals and other payments to become due and estimated to become due in the succeeding city fiscal year to the transportation authority from the fund pursuant to any lease or other agreement entered into between the fund and the transportation authority.

§ 1225-f. General powers of the fund. The fund shall have the following powers in addition to those specially conferred elsewhere in this title: (1) to sue and be sued; (2) to have a seal and alter the same at its pleasure; (3) to make and alter by-laws for its organization and internal management; (4) to prescribe a system of accounts for the fund; (5) to purchase, receive, lease, accept jurisdiction over or otherwise acquire real or personal property necessary and convenient for its corporate purposes; to execute and deliver deeds for real property held in its own name; and to transfer, lease, sublease or otherwise make such real or personal property available to the transportation authority or the transit authority or their subsidiaries or to sell or otherwise to dispose of such real or personal property that, in the judgment of the fund, is no longer necessary for its corporate purposes; (6) subject to other provisions of law, to transfer upon such terms and conditions as is deemed appropriate such sums of money as are not required for other purposes; (7) to make and execute contracts, leases, subleases and all other instruments or agreements necessary or convenient for the exercise of its corporate powers and purposes; (8) with the consent of the transportation authority or the transit authority to use with or without compensation the agents, employees and facilities of those authorities or their subsidiaries; (9) to engage the services of construction, engineering, architectural, legal and financial consultants, surveyors and appraisers, on a contract basis or as employees, for professional service and technical assistance and advice; (10) to cause, by agreement with the transportation authority, transit facilities to be planned, designed, constructed, acquired, extended, reconstructed, rehabilitated, modernized, and otherwise improved, in accordance with the provisions of this title; (11) to procure such insurance as is deemed necessary; (12) to accept, administer and disburse federal and state aid and (13) to do any and all things necessary or convenient to carry out its corporate powers and purposes.

§ 1225-g. Agreement with the transportation authority. (a) To enable the fund to realize its public and governmental purpose, the fund may enter into agreements with the transportation authority, to which the transit authority may be a party, pursuant to which the transportation authority may plan, design, construct, acquire, extend, reconstruct, rehabilitate, modernize, or otherwise improve any transit facility, and the fund may lease any such transit facility from the transportation authority. The fund may apply the resources of the fund to the payment of rentals and other payments required from the fund by any such lease or other agreement and may pledge such resources as security for such payments to the transportation authority with respect to such leases or other agreements.

(b) To further enable the fund to realize its public and governmental purpose, the fund may enter into agreements with the transportation authority, to which the transit authority may be a party, for planning, design and feasibility studies, provided or caused to be provided by the transportation authority.

(c) Neither the state, nor the city, nor the transit authority shall be liable for any rentals or other payments payable by the fund to the transportation authority pursuant to the terms of any lease or other agreement entered into by the fund under this title; and the city shall not be required to pay for all or part of the cost of any transit facility provided pursuant to this title. Any such lease or other agreement shall contain among its terms a statement to that effect.

(d) A schedule of transit facilities authorized to be provided by the fund in accordance with the provisions of this title may be adopted as hereinafter provided, and the fund shall not enter into any lease or other agreement obligating the fund to pay money to the transportation authority unless such lease or other agreement shall relate to a transit facility contained in such schedule; nor unless, in the case of a transit facility which consists of a rapid transit railroad or portion thereof, a route and general plan for such transit facility shall have been previously approved pursuant to the provisions of the rapid transit law. The mayor, city council and city board of estimate shall have the power to adopt, veto, and amend such schedule and the amounts stated therein in the same manner provided under the city charter for capital projects. Such schedule shall not be deemed a part of the city's capital budget and the transit facilities contained in such schedule shall not be deemed city capital projects. Such schedule shall be published together with the capital budget accompanied by a statement to this effect. Such schedule shall specify the maximum amount of indebtedness secured by and payable from rental or other payments receivable from the fund which the transportation authority may incur with respect to each transit facility therein set forth. The fund shall not enter into any lease or other agreement which provides or contemplates that the transportation authority shall incur such indebtedness (i) which, for any such transit facility would exceed the amounts specified in such schedule, which amount shall not be reduced or rescinded except by amendment and shall in no event be reduced or rescinded by the city after such lease or other agreement has been executed without the written consent of the transportation authority, or (ii) which would bring the aggregate amount of such indebtedness of the transportation authority incurred pursuant to this title to an amount in excess of two hundred fifty million dollars. Notwithstanding any other limitation herein prescribed, the mayor shall increase the amount so specified for any such transit facility by the amount necessary to pay judgments, claims or awards including interest thereon against the transportation authority arising out of work undertaken pursuant to any such agreement, and the mayor may increase the amount so specified by not more than fifteen per cent in order to meet any costs required to complete such transit facility, or by any amount required to complete such transit facility when the cost to complete such transit facility has increased due to catastrophe. In the event that the mayor shall increase the amount so specified for any such transit facility for any of the foregoing reasons, the limitation on the aggregate amount of such indebtedness of the transportation authority which may be outstanding at any one time shall be increased by the same amount. In calculating the aggregate amount of such indebtedness of the transportation authority which may be increased pursuant to this title, there shall be excluded the amount of outstanding obligations to be refunded or received from the proceeds from the sale of, or to be exchanged for new obligations. Nothing herein contained shall be construed to require the fund or the transportation authority to enter into any lease or other agreement relating to one or more of the transit facilities contained in such schedule.

§ 1225-h. Resources of the fund. (a) Subject to the provisions of this title the trustees of the fund shall receive, accept, invest, administer, expend and disburse for its corporate purposes all monies for the transit construction fund from whatever sources derived.

(b) The monies of the fund shall be paid to the comptroller of the city as agent of the fund, who shall not commingle such monies with any other monies.

(c) The monies in any of the fund's accounts shall be paid out on checks signed by the comptroller of the city on requisitions of the chairman of the trustees of the fund or of such other officer or employee as the trustees shall authorize to make such requisition.

(d) Subject to the terms of any lease, sublease, or agreement undertaken by the fund, any such monies of the fund not required for immediate use may, at the discretion of the fund, be invested in obligations of the United States, the state or the city or in obligations the principal and interest of which are guaranteed by the United States or the state or for the payment of which the faith and credit of the United States or the state is pledged. The comptroller of the city, as agent of the fund, shall make the investments when so requested by the fund.

(e) The comptroller of the city or his legally authorized representative from time to time may examine the books and accounts of the fund, including its receipts, disbursements, contracts, reserves, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller of the city at least once every five years or, in lieu of such an examination, the comptroller of the city may accept from the fund an external examination of the fund's books and accounts made at the request of the trustees of the fund.

§ 1225-i. Payments to the fund. (a) To further enable the fund to realize its public and governmental purpose the city shall, in addition to any other financial assistance, annually pay to the fund in respect to each city fiscal year an amount equal to the aggregate of all rentals and other payments due and coming due to the transportation authority from the fund for that city fiscal year pursuant to any lease or other agreement entered into between the transportation authority and the fund, which amount shall be payable on or before the fifteenth day of September of such city fiscal year, provided however, that such amount shall have been appropriated by the city to the fund or shall otherwise have been made lawfully available for such purpose.

(b) In the event of the failure of the city to pay to the fund, on or before such fifteenth day of September, all or part of such amount, the fund or its designate shall forthwith make and deliver to the comptroller of the state a certificate stating such amount and the sum, if any, paid by the city to the fund with respect to such amount and further stating the difference between such amount and such sum, and, after the state comptroller shall have promptly given written notice to the budget director, such difference shall be paid to the fund or its designate whichever makes and delivers such certificate by the state comptroller out of any succeeding payments of state aid apportioned to the city as per capita aid for the support of local government pursuant to section fifty-four of the state finance law or such other aid or assistance payable by the state to the city and not otherwise allocated as shall supersede or supplement such state per capita aid, including federal moneys apportioned to the city by the state; except, however, that prior to any deductions from any such aid or assistance, the moneys, if any, then payable to the city university construction fund pursuant to the provisions of the city university construction fund act or to the New York city housing development corporation pursuant to the New York city housing development corporation act or to the transit authority pursuant to chapter seven of the laws of nineteen hundred seventy-two shall be paid in full to such fund, corporation or authority.

(c) Since the fund's continued discharge of its public and governmental purpose to provide transit facilities is of benefit to the city, the city shall pay, within the appropriations available therefor, the expenses of the establishment and continued operation of the fund.

(d) The city shall have the power to enter into agreements with the transportation authority to which the transit authority may be a party, to pay for planning, design and feasibility studies undertaken or caused to be undertaken by the transportation authority.

(e) Notwithstanding any other provision of law, the city shall have the power to contract indebtedness and to issue its obligations pursuant to the local finance law for the purpose of financing any payment authorized or required to be made by this section. Any such payment shall constitute an object or purpose for which the period of probable usefulness is hereby determined to be five years.

§ 1225-j. Federal, state and other aid. Subject to the provisions of chapter ten hundred seventy-three of the laws of nineteen hundred sixty-nine as amended by a chapter of the laws of nineteen hundred seventy-two, in the event that the transportation authority receives state or federal or other aid for a transit facility which defrays or reimburses expenditures paid for by the city or the fund or made out of the proceeds of bonds or notes of the transportation authority secured by and payable from rental or other payments receivable from the fund, the transportation authority shall forthwith pay over to the city the entire amount of such aid unless a lease or other agreement between the fund and the transportation authority shall provide otherwise.

For the purposes of any law conditioning the receipt of state aid for a transit facility on the appropriation, payment or expenditures by the city of a local share of the cost of such transit facility, the proceeds of bonds or notes issued by the transportation authority and secured by and payable from a pledge of payments or rentals receivable from the fund pursuant to any lease or other agreement between the fund and the transportation authority shall be counted toward the fulfillment of such local share.

§ 1225-k. Title to property. Title to any transit facility leased to the fund by the transportation authority pursuant to this title shall, on the expiration or termination of such lease, vest in the city.

§ 1225-l. Employees of the fund. 1. Notwithstanding any inconsistent provisions of this title, the appointment and promotion of all employees of and for the fund shall be made in accordance with the provisions of the civil service law under the jurisdiction of the city civil service commission and the compensation for such employees shall be fixed by the fund.

2. The city and the fund shall have the power to provide for the transfer to the fund of agents, employees and facilities of the city to enable the fund to fulfill its corporate purposes. Employees of the city to be transferred to the fund pursuant to this title shall be eligible for such transfer and appointment to offices and positions of the fund without further examination, and all such employees who have been appointed to positions in city service in accordance with the provisions of the civil service law under the rules of the city civil service

commission shall have the same status with respect thereto in the service of the fund as they had in city service. Employees who are members or beneficiaries of any existing pension or retirement system shall continue to have such rights, privileges, obligations or status with respect to such system or systems as are prescribed by law on the date this title takes effect, and all such employees who have been appointed to positions in city service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the fund as they had in city service.

§ 1225-m. Actions against fund. (a) An action against the fund for personal injury or property damage or founded on tort, except an action for wrongful death, shall not be commenced more than one year and ninety days after the cause of action thereof shall have accrued nor unless a notice of claim shall have been served on a trustee of the fund or officer or employee thereof designated by the fund for such purpose, within the time limited by, and in compliance with the requirements of section fifty-e of the general municipal law. An action against the fund for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

(b) The venue of every action, suit or special proceeding brought against the fund shall be laid in the county of New York.

(c) Neither any trustee of the fund nor any officer, employee, or agent of the fund, while acting within the scope of their authority, shall be subject to any personal liability resulting from exercising or carrying out of any of the fund's purposes or powers.

§ 1225-n. Assistance to the fund. The city may make grants of money or property to the fund for the purpose of enabling it to carry out its public purposes and for the exercise of its powers. This section shall not be construed to limit any other power the city may have to make such grants to the fund.

§ 1225-o. Corporation counsel to be attorney. The corporation counsel of the city shall be attorney and counsel for the fund.

§ 1225-p. Exemption from taxation. The monies and property of the fund and its operation shall be exempt from taxation.

§ 1225-q. Construction. It is the intent of the Legislature that this title be construed liberally so as to effectuate the public and governmental purpose thereof.

TITLE 10

UPPER MOHAWK VALLEY REGIONAL WATER FINANCE AUTHORITY

§ 1226-a. Short title. This title shall be known and may be cited as the "upper Mohawk valley regional water finance authority act."

§ 1226-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section one thousand two hundred twenty-six-c of this title.

2. "Board of water supply" means the board of water supply of the city.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "City" means the city of Utica, Oneida county.

5. "Civil service commission" means the civil service commission of the county of Oneida.

6. "Comptroller" means the comptroller of the state.

7. "Construction" or "constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a water facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedure and other actions preliminary or incidental thereto and claims arising therefrom.

8. "Cost", as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real, personal and mixed, improved and unimproved, the cost of the demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all water facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of guarantee, bond insurance or other credit support devices and the cost of other expenses necessary or incidental to the construction of any such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special funds from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

9. "Council" means the common council of the city.

10. "County" means the county of Oneida, New York.

11. "County executive" means the county executive of the county.

12. "County legislature" means the county legislature of the county.

13. "Governing body" means the members of the authority or the water board, as the case may be, constituting and acting as the governing body of the authority or the water board, as the case may be.

14. "Mayor" means the mayor of the city.

15. "Municipality" means any county, city, town, village, special or improvement district under the town law or the county law, any other such instrumentality, including any agency, or public corporation of the state and the board of water supply, or any of the foregoing or any combination thereof located or operating within or partly within the service area.

16. "Person" means any natural person, firm, partnership, association, joint venture or corporation, exclusive of a public corporation as defined pursuant to article two-A of the general construction law.

17. "Project" means any water facility, including the planning, development, financing or construction thereof.

18. "Properties" means the water facility or facilities of the water board, whether situated within or without the territorial limits of the service area, including the plants, works, structures, instrumentalities or part thereof and appurtenances thereto, real property, or any other property incidental to and included in such facility or facilities or part thereof, and any improvements, extensions and betterments.

19. "Real property" means lands, structures, franchises, rights and interests in land, air space, waters, land underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements,

rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

20. "Revenues" means all rates, fees, charges, payments and other income and receipts derived from the operation of the properties of the water board including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sale or other disposition of assets, together with all federal, state or municipal aid, if any.

21. "Service area" means the area comprising the entirety of each municipality in which water was provided by the city or the board of water supply on the date on which this title becomes effective, as such area shall hereinafter be expanded or decreased, from time to time, by special act of the state legislature.

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

23. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

24. "Water board" means the corporation created by special act of the state legislature as provided in section one thousand two hundred twenty-six-e of this title.

25. "Water facility" or "water facilities" means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of accumulating, supplying, transmitting, treating or distributing water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, aqueduct taps, standpipes, conduits, pipelines, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and

works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

§ 1226-c. Upper Mohawk valley regional water finance authority. 1. A public corporation to be known as the "upper Mohawk valley regional water finance authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. The governing body of the authority shall consist of a total of five members, to be appointed and to serve as follows: one member, who shall be a resident of the city, shall be appointed by the council; one member, who shall be a resident of the city, shall be appointed by the mayor; one member shall be appointed by the county executive, which initially appointed member shall be a resident of the city and which subsequently appointed member's residence shall alternate between such member's being a resident of the service area outside of the city and a resident of the city; and two members shall be residents of the service area outside of the city and shall be appointed by the towns and villages within, either wholly or partly, the service area in accordance with the following procedure: one member shall be appointed by the town board of the town of New Hartford and alternately by the town board of the town of Whitestown. The first such member shall be appointed by the town board of the town of New Hartford. Following the expiration of that member's term, each subsequent member shall be appointed alternately by the town board of the town of Whitestown and then by the town board of the town of New Hartford; and one member shall be appointed by a majority vote of representatives in attendance at a meeting called for such purpose from the towns of Deerfield, Frankfort, Kirkland, Marcy, Trenton and Schuyler. For purposes of such vote, each such town shall appoint one representative to cast the vote for such town for such purpose. For purposes of appointment by such towns, such towns are hereby authorized to meet at such times and locations as a majority of such towns shall determine to appoint such members. No appointment made by the mayor shall be subject to confirmation by the council. No appointment made by the county executive shall be subject to confirmation by the county legislature. No appointment by the council shall be subject to approval or veto by the mayor. Failure by any party to appoint any member shall not invalidate the creation or establishment of the authority and shall result in the creation of a vacancy on the governing body of the authority which may be filled at any time by such party. The first member appointed by the council shall be appointed for a term of office ending on December thirty-first of the third year following the year in which this title shall have become law. The first member appointed by the mayor shall be appointed for a term ending on December thirty-first of the second year following the year in which this title shall have become law. The first member appointed by the county executive shall be appointed for a term ending on December thirty-first of the second year following the year in which this title shall have become law. The first member appointed by the towns of New Hartford, Marcy and Whitestown shall be appointed for a term of office ending on December thirty-first of the third year following the year in which this title shall have become law. The first member appointed by the other towns shall be appointed for a term ending on December thirty-first of the first year following the year in which this title shall have become law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office by the party which appointed such member for inefficiency, neglect of duty or misconduct in office; provided, however, that such member shall be given a copy of the charges against him or her and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days notice. Any member required to be a resident of a specified area shall forfeit his or her membership on the governing body upon such member's termination of residence in such area, which forfeiture shall create a vacancy. The members of the authority shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title; provided, however, that no member shall be reimbursed for any expense exceeding one thousand dollars incurred with respect to any individual purpose unless the governing body at a meeting duly called and held when a quorum of three members are present shall have authorized the incurrence of such expense by such member. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of three members are present. No action shall be taken except pursuant to the favorable vote of at least three voting members. All votes must be made in person at a meeting and no vote may be made by proxy. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the authority shall consist of a chair, a vice-chair, a treasurer and a secretary, who need not be a member of the authority. Such officers shall be appointed by the governing body and shall serve in such capacities at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also from time to time contract for expert professional services. The members, officers, executive director, if any, comptroller, if any, and counsel, if any, shall be an exempt position under any rule or classification of the civil service commission. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the authority.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit

corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, or employee be deemed incompatible or in conflict with such office, membership or employment.

4. (a) The county executive shall file on or before December thirty-first of the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the authority; (2) the names of the members appointed by the council, the mayor, the county executive, and the towns and their terms of office; and (3) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest jointly in the city and the towns and villages in the service area in such a manner as prescribed by law.

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

6. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

§ 1226-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

3. To borrow money and issue bonds or other obligations for its corporate purposes and to provide for the rights of the holders thereof.

4. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given to it in this title.

5. To enter into agreements with the water board, the board of water supply and any municipality for the financing by the authority of projects as herein provided.

6. To acquire by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any property, real, personal or mixed or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title, provided, however, the authority shall not have the power to condemn property of the water board.

7. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials.

8. To appoint such officers and employees as may be required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors,

engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice.

9. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto.

10. To make use of existing studies, surveys, plans, data and other material in the possession of any state agency, any municipality or the water board in order to avoid duplication of effort.

11. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done.

12. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof.

13. To make and amend by-laws for its organization and management and regulation of its affairs and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title. A copy of such rules, regulations and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of each municipality within the service area.

14. To enter into cooperative agreements with other authorities, the board of water supply, municipalities, utility companies, individuals, or corporations, within or without the service area, for any lawful purposes necessary or desirable to effect the purposes of this title upon such terms and conditions as shall be determined to be reasonable.

15. With the consent of the chief executive officer of a municipality within the service area, to use officers and employees of such municipality and to pay a proper portion of compensation or costs for the services of such officers or employees.

16. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

17. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1226-e. Water board. 1. A water board, to be known as the "Upper Mohawk valley regional water board", may be created by a special act of the state legislature as a body corporate and politic, constituting a corporate municipal instrumentality of the state and having the powers and duties as provided in this title.

2. The governing body of the water board shall consist of a total of twelve members, to be appointed and to serve as follows: two members, each of whom shall be a resident of the city, shall be appointed by the council; two members, each of whom shall be a resident of the city, shall be appointed by the mayor; two members shall be appointed by the county executive, the first of which shall be a resident of a village located within the service area outside of the city and the second of which shall be a resident of the service area outside of the city, which second member shall be subject to confirmation by the Herkimer county legislature; two members shall be appointed by the county legislature, each of whom shall be a resident of the city; and four members shall be residents of the service area outside of the city and shall be appointed by the towns within, either wholly or partly, the service area in accordance with the following procedure: one member shall be appointed by the town board of the town of New Hartford; one member shall be appointed by the town board of the town of Whitestown; one member shall

be appointed by the town board of the town of Marcy and alternately by the town board of the town of Schuyler and then by the town board of the town of Kirkland. The first such member shall be appointed by the town board of the town of Marcy. Following the expiration of that member's term, such subsequently appointed member shall be appointed by the town board of the town of Schuyler. Following the expiration of that member's term, such subsequently appointed member shall be appointed by the town board of the town of Kirkland. Thereafter each such subsequent member shall be appointed alternately by the town board of the town of Marcy, then by the town board of the town of Schuyler and then by the town board of the town of Kirkland; one member shall be appointed by the town board of the town of Trenton and alternately by the town board of the town of Deerfield and then by the town board of the town of Frankfort. The first such member shall be appointed by the town board of the town of Trenton. Following the expiration of that member's term, such subsequently appointed member shall be appointed by the town board of the town of Deerfield. Following the expiration of that member's term, such subsequently appointed member shall be appointed by the town board of the town of Frankfort. Thereafter each such subsequent member shall be appointed alternately by the town board of the town of Trenton, then by the town board of the town of Deerfield and then by the town board of the town of Frankfort. No appointment made by the mayor shall be subject to confirmation by the council. No appointment made by the county executive shall be subject to confirmation by the county legislature. No appointment by the council shall be subject to approval or veto by the mayor. No appointment by the county legislature shall be subject to approval or veto by the county executive. Failure by any party to appoint any member shall not invalidate the creation or establishment of the water board and shall result in the creation of a vacancy on the governing body of the water board which may be filled at any time by such party. The first members appointed by the council shall be appointed for the following terms of office; one for a term ending on December thirty-first of the first year following the year in which this title shall have become law; and one for a term ending on December thirty-first of the third year following the year in which this title shall have become law. The first members appointed by the mayor shall be appointed for the following terms of office: one for a term ending on

December thirty-first of the first year following the year in which this title shall have become law; and one for a term ending on December thirty-first of the second year following the year in which this title shall have become law. The first village resident member appointed by the county executive shall be appointed for a term ending on December thirty-first of the second year following the year in which this title shall have become law. The first subject to Herkimer county legislative confirmation member appointed by the county executive shall be appointed for a term ending on December thirty-first of the third year following the year in which this title shall have become law. The first members appointed by the county legislature shall be appointed for the following terms of office: one for a term ending on December thirty-first of the first year following the year in which this title shall have become law; and one for a term ending on December thirty-first of the second year following the year in which this title shall have become law. The first member appointed by the town of New Hartford shall be appointed for a term of office ending on December thirty-first of the third year following the year in which this title shall have become law. The first member appointed by the town of Whitestown shall be appointed for a term ending on December thirty-first of the second year following the year in which this title shall have become law. The first member appointed by the town of Marcy, Schuyler or Kirkland shall be appointed for a term ending on December thirty-first of the third year following the year in which this title shall have become law. The first member appointed by the towns of Trenton, Deerfield and Frankfort shall be appointed for a term ending on December thirty-first of the first year following the year in which this title shall have become law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. No member shall be a member of the governing body of the authority. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office by the party which appointed such member for inefficiency, neglect of duty or misconduct in office; provided, however, that such member shall be given a copy of the charges against him or her and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days notice. Any member required to be a resident of a specified area shall forfeit his or her membership on the governing body upon such member's termination of residence in such area, which forfeiture shall create a vacancy. The members of the water board shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title; provided, however, that no member shall be reimbursed for any expense exceeding one thousand dollars incurred with respect to any individual purpose unless the governing body at a meeting duly called and held when a quorum of seven members are present shall have authorized the incurrence of such expense by such member. The powers of the water board shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of seven members are present. No action shall be taken except pursuant to the favorable vote of at least seven voting members. All votes must be made in person at a meeting and no vote may be made by proxy. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

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

governing body and the premium therefor shall be paid by the water board.

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

5. (a) The county executive shall file on or before December thirty-first of the year following the year in which the special act of the state legislature creating the water board shall have become law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the water board; (2) the names of the members appointed by the council, the mayor, the county executive, the county legislature and the towns, villages and county of Herkimer and their terms of office; and (3) the effective date of the special act of the state legislature creating the water board. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the water board shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) The water board and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the water board shall have contractual duties or obligations outstanding unless adequate provision has been made for the satisfaction thereof. Upon termination of the existence of the water board, all of the rights and properties of the water board then remaining shall pass to and vest as follows: all properties acquired by the water board from either the city or the board of water supply, except properties identified at the time of transfer as being "southern reservoir property" shall vest in the city; all property identified at the time of transfer as being "southern reservoir property" shall vest jointly in the city and in the town of New Hartford; all other properties shall vest jointly in the city and the towns and villages in the service area in such a manner as prescribed by law.

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

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

§ 1226-f. General powers of the water board. Except as otherwise limited by this title, the water board shall have power:

1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

3. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the water board to carry out any powers expressly given it in this title, provided nothing herein contained shall authorize the water board to borrow money or otherwise contract indebtedness.

4. To enter into agreements with the authority, the board of water supply and any municipality to provide a means whereby the authority

shall finance the cost of constructing projects, as described in the agreement, and the water board may agree to assume title to any such project, and to raise revenues from users through fees, rates or other service charges necessary or appropriate to secure such financing and to pay the cost of the operation, management and repair of any such project.

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use any property, real, personal or mixed or any interest therein, constituting or for use in connection with a project or otherwise, as the water board may deem necessary, convenient or desirable to carry out the purposes of this title. In connection with the acquisition of any property, the water board may assume and agree to perform covenants and observe the restrictions contained in any instrument to which any such property is subject; and furthermore the owner of any properties, which the water board is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the water board, whereupon the water board shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof, and, subject to any limitations in any agreement entered into pursuant to this title, to sell, lease as lessor, transfer or otherwise dispose of any such property or interest therein; provided, however, that any property determined by the water board to be no longer necessary by the water board for use in fulfilling the purposes of the water board pursuant to this title which was acquired by the water board from either the city or the board of water supply, except property identified at the time of transfer as being "southern reservoir property", shall be conveyed, immediately after such property has been so determined to be no longer necessary by the water board, at no cost, to the city and, provided, further, that any property so determined to be no longer necessary by the water board which was identified as "southern reservoir property" shall be conveyed, immediately after such property has been so determined to be no longer necessary by the water board, at no cost, to the city and the town of New Hartford whereupon such property shall vest jointly in the city and

the town of New Hartford.

6. To acquire from any municipality, and/or the board of water supply, title to any water facility.

7. To make and amend by-laws for its organization and management and the regulation of its affairs and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title including the sale of water and the collection of fees, rates and charges therefor. A copy of such rules, regulations and by-laws, and all amendments thereto, duly certified by the secretary of the water board shall be filed in the office of the clerk of each municipality within the service area.

8. To establish, fix, revise, charge and collect and enforce the payment of all fees, rates, and other service charges for the use of, or services rendered by, or any commodities furnished by any water facility so as to provide revenues which, together with other revenues available to the water board, if any, shall be at least sufficient at all times so that such facility or facilities shall be placed on a self-sustaining basis in accordance with this title.

9. To pledge its revenues and mortgage any or all of its properties to secure the obligations of the authority.

10. To construct, improve, maintain, develop, expand or rehabilitate water facilities.

11. To operate and manage and to contract for the operation and management of properties of the water board.

12. To enter into contracts, and carry out the terms thereof, for the provision of water produced by supply, transmission and distribution facilities constructed and/or operated by the water board, to municipalities, private water companies or to any person and to carry out the terms thereof.

13. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials.

14. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the county, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice.

15. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the water board and to prepare recommendations in regard thereto.

16. To make use of existing studies, surveys, plans, data and other material in the possession of any state agency, any municipality or the authority in order to avoid duplication of effort.

17. To enter upon such lands, waters or premises as in the judgment of the water board shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the water board being liable only for actual damage done.

18. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, from the state or any agency or instrumentality thereof, from any municipality, the board of water supply, the authority or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof.

19. To produce, develop, distribute, supply and sell water for

domestic, commercial and public purposes at wholesale or retail to public authorities, municipalities, the board of water supply, utility companies, private corporations, and persons or individual consumers within or without the service area.

20. To purchase water in bulk from any person, private corporation, public authority, utility company, the board of water supply or municipality when necessary or convenient for the operation of any water facility.

21. To enter into cooperative agreements with the authority, other authorities, any municipality, the board of water supply, any utility company, private corporation or person within or without the service area for the interconnection of facilities, the exchange or interchange of services and commodities or for the construction and operation and maintenance of a water facility by the water board for any municipality having power to construct and develop a water facility, upon such terms and conditions as shall be determined to be reasonable including but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title.

22. To enter into agreements with the authority and any municipality or the board of water supply, as herein provided.

23. To replace residential water service pipes containing lead and running from the curb box at a homeowner's property to the water meter in the residence and to accept an easement from the homeowner therefor.

24. To invest moneys not required for immediate use or disbursement, subject to such restrictions as may be imposed by any agreement with the authority, in such obligations or deposits with such banks or trust companies as it may determine and designate, provided that any such deposit with a bank or trust company shall be continuously and fully secured by direct obligations of the state or the United States of America, or obligations, the principal of and interest on which are guaranteed by the state or the United States of America, of a market

value equal at all times to at least the amount of the deposit.

25. To establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by any agreement with the authority and/or any municipality in the service area.

26. With the consent of the chief executive officer of a municipality within the service area, to use officers and employees of such municipality and to pay a proper portion of compensation or costs for the services of such officers or employees.

27. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

28. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1226-g. Transfer of water facilities by the board of water supply or any municipality. 1. The board of water supply or any municipality may, by resolution approved by a majority of the entire voting strength of the applicable governing body of the board of water supply or municipality, as the case may be, enter into an agreement with the water board for the transfer, by deed, lease or other arrangement, to the water board, for use in the exercise of its corporate powers and purposes, of any property, real, personal or mixed or any interest therein, constituting a water facility or facilities or otherwise owned by it. Any such property offered to be transferred to the water board within the period commencing on the date the certificate described in paragraph (a) of subdivision five of section one thousand two hundred twenty-six-e of this title shall be filed by the county executive and terminating one hundred days thereafter shall be accepted by the water board in the physical condition in which it then exists. Any such agreement shall state the consideration, if any, for such transfer and shall provide that the authority shall assume the obligation to pay any or all outstanding indebtedness of the transferring body and/or pay all or part of any purchase or acquisition price in cash or in installments over such period of years, at such rate of interest, if any, and may be subject to such other terms and conditions as the water board, the authority, the board of water supply or municipality, as the case may be, shall agree to be fair, adequate and reasonable. Notwithstanding section six-l of the general municipal law or any other general, special or local law or charter provision to the contrary, the purchase or acquisition price, including cash proceeds and any installments to be paid by the authority to the board of water supply or to the city over a period of years, shall be paid to the city and deposited when received by the city in a trust fund hereby created and entitled "city of Utica capital improvement trust fund". Moneys in such trust fund shall be invested in the same manner as moneys of the city held in a capital reserve fund established pursuant to section six-c of the general municipal law may be invested. Not exceeding fifty per centum of the principal corpus plus interest earned or capital gain realized by the city in the immediately preceding fiscal year of the city from any such investment may be authorized to be and thereafter expended by a two-thirds vote of the council of the city for any city object or purpose defined as a capital improvement in subdivision nine of section 2.00 of the local finance law or to pay principal of or interest on obligations of the city issued for any capital improvement, provided: (i) the mayor shall have theretofore submitted to the council and the council shall have approved a five year capital plan for the city, and (ii) the capital improvement or improvements for which such moneys will be expended is described and approved in such capital plan, and (iii) notwithstanding paragraphs (i) and (ii) of this subdivision, the expenditure of any amount of such moneys specifically allocated in the city budget to pay the principal of or interest on any existing obligations of the city may be authorized in the same manner and by the same voting strength as provided for in the adoption of the annual city budget. The capital plan may be revised, from time to time, by the mayor and the council and may be amended, from time to time, as the mayor and the council shall determine necessary and appropriate. Any amount of interest earned or capital gain realized from any such investment and not expended in any fiscal year of the city as herein provided shall, on the first day of the next succeeding fiscal year of the city, be added to and become a part of the principal corpus of said trust fund. The trust fund shall terminate when the balance of all moneys remaining therein shall amount to less than two hundred thousand dollars. At such time the remaining principal corpus may be transferred to and deposited in the general fund of the city by a majority vote of the council of the city. Notwithstanding any provision of any general or local law or charter provision, neither the principal corpus of such trust fund nor any interest or capital gain realized from the investment thereof shall be utilized, transferred or advanced for any purpose or to any fund. To the extent not inconsistent with this title, any such agreement may impose such limitations or conditions as may be agreed upon by and between the board of water supply or such municipality and the water board with respect to the power of the water board to sell or otherwise dispose of any property acquired by the water board pursuant to such agreement. Notwithstanding the provisions of any general, special or local law or charter to the contrary, any action taken by the board of water supply or any municipality pursuant to this subdivision shall not be subject to a permissive or mandatory referendum and any such property, real, personal or mixed or any interest therein, need not be sold at public auction.

2. Any such agreement shall set forth the liabilities of the board of water supply or of any municipality which it is contemplated are to be paid by the authority or the water board from moneys available to it.

3. Any such agreement may provide for the payment by the board of water supply or any municipality to the water board of any funds, including the remaining proceeds of any bonds or notes issued for any water facility, to be transferred by the board of water supply or municipality to the water board as may be determined appropriate by such board of water supply or municipality and the water board.

4. The board of water supply, any municipality, the authority and the water board, or any combination thereof, are hereby authorized and

empowered to make or enter into any contracts, agreements, deeds, leases, conveyances or other instruments as may be necessary or appropriate to effectuate the purposes of this title, and they shall have power and authority to do so and to authorize the doing of all things incidental, desirable or necessary to implement the provisions of this title.

5. Notwithstanding the foregoing provisions of this section, no agreement relating to the transfer of water facilities contemplated by this section shall become effective for any purpose unless and until the same shall have been approved in writing by resolution of the authority.

6. Any application filed or proceeding heretofore commenced in relating to any water facility transferred to the water board pending with the state departments of environmental conservation or health or any other state agency or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the water board and be binding upon the water board to the same extent and in the same manner as if the water board had been a party to such application or proceeding from its inception, and the water board shall be deemed a party thereto to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the water board and shall be assigned and transferred by the board of water supply or applicable municipality to the water board unless such assignment and transfer is prohibited by federal law.

7. The rules and regulations of the water board may provide for the discontinuance or disconnection of the supply of water by the water board for non-payment of fees, rates or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law.

§ 1226-h. Agreements among the water board, board of water supply, municipalities and the authority for the provision of projects. 1. The authority, the water board, the board of water supply and any municipality may enter into agreements for the purpose of providing for the construction and financing of a project.

2. Any such agreements: (i) shall describe in sufficient detail for reasonable identification the particular project to be financed in whole or in part by the authority, (ii) shall describe the plan for the financing of the cost of the construction of such project, including the amount, if any, to be provided by the water board and the source or sources thereof, (iii) shall set forth the method by which and by whom and the terms and conditions upon which moneys provided by the authority shall be disbursed, (iv) may require, in the discretion of the authority, the payment to the authority of the proceeds of any state and federal grants available to the water board, (v) shall provide for the establishment of user fees, rates and other charges and the charging and collection thereof by the water board for the use of, or services furnished, rendered or made available by such project such as to provide that the water board receive revenues at least sufficient, together with other revenues of the water board, if any, to meet the requirements of this title, (vi) may provide for the transfer by the board of water supply or by any municipality to the water board pursuant to this title of ownership of any project, (vii) may provide for the construction and completion of such project by such municipality or the water board and for the operation, maintenance and repair thereof, subject to such terms and conditions, not inconsistent with this title, which may be in the public interest and necessary or desirable properly and adequately to secure the holders of bonds of the authority, (viii) shall provide for the discontinuance or disconnection of the supply of water for non-payment of fees, rates or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and

section one hundred sixteen of the public service law, and (ix) in the discretion of the authority, require reports concerning the project from the water board to the authority and any municipality.

3. If the city executes an agreement pursuant to this section, relating to the financing of projects by revenue bonds, it shall have and shall be deemed to have annulled its power to levy user fees, rents and other charges on participating properties or customers for the cost of financing, operating and maintaining such projects under its jurisdiction until all bonds of the authority shall have been paid or discharged in accordance with the agreement and the resolution of the authority authorizing such bonds. If the city has outstanding general obligation bonds issued for acquiring or constructing water or sewerage facilities, whether the bonds are payable from revenues, special assessments, or taxes, it may authorize the authority pursuant to the agreement to issue its revenue bonds under this title for the purpose of retiring the outstanding bonds.

4. No such agreement shall be executed until the water board shall have held a public hearing at which users of the project shall have had opportunity to be heard concerning the proposed provisions thereof. Notice of such hearing shall be published not less than ten nor more than twenty days in advance in a newspaper or newspapers having a general circulation in the service area as designated by the water board.

5. Such agreement shall be effective upon the issuance by the authority of bonds to finance the cost of constructing projects of the city or the water board.

6. Any such agreement may be amended, revised or extended by supplemental agreements authorized and executed in the same manner as the original agreement, provided that any such supplemental agreement shall not be inconsistent with the provisions of this title.

7. (a) Following the execution of the initial agreement by and between the authority, the water board, the board of water supply and any

municipality pursuant to this section, the secretary of the water board shall, and following the execution of any subsequent agreement by and between the authority, the water board, the board of water supply, and any municipality pursuant to this section may, publish a notice in substantially the following form:

"Notice is hereby given that (here insert the parties to the agreement) (has) (have) on the _ day of _ entered into an agreement with the upper Mohawk valley regional water finance authority in relation to the construction and financing of (here insert a brief description of the water project or facility to which such agreement relates) pursuant to the upper Mohawk valley regional water finance authority act for the purpose of placing its water facilities on an independent basis, imposing fees and rates on water users, which, together with other revenues available for such purposes, if any, are sufficient to pay to the authority debt service on bonds issued by the authority pursuant to the agreement and for operation and maintenance of the facility (title to which is transferred to the water board pursuant to the agreement). Such agreement in general terms provides (here insert a brief summary of the substantive provisions of such agreement).

A copy of the complete agreement is on file for public inspection in the office of the secretary of the water board where the same may be examined by any interested person during regular business hours. The validity of the agreement may be hereafter contested only upon the ground or grounds that: (i) such agreement violates, or the performance of any provision thereof by any party thereto would violate, the provisions of the state constitution or (ii) the provisions of law which should have been complied with in relation to the authorization and execution thereof were not substantially complied with, and an action, suit or proceeding is commenced within sixty days after the date of this notice."

(b) The publication authorized by this subdivision shall be in a newspaper or newspapers having a general circulation in the service area as designated by the water board.

(c) After the expiration of the sixty day period set forth in such notice, the validity of such agreement shall be conclusively presumed and the validity thereof shall not thereafter be questioned by either a party plaintiff or a party defendant and no court shall have jurisdiction in any action, suit or proceeding contesting such validity.

(d) Neither any error nor omission in the notice of publication provided for in this subdivision shall affect or impair the validity of an agreement executed pursuant to this section so long as the notice substantially conforms to the provisions of this section.

§ 1226-i. Imposition and disposition of fees, rates or charges. 1. The water board shall establish, fix and revise, from time to time, fees, rates or other charges for the use of, or services furnished, rendered or made available by, all projects and water facilities owned, leased or utilized by the water board pursuant to this title in an amount at least sufficient at all times so as to provide funds in an amount sufficient, together with other revenues available to the board, if any, (i) to pay to the authority, in accordance with any agreement with the authority, an amount sufficient for the purpose of paying the principal of and the interest on the outstanding bonds of the authority as the same shall become due and payable and maintaining or funding a capital or debt service reserve fund therefor, if any, or any other fund determined necessary by the authority, and, if applicable (ii) to pay to any municipality, in accordance with this title or any agreement entered into pursuant to this title, an amount sufficient for the purpose of paying any payment in lieu of taxes as the same shall become due and payable, (iii) to raise an amount sufficient for the purpose of paying the costs of administering, maintaining, repairing and operating any water facility, (iv) to meet any requirements of any agreement, including requirements relating to the establishment of reserves for renewal and replacement and for uncollected charges and covenants respecting rates, (v) to pay all other reasonable and necessary expenses of the authority and the water board in relation thereto, and (vi) to pay or provide for such other purposes or projects as the water board considers appropriate and in the public interest.

2. No fee, rate or other charge shall be established, fixed or revised unless and until the water board has held a public hearing at which the users of the water facility, the owners of property served or to be

served and other interested persons have had an opportunity to be heard concerning the same. Notice of such public hearing shall be published by the water board not less than ten nor more than twenty days before the date set therefor in a newspaper or newspapers having general circulation in the service area, as shall be designated by the water board. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such hearing. A copy of the notice shall be filed in the office of the secretary of the water board and shall be available for inspection by the public. At all such hearings, all users of the water facilities, owners of property served or to be served and any other interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision of the water board on matters considered at such public hearing shall be in writing and be made available in the office of the secretary of the water board for public inspection. Such decision shall be published in a newspaper or newspapers having a general circulation in the service area as shall be designated by the water board not later than thirty days after such decision is made. The fees, rates or other charges so established for any class of users of property served shall be extended to cover any additional premises thereafter served which are within the same class, without the necessity of a hearing thereon. The water board shall exempt the facility currently operated by the Utica zoological society and located on Steele Hill road, Utica, commonly known as the Utica zoo, from the payment of fees, rates or charges for water. The water board may also determine to exempt the municipalities within the service area from the payment of all or any part of fees, rates or other charges as the water board deems appropriate; provided, however, that (i) any such exemption shall be established by and set forth in a resolution of the governing body of the water board, (ii) such resolution shall be mailed or delivered to all municipalities within or partly within the service area prior to the date on which any such exemption shall take effect, and (iii) any such exemption shall apply equally and uniformly to all such municipalities.

3. The fees, rates or other charges established, fixed and revised from time to time by the water board shall be collected by the water

board at such times and in such manner as may be determined by the rules and regulations adopted by the water board consistent with the provisions of this title.

4. Such fees, rates or other charges, if not paid when due, shall constitute a lien upon the premises served and a charge against the owners thereof, which lien and charge shall bear interest at the same rate as would unpaid taxes of the county. Such lien shall take precedence over all other liens or encumbrances, except taxes, and may be foreclosed against the lot or building served in the same manner as a lien for such taxes. The amount which remains due and unpaid for sixty days may, with interest thereon at the same rate as unpaid county taxes and with reasonable attorneys' fees, be recovered by the water board in a civil action in the name of the water board against such owners. In addition to any other lawful enforcement methods and pursuant to rules and regulations of the water board promulgated pursuant to this title, the payment of fees, rates, or other charges for water service to any premises may be enforced by discontinuing the water service to such premises provided that such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law.

5. The water board shall pay to the authority such amounts at such times and in such manner as may be provided in the agreement by and among the authority, the water board, the board of water supply, and any municipality consistent with the priorities set forth in such agreement. There is hereby created a lien, by this title made a statutory lien within the meaning of the uniform commercial code and any other state or federal law, upon the gross revenues of the water board, in favor of the payment of all amounts due pursuant to such agreement and in the order and priority set forth therein and which lien shall be a first lien upon such gross revenues. The gross revenues so subject to such statutory lien shall be and remain subject to such statutory lien until the payment in full of each such item in accordance with such priority. Said statutory lien shall not be construed to give any holder or owner of any

bond of the authority power to compel the sale of any water facility.

6. If there be any default by the water board, in the making of the payments to the authority required under this title, as a result of the failure by the water board to impose sufficient fees, rates or other charges, the authority may petition for the appointment by any court having jurisdiction in any proper action of a receiver to administer on behalf of the water board, under the direction of said court, the affairs of the water board in order to achieve revenues at least sufficient to make such payments; and by and with the approval of said court, to establish, fix and revise, from time to time, fees, rates or other charges at least sufficient therefor in conformity with this title, and the resolution or trust indenture of the authority providing for the issuance of its bonds and in accordance with such orders as the court shall make.

7. The water board shall prepare and transmit to each town in the service area on or before the first day of September in each year, to each village in the service area on or before the first day of February in each year and to the city on or before the first day of February in each year a list of those persons or property owners within such municipality who are in arrears in the payment of fees, rates, or other charges for a period of sixty days or more after the last day fixed for payment thereof without penalty. The list shall contain a brief description of the properties for which the services were provided, the names of the persons liable to pay for the same and the amounts chargeable to each, including applicable penalties and interest. The municipality shall levy or cause to be levied such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of such municipality under the name of "delinquent water charges". Such amounts, as and when collected by such municipality, shall be paid over to the water board. All of the provisions of the tax laws of the state covering the enforcement and collection of unpaid taxes of an applicable municipality shall apply to the collection of such unpaid fees, rates or other charges. In the event that the enforcement of unpaid taxes, including unpaid delinquent water charges, does not yield moneys sufficient to pay in full all unpaid

taxes including unpaid delinquent water charges, the amount of unpaid water charges to be paid to the water board shall be prorated.

8. Neither the public service commission, the department of environmental conservation nor any municipal or state agency, shall have any jurisdiction over the water board or the authority or any power over the regulation of the fees, rates or other charges established, fixed or revised by the water board except as provided by law with respect to the supply of water to users outside the service area. The decision dated September fourteen, nineteen hundred thirty-seven of the water power and control commission, predecessor to the department of environmental conservation, with respect to the supply, distribution of and payment for water by and to the city shall be of no force and effect subsequent to the date on which the water board shall supply, distribute and sell water in the service area pursuant to this title.

§ 1226-j. Appropriations for purposes of water board or the authority; transfer of property to water board or authority; acquisition of property by municipality for authority; contracts with municipality. 1. In addition to any powers granted to it by law, any municipality may, from time to time, appropriate by resolution sums of money for purposes of either the water board or the authority to defray project costs or any other costs and expenses of either the water board or the authority or to pay amounts payable or anticipated to be payable to either the water board or the authority pursuant to any agreement authorized by this title. Subject to the rights of bondholders, such municipality may determine if the moneys so appropriated shall be subject to repayment by either the water board or the authority and, in such event, the manner and time or times for such repayment.

2. Any municipality may give, grant, sell, convey, loan or license the use of or lease to either the water board or to the authority any properties which are useful to either the water board or the authority in order to carry out their powers under this title. Any such transfer of property shall be for such term and upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and

such municipality may agree, including provision for the authority to assume the primary responsibility for the payment of any bonds or notes issued by such municipality for such properties.

3. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by either the water board, the authority or any municipality from the state may be used for any corporate purpose of either the water board or the authority.

4. One or more of the municipalities within the service area, the water board and/or the authority shall have the power to contract, from time to time, between or among themselves, in relation to the purchase, sale, production, accumulation, supply, transmission, or treatment of water, and/or the construction, use, sale and/or leasing, of any water facility of the water board, which contracts may include any or all of the following provisions: (i) requiring the purchase by any municipality of specified amounts of water; (ii) requiring the use by any municipality of a water facility; (iii) limiting the right, including a prohibition, of any municipality to construct a water facility which will serve the same, or substantially the same, function as a water facility constructed or to be constructed by the municipality; (iv) requiring the water board to reserve capacity in any water facility to assure the availability to any municipality of a specified amount of water or of the use of any water facility; (v) providing for specified minimum periodic payments whether or not water is actually taken and used, or such water facility is actually used, subject to such limitations, exceptions and provisions therein, and (vi) requiring any municipality to pay to the water board such amounts as shall be necessary to assure the continued operation of the water board. All such payments shall be determined and paid in such manner and at such times as may be provided in such contracts.

5. No gift, grant, sale, conveyance, loan, contract or lease authorized by this section shall be subject to referendum, permissive or otherwise.

§ 1226-k. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the board of water supply, may, at the request of the authority and with the consent of such board, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 1226-l. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith.

(a) The aggregate principal amount of such bonds, notes or other obligations shall not exceed one hundred fifty million dollars ($150,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than one hundred fifty million dollars ($150,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid.

(b) Provided further that no such bonds, notes or other obligations that such board has determined to be reasonably necessary to service manufacturing facilities constructed or to be constructed in the service area after January first, two thousand fourteen shall be issued if such issuance would cause the aggregate principal amount of such bonds, notes or other obligations outstanding to exceed one hundred fifty million dollars. Provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than one hundred million fifty dollars ($150,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid.

For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds (other than notes or other evidence of indebtedness) issued for refunding purposes, which have a final maturity date longer than the maturity of the bonds being refunded, shall be approved by a resolution of the county legislature adopted by a majority vote and approved by the county executive. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more that fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller and the county comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

The authority shall annually submit its bond sale report to the state comptroller and the county comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of

bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the revenues, other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bond holders as may then exist;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

(g) the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bond may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bond holders to appoint a trustee pursuant to this title or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and

perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

9. Neither the members of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

§ 1226-m. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such

default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of Oneida county and provided or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may and, upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding, shall in his, her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to require the water board to collect fees, rates and charges adequate to carry out any agreement as to, or pledge of, such fees, rates and charges and to require the authority to carry out any other agreements with the water board and/or any municipality and/or the holders of such bonds to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or

proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in Oneida county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenue derived from the properties.

§ 1226-n. State, water board or municipality, other than the authority, not liable on authority bonds. Neither the state, the water board nor any municipality, other than the authority, shall be liable on the bonds of the authority and such bonds shall not be a debt of either the state, the water board or any municipality, and each such bond shall contain, on the face thereof, a statement to such effect.

§ 1226-o. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or trust company in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such moneys shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bond and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1226-p. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are not or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any inconsistent provision of law, the bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state are now or hereafter may be authorized.

§ 1226-q. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 1226-r. Exemption from taxes, assessments and certain fees. 1. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other excise taxes, upon any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities or any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority. Notwithstanding the previous sentence, the authority shall be required to pay water and pure water fees or charges as may be negotiated by any public corporation. The authority shall at all times be exempt from any filing, mortgage recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income there from as well as the property of the authority shall at all times be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

3. Notwithstanding the foregoing, the water board shall pay to each municipality and each school district as hereinafter provided located either in the service area or within municipalities in which real property of the water board is located in monthly payments commencing on the first day of the fiscal year of such municipality or school district in the year succeeding the calendar year in which this title shall take effect:

(a) to all school districts annually determined by the water board to have lost real property tax revenues as a consequence of the transfer of any previously taxable real property by either the board of water supply or any municipality to the water board, the sum of nine hundred seventy-five thousand dollars in the first fiscal year and such sum annually thereafter in each of the next twenty-two years equal to the sum so paid the preceding year decreased by forty-two thousand three hundred ninety-one dollars, the amount to be paid to each individual school district to be determined annually by the water board in proportion to the amount of real property taxes received by each such school district from the board of water supply in fiscal year nineteen hundred ninety-three--nineteen hundred ninety-four;

(b) to each town which the water board annually determines will provide services to the water board during the next ensuing calendar year, for a period of forty years commencing in the calendar year succeeding the year after the date of enactment of this title, the annual sum of seventy-four thousand seven hundred thirty-seven dollars, which sum shall be increased every sixth year by five per centum; provided, that the town of Trenton shall initially receive sixty thousand dollars of such initial aggregate amount with the remainder being distributed to the town of Russia in the amount of nine thousand five hundred dollars, to the town of Norway in the amount of four thousand three hundred eighteen dollars, to the town of Ohio in the amount of eight hundred ninety-four dollars and to the town of Salisbury in the amount of twenty-five dollars; which such amounts being increased by such five per centum as herein provided, and thereafter as the water board shall determine;

(c) to the county of Oneida, in each year during which the auditorium commonly known as the Utica memorial auditorium, as the same may be reconstructed, enlarged or modified, or replaced by a building serving a similar function at a different location within the service area, shall be operated as an auditorium for the benefit of the residents of the county of Oneida or any portion thereof, the annual sum of five hundred thousand dollars, which sum shall be increased every sixth year by ten per centum, for a period of forty years; and thereafter as the water board shall determine;

(d) to the city of Utica, the sum of two hundred thousand dollars during each of the next ten years, commencing in the calendar year succeeding the year after the date of enactment of this title; the sum of three hundred fifty thousand dollars in each of the following five years; the sum of four hundred fifty-five thousand dollars in each of the following five years; the sum of three hundred seventy-five thousand dollars in each of the following five years; the sum of four hundred twenty-five thousand dollars in each of the following five years; the sum of four hundred seventy-five thousand dollars in each of the following five years; the sum of five hundred twenty-five thousand dollars in each of the following five years; and thereafter as the water board shall determine.

Notwithstanding any other provision of this section, any payment in lieu of tax payments described in paragraph (a), (b), (c) or (d) of this subdivision, (i) may be decreased at any time for any period by resolution of the governing body of the water board approved by the affirmative vote of at least seventy-five per centum of such governing body and provided further that any such decrease shall be uniform for all payment in lieu of tax payments to the affect that any percentage decrease to any municipality or school district shall be equally reduced to each other municipality or school district, and (ii) as the water board shall determine, be in priority to or subordinate to any other payments required to be made pursuant to this title, including, without limitation, the payment of sums to the authority or to any trustee representing the holders of any bonds issued by the authority.

§ 1226-s. Actions against water board and authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against either the water board or the authority or their members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of either the water board or the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the water board or the authority, as the case may be, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the board or authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. Any action or proceeding to which the authority, water board or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the water board or the authority upon any judgment for which it is liable, other than a judgment on bonds of the authority, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

§ 1226-t. Contracts. All contracts for construction shall be let by the authority in conformity with the applicable provisions of section one hundred thirty-five of the state finance law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards and working hours.

The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

§ 1226-u. Code of ethics. 1. Definition. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards.

a. No authority employee should accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.

b. No authority employee should accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

c. No authority employee should disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

d. No authority employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

e. No authority employee should engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

f. An authority employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

g. An authority employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

h. An authority employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

i. No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

j. If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she should file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

§ 1226-v. Equal employment opportunity. The water board and the authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 1226-w. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the water board and of the authority shall be subject to the supervision of the comptroller and an annual audit shall be performed by an independent certified accountant. The water board and the authority shall annually submit to the governor and comptroller and to the chairs of senate finance and assembly ways and means committees a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county and city and of each town and village in the service area.

§ 1226-x. Limited liability. Neither the members of the governing body of either the water board or of the authority, nor any officer or employee acting in their behalf, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of either the water board or the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 1226-y. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 1226-z. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

TITLE 10-A

UPPER MOHAWK VALLEY REGIONAL WATER BOARD

§ 1226-aa. Short title. This title shall be known and may be cited as the "Upper Mohawk Valley regional water board act".

§ 1226-bb. "Upper Mohawk Valley regional water board". For the benefit of the Upper Mohawk Valley and the inhabitants thereof, a water board to be known as the Upper Mohawk Valley regional water board is hereby established for the accomplishment of any or all of the purposes specified in title ten of article five of this chapter. It shall have the powers and duties now or hereafter conferred by title ten of article five of this chapter upon a water board. It shall be organized in a manner prescribed by and be subject to the provisions of title ten of article five of this chapter. The water board, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title ten of article five of this chapter.

TITLE 10-B

NIAGARA FALLS PUBLIC WATER AUTHORITY

§ 1230-a. Short title. This title shall be known and may be cited as the "Niagara Falls public water authority act."

§ 1230-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section twelve hundred thirty-c of this title.

2. "Bonds" means the bonds, notes or other evidences of indebtedness

issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "City" means the city of Niagara Falls, Niagara county.

4. "Civil service commission" means the civil service commission of the city of Niagara Falls.

5. "Comptroller" means the comptroller of the state of New York.

6. "Construction" or "constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of the water facilities and their associated transmission and distribution systems; of the wastewater facilities and their associated interceptor and collection systems, including treatment facilities and pumping stations; and of the storm water facilities including catch basins, sewers, drainage pipes, treatment facilities and all appurtenances to such water, wastewater, and storm water facilities; the inspection and supervision thereof; and the environmental, engineering, architectural, legal, fiscal, and economic investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto and claims arising therefrom.

7. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real, personal and mixed, improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all system facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of any environmental, engineering and architectural investigations, surveys, plans and specifications, the

cost of consultant and legal services, the cost of any guarantee or bond insurance or any other credit support devices and the cost of other expenses necessary, reasonably related or incidental to the construction of any such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds, and the financing of the placing of any project in operation, including the reimbursement to the city, any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of any project hereunder had they been made directly by the authority or the water board.

8. "Council" means the duly elected council of the city of Niagara Falls.

9. "County" means the county of Niagara, state of New York.

10. "County legislature" means the county legislature of the county of Niagara.

11. "Executive director" means the executive director or chief executive officer of the water board, or any other person duly appointed or delegated to perform such duties by the governing body of the water board.

12. "Facilities" means any of the properties of the authority or the water board or any other real property, personal or mixed property controlled, leased, or operated by the authority or the water board which is used or intended to be used in the system or in furtherance of their respective corporate purposes.

13. "Governing body" means the members of the authority or the water board, as the case may be, constituting and acting as the governing body of the authority or the water board, as the case may be.

14. "Mayor" means the mayor of the city of Niagara Falls.

15. "Municipality" means any county, city, town, village, water district, fire district, fire protection district, school district, sewer district, special or improvement district, commission, board or department of the governmental body indicated, any other such instrumentality, including any agency, or public corporation of the state, or any of the foregoing or any combination thereof.

16. "Person" means any natural person, firm, trustee, executor, personal representative, partnership, association, limited partnership, limited liability company, limited liability partnership, joint venture or corporation, or other legal entity whatsoever, exclusive of a public corporation as defined pursuant to article two-A of the general construction law. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

17. "Project" means any system-related facility or properties, including the acquisition, planning, development, financing or construction thereof.

18. "Properties" means any part of the system or facility of the water board, whether situated within or without the territorial limits of the city or the water board's service area, including the plants, works, structures, instrumentalities or part thereof and appurtenances thereto, real property, or any other property incidental or appurtenant to and included in such facility or facilities or part thereof, and any improvements, extensions and betterments.

19. "Real property" means lands, structures, franchises, rights and interests in land, air space, waters, land underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fee simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

20. "Revenues" means all rates, fees, charges, payments and other income and receipts derived from the operation of the system and the facilities and properties of the water board including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sale or other disposition of assets, together with all federal, state or municipal aid.

21. "Service area" means the area comprising the entirety of the city on the date on which this title becomes effective. Upon mutual agreement with any municipality the service area may be expanded to include such municipality or any portion or part thereof.

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

23. "State agency" means any state office, public benefit corporation, public authority, department, board, commission, bureau or division, or other agency or instrumentality of the state.

24. "Storm water facility" means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of collecting, conveying, accumulating, storing, transmitting, draining, discharging or treating storm water, including, but not limited to, odor control facilities, force mains, conduits, pipelines, interceptors, mains, pumping stations, flow meters, sampling stations, pumps, treatment plants and works, outfalls, contract rights, easements, franchises, approaches, connections, permits, meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, accumulation, storage, drainage, discharge, transmission, or treatment of storm water.

25. "System" means the entirety of all water, wastewater, and storm water facilities or properties as described herein.

26. "User" means any person or effluent source that directly or

indirectly contributes, causes or permits the contribution of waste into or through the wastewater or storm water facilities, or any person who receives or uses water from the water facilities described in this title.

27. "Waste" means any liquid, solid or gaseous substance, or combination thereof, that may be introduced into the wastewater or storm water facilities.

28. "Wastewater facility" means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of collecting, conveying, accumulating, storing, transmitting, or treating wastewater, including, but not limited to, odor control facilities, force mains, conduits, pipelines, interceptors, mains, pumping stations, flow meters, sampling stations, pumps, piping systems, treatment plants and works, outfalls, contract rights, easements, franchises, approaches, connections, permits, meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, accumulation, storage, transport, treatment, disposal or reuse of wastewater.

29. "Water board" means the corporation created by special act of the state legislature as provided in section twelve hundred thirty-e of this title.

30. "Water facility" or "water facilities" means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of accumulating, storing, supplying, transmitting, treating or distributing water, including, but not limited to, surface or groundwater reservoirs, basins, dams, canals, aqueducts, aqueduct taps, standpipes, conduits, pipelines, interceptors, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises,

approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, storage, treatment or distribution of water.

§ 1230-c. Niagara Falls public water authority. 1. A public corporation to be known as the "Niagara Falls public water authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation.

2. The governing body of the authority shall consist of a total of three members, one of which is to be appointed by the mayor, one to be appointed by the temporary president of the senate at the recommendation of the senator or senators representing all or a portion of the city, and one to be appointed by the speaker of the assembly at the recommendation of the assembly member or members representing all or a portion of the city. At all times, at least one member shall be a resident of the city. The member to be appointed by the mayor shall be appointed for a term of office ending on December thirty-first of the third year following the year in which this title shall have become a law, the member to be appointed by the temporary president of the senate shall be appointed for a term ending on the thirty-first day of December of the fourth year following the year in which this title shall have become a law, and the member to be appointed by the speaker of the assembly shall be appointed for a term ending on the thirty-first day of December of the fifth year following the year in which this title shall have become a law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. All members shall hold, at a minimum, a bachelor's degree from an accredited college or university, with concentration or degree in one of the following areas of study and at least five years of professional experience therein, or

without such degree, such member shall have at least ten years of professional experience in one of the following fields: legal, environmental, financial, management, engineering, human resources, or science. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring other than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office only for the same reasons and in the same manner as provided by section twenty-eight hundred twenty-seven of this chapter. Each member shall attend, in each fiscal year, at least seventy-five percent of all meetings of the governing body. Any member fulfilling the requirement that at least one member be a resident of the city shall forfeit his or her membership on the governing body upon such member's termination of residence in the city, which forfeiture shall create a vacancy. The members of the authority shall receive no compensation for their services but shall be reimbursed for their actual, necessary expenses incurred in connection with the carrying out of the purposes of this title; provided, however, that no member shall be reimbursed for any expense of attending ordinary authority meetings or any other expense exceeding one thousand dollars incurred with respect to any individual purpose, unless the governing body at a meeting duly called and held when all three members are present shall have authorized such expenditure by such member. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of at least two members are present. Any one or more members of the authority may participate in a meeting of such authority by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear or see and hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. The vote of a majority of the members present at the time of the vote, if a quorum is present at such time, shall be the act of the authority. No action shall be taken except pursuant to the favorable vote of at least two voting members. All votes must be made in person at a meeting and no vote may be made by proxy. The governing body may delegate to one or more of its members, officers or agents such powers and duties as it may deem proper.

3. The officers of the authority shall consist of a chair, a vice-chair, a treasurer, and a secretary. Such secretary or treasurer need not be a member of the authority. Such officers shall be appointed by the governing body and shall serve in such capacities at the pleasure of the governing body. In addition to the treasurer or secretary, the governing body may appoint and at pleasure remove such additional officers as it may determine necessary for the performance of the powers and duties of the authority. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office. The amount and sufficiency of such bond shall be approved by the governing body and the premium therefor shall be paid by the authority.

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

5. (a) The mayor shall file on or before December thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the mayor setting forth: (i) the name of the authority; (ii) the names of the members appointed by the mayor; and (iii) the effective date of the special act of the state legislature creating the authority. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

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

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

7. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

§ 1230-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

3. To borrow money and issue bonds or other obligations for its corporate purposes and to provide for the rights of the holders thereof.

4. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given to it in this title.

5. To enter into agreements with the water board, the city, any other

municipality, the state, and any other person for the financing by the authority of projects as herein provided.

6. To acquire by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any property, real, personal or mixed or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title, provided, however, the authority shall not have the power to condemn property of the water board, the city, or any other municipality.

7. To apply to the appropriate agencies and officials of the federal, state and local governments, any municipality, for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials.

8. To appoint such officers and agents as may be required for the performance of its duties, to fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the city, and to retain or employ counsel, auditors, engineers, private consultants and other independent contractors on a contractual or otherwise for rendering management, professional or technical services and advice.

9. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto.

10. To make use of existing studies, surveys, plans, data and other material in the possession of any state agency, the city, any municipality, any person or the water board in order to avoid duplication of effort.

11. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys,

soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done.

12. To apply for and to accept any gifts, grants, loans of funds or property, or financial or other aid, in any form, from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof.

13. To make and amend by-laws for its organization and management and regulation of its affairs and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title. A copy of such rules, regulations and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the city clerk and secretary of the water board.

14. To enter into cooperative agreements with the state, any state agency, the city, any municipality, utility companies, individuals, or corporations, within or without the service area, for any lawful purposes necessary or desirable to effect the purposes of this title upon such terms and conditions as shall be determined to be reasonable.

15. With the consent of the chief executive officer of the city or a municipality within the service area, to use officers and employees of the city or municipality and to pay a proper portion of compensation or costs for the services rendered to the authority by such officers or employees.

16. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title provided that the authority shall not have power, within the city, to collect rentals, charges, rates or fees from the owners of real property, or the occupants of real property (other than the occupants of premises owned or controlled by the authority), for services or facilities furnished or supplied in connection with such real property,

if such services or facilities are of a character or nature then or formerly furnished or supplied by the city.

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

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

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

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

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

5. (a) The mayor shall file on or before December thirty-first of the year following the year in which the special act of the state

legislature creating the water board shall have become a law, in the office of the secretary of state, a certificate signed by the mayor setting forth: (i) the name of the water board; (ii) the names of the members appointed by the governor, the temporary president of the senate, the speaker of the assembly, the mayor, and the city council; and (iii) the effective date of the special act of the state legislature creating the water board. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the water board shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

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

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

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

and shall contain such terms and conditions as the water board and the city shall determine reasonable and appropriate.

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

§ 1230-f. General powers of the water board. Except as otherwise limited by this title, the water board shall have power:

1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

3. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the water board to carry out any powers expressly given it in this title, provided nothing herein contained shall authorize the water board to issue bonds, borrow money or otherwise contract indebtedness.

4. To enter into agreements with the authority, the city, any other municipality, the state, any state agency, or any person to provide a means whereby the authority or the water board shall finance the cost of constructing projects, as described in the agreement, and the water board may agree to assume title to any such project, and to raise revenues from users through fees, rates or other service charges

necessary or appropriate to secure such financing and to pay the cost of the construction, operation, maintenance, management and repair of any such project or the system.

5. To acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold and use any property, real, personal or mixed or any interest therein, constituting or for use in connection with a project or otherwise, as the water board may deem necessary, convenient or desirable to carry out the purposes of this title. In connection with the acquisition of any property, the water board may assume and agree to perform covenants and observe the restrictions contained in any instrument to which any such property is subject; and furthermore the city, any municipality, the state, state agency or any person, as owner of any properties, which the water board is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the water board, whereupon the water board shall become charged with the performance of all public duties with respect to such properties with which such owner was charged and such owner shall become discharged from the performance thereof and, subject to any limitations in any agreement entered into pursuant to this title, to sell, lease as lessor, transfer or otherwise dispose of any such property or interest therein; provided, however, that any property determined by the water board to be no longer necessary by the water board for use in fulfilling the purposes of the water board pursuant to this title which was acquired by the water board from the city, any municipality, the state, state agency or any person shall be conveyed, immediately after such property has been so determined to be no longer necessary by the water board, at no cost, to the city or to such municipality, the state, or such state agency from whom the water board acquired such property, with the consent of the city, or as may be provided otherwise in any agreement with the city and/or the authority, or the grantor of such property.

6. To acquire from the city, the authority and any municipality, title to any water, wastewater, or storm water facility or project.

7. To make and amend by-laws for its organization and management and

the regulation of its affairs and rules and regulations governing the exercise and enforcement of its powers and the fulfillment of its purposes under this title, including, but not limited to, the sale of water, wastewater and storm water services and the collection of fees, rates and charges therefor, and collection, transport and treatment of wastewater and storm water flows and the collection of fees, rates and charges therefor. A copy of such rules, regulations and by-laws, and all amendments thereto, duly certified by the secretary of the water board shall be filed in the office of the city clerk.

8. To establish, fix, revise, charge, collect and enforce the payment of all fees, rates, and other service charges for the use of, or services rendered by, or any commodities furnished by any system-related facility so as to provide revenues which, together with other revenues available to the water board, if any, shall be at least sufficient at all times so that such facility or facilities shall be placed on a self-sustaining basis in accordance with this title.

9. To pledge its revenues and mortgage any or all of its properties to secure the obligations of the authority.

10. To construct, improve, maintain, develop, expand, repair, replace or rehabilitate any and all system facilities.

11. To operate and manage and to contract for the operation and management of the facilities and properties of the water board.

12. To enter into contracts, and carry out the terms thereof, for the provision of water, wastewater and storm water services produced or provided by or through supply, transmission, distribution, treatment and other system-related facilities owned, leased, constructed and/or operated by the water board; to collect and treat wastewater through system-related facilities, to provide for storm water drainage and treatment using system-related facilities, and to provide for the disposal of residuals from any water, wastewater or storm water to, or from municipalities, private companies or to any person, as applicable.

13. To apply to the appropriate agencies and officials of federal, state, and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials.

14. To appoint such officers, agents and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the city, and to retain or employ counsel, auditors, engineers and private consultants on a contractual basis or otherwise for rendering management, professional or technical services and advice.

15. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the water board and to prepare recommendations in regard thereto.

16. To make use of existing studies, surveys, plans, data and other material in the possession of any state agency, the city, any municipality, any person or the authority in order to avoid duplication of effort.

17. To enter upon such lands, waters, effluent source or premises as in the judgment of the water board shall be necessary for the purpose of making surveys, soundings, borings, inspections and examinations to accomplish any purpose authorized by this title, the water board being liable only for actual damage done.

18. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, from the state or any agency or instrumentality thereof, from any municipality, the city, the authority or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof.

19. To produce, develop, distribute, supply and sell water for domestic, commercial and public purposes at wholesale or retail to any state agency, municipalities, the city, utility companies, private corporations, and persons or individual consumers within or without the city and the service area.

20. To produce, develop, supply and sell wastewater and storm water collection, treatment and disposal services as well as services for the treatment and disposal of biosolids, sludge, grit and related materials for domestic, commercial and public purposes at wholesale or retail to any state agency, municipalities, the city, utility companies, private corporations, and persons or individual consumers within or without the city and service area.

21. To purchase water in bulk from any person, private corporation, state agency, utility company, the city or municipality when necessary or convenient for the operation of any water facility, wastewater facility or storm water facility.

22. To enter into cooperative agreements with the authority, any state agency, other authorities, any municipality, the city, any utility company, private corporation, or person within or without the service area for the interconnection of facilities, the exchange or interchange of services and commodities or for the construction and operation and maintenance of any system facility by the water board for any municipality or person having power to construct and develop a water facility, wastewater facility or storm water facility, upon such terms and conditions as shall be determined to be reasonable including, but not limited to, the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title.

23. To enter into agreements with the state, any state agency, any municipality, the authority, the city, or any person, in furtherance of the purposes of this title as herein provided.

24. To examine, repair or replace any water meter, and to enter upon any property, upon reasonable notice in advance of such entry, for the purpose of such meter examination, repair or replacement as deemed necessary or appropriate by the water board, and to accept an easement or license from the property owner therefor.

25. To invest moneys not required for immediate use or disbursement, subject to such restrictions as may be imposed by any agreement with the authority, in such obligations or deposits with such banks or trust companies as it may determine and designate, provided that any such deposit with a bank or trust company shall be continuously and fully secured by direct obligations of the state or the United States, or obligations, the principal of and interest on which are guaranteed by the state or the United States, of a market value equal at all times to at least the amount of the deposit.

26. To establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by any agreement with the authority and/or any municipality in the service area.

27. With the consent of the chief executive officer of the city or a municipality, as the case may be, to use officers and employees of the city or such municipality and to pay a proper portion of compensation or costs for the services of such officers or employees.

28. To establish, adopt, amend or cancel and issue a code of ethics, and such rules, regulations, permits and orders as it deems necessary, desirable or convenient, for the jurisdiction, control, supervision, possession, operation and use of the system and its facilities and for the administration and enforcement of this title.

29. To issue permits and orders for all users of the system and to enforce the rules, regulations, orders and permits of the water board for all users and persons and, in the event of non-compliance therewith, to take any enforcement action, as may be established in the water board's rules and regulations or otherwise allowed by this title.

30. To have jurisdiction, control, possession and supervision of the existing system and any project; to maintain, operate, reconstruct and improve the same as a comprehensive system and to make additions, betterments and extensions thereto, and to have all the rights, privileges and jurisdiction necessary or proper for carrying such power into execution. No enumeration of powers in this or any other general, special or local law shall operate to restrict the meaning of this general grant of power or to exclude other powers comprehended within this general grant, except as expressly limited in this title.

31. To engage in any activity otherwise permitted by law which in its judgment would be helpful or convenient for the public or users of the system facilities and in the service of the city or its service area.

32. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1230-g. Special enforcement powers with respect to wastewater facilities. 1. In addition to any other enforcement powers provided by this title or any other provision of law, with respect to the jurisdiction, control, supervision, possession, operation and use of the wastewater system and its facilities and for the administration and enforcement of this title with respect to such waste water system, the water board shall have the enforcement powers provided in this section. The provisions of this section shall be liberally construed so as to effect the purpose of this section to permit the water board to qualify as a publicly-owned treatment works (POTW) under applicable federal and state environmental laws.

2. As used or referred to in this section, unless a different meaning clearly appears from the context:

(a) "Discharge" means any introduction of waste into the wastewater or storm water facilities from any effluent source.

(b) "Domestic sewage" means a combination of wastes from the non-commercial preparation, cooking, and handling of food; human bodily wastes and similar matter from sanitary conveniences in dwellings, commercial buildings, industrial buildings and institutions; or any other wastes from non-commercial, non-industrial or non-institutional activities.

(c) "Effluent source" means a source of introduction of any waste into the wastewater or storm water facilities.

(d) "Hazardous substance" means any substance that:

(i) is identified or listed as a hazardous waste or acute hazardous waste in regulations promulgated pursuant to section 27-0903 of the environmental conservation law and all amendments thereto, regardless of whether at the time of release the substance was actually a waste; or

(ii) appears on the list of substances hazardous or acutely hazardous to public health, safety or the environment in regulation promulgated pursuant to paragraphs (a) and (b) of subdivision one of section 37-0103 of the environmental conservation law and all amendments thereto; and any substance on the list established by the United States environmental protection agency for reporting pursuant to 42 U.S.C. § 11023, as amended.

(d) "Industrial user" means any person or effluent source that discharges industrial waste.

(e) "Industrial waste" means any liquid, solid, or gaseous substance, or combination thereof, resulting from any process of industrial, commercial, governmental and institutional concerns, manufacturing, business, trade, or research, including the development, recovery, or processing of natural resources, or from sources other than those described as domestic sewage. Groundwater and surface runoff may be considered to be industrial waste if contaminated with industrial process chemical constituents.

(f) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

(g) "Sewage" or "wastewater" means any combination of wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

3. (a) The water board shall adopt a schedule of administrative or civil penalties not to exceed ten thousand dollars per violation per day to be assessed against any person who has been finally determined to violate any rules, regulations, permits or orders of the water board made pursuant to this title. In determining the amount of an administrative or civil penalty, the water board or the court shall consider the seriousness of the violation or violations, any history of such violations, any good faith efforts to comply with applicable requirements and such other matters as justice may require. The penalties provided for in this subdivision shall be imposed by action of the water board after a hearing meeting the requirements of due process pursuant to the rules and regulations of the water board.

(b) The water board may bring suit for collection or recovery of any such penalty in any court of competent jurisdiction. Any sanction, penalty, action or cause of action for the recovery of a penalty, under this title, may be settled or compromised by the water board, before or after proceedings are brought to recover such penalties and prior to the entry of judgment thereof. All penalties received by the water board shall be deposited with the treasurer and applied by the board to the benefit of the water board users and authority bondholders.

(c) In addition to the penalties provided in this subdivision, in the event of a violation or threatened violation of any of the water board's rules, regulations, permits, or orders, the water board is authorized to:

(i) obtain a warrant upon application to any court of competent jurisdiction, based upon reasonable cause and reliable information that such violation is threatened or has occurred, for entry onto a user's premises or effluent source where entry has been denied or obstructed; or

(ii) suspend or revoke any user's discharge permit; or

(iii) discontinue, disconnect or block the person or user's access to the system; or

(iv) obtain an injunction or other judicial relief upon application to a court of competent jurisdiction, to enjoin any person or user from continuing such violation or from carrying out the threat of such violation. In any such suit the court shall have jurisdiction to grant the water board, without bond or undertaking, such prohibitory or mandatory injunctions as the facts may warrant, including prevention or abatement of pollutant discharges, temporary restraining orders or preliminary injunctions; or

(v) recover costs or expenses incurred by the water board for any investigation, sampling, monitoring (enhanced or otherwise), removal and remediation costs or other actual expenses, fees or costs, including attorneys' fees and costs.

The imposition of any sanction or penalty or application for judicial relief, shall not be a bar against, or prerequisite for taking any other action against any person.

4. Notwithstanding any inconsistent provisions of law, whenever the executive director finds, after investigation, that any person is discharging any pollutant, sewage, industrial waste or other waste which, in his judgment, presents an imminent danger to the system facilities, the environment or the public health, safety or welfare of persons and the executive director determines that it would be harmful to delay action until an opportunity for a hearing can be provided, the executive director may, without prior hearing, order such person by notice, in writing wherever practicable or in such other form as in the executive director's judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such discharge, and thereupon such person shall immediately discontinue, abate or alleviate such discharge. In the event of non-compliance with such order, the water board is authorized to discontinue, disconnect or block the user's access to the system. Within ten days after the issuance of such order, the water board shall give written notice to any such person which provides for an opportunity for a hearing.

5. (a) Whenever required to carry out the purposes and objectives of this title, including, but not limited to, developing or assisting in the development of any discharge limitation, or other limitation, prohibition or discharge standard, pretreatment standard, or standard of performance; or determining whether any industrial user is in violation

of any such discharge limitation, or other limitation, prohibition, discharge standard, pretreatment standard, or standard of performance or the water board's rules, regulations, permits or orders;

(i) the water board may require industrial users to:

(1) establish and maintain such records;

(2) make such reports;

(3) install, use and maintain such monitoring equipment or methods (including where appropriate, biological monitoring equipment or methods);

(4) sample such discharges, in accordance with such methods, at such intervals, and in such manner as the water board shall prescribe in its rules, regulations, permits or orders; and

(5) provide such other information as the water board may reasonably require; and

(ii) except as otherwise provided by a court warrant or order, the water board or its authorized representative, (including an authorized contractor acting as a representative of the water board) upon presentation of his credentials:

(1) shall have a right of entry, at all reasonable times, to, upon, or through any premises in which any effluent source of an industrial user is located or in which any records are required to be maintained pursuant to this title or any rules, regulations, orders or permits of the water board;

(2) may, at reasonable times during regular business hours, have access to and copy any records required to be maintained pursuant to this title or any rules, regulations, orders or permits of the water board;

(3) may, during all times of industrial user discharges, inspect any monitoring or other equipment or method which is required pursuant to this title or any rules, regulations, orders or permits of the water board; and

(4) may, during all times of industrial user discharges, have access to and sample any discharges or pollutants, resulting directly or indirectly from activities or operations of the industrial user of the premises in which an effluent source is located.

(b) Any records, reports or information obtained under this section shall, in the case of discharge data, be related to any applicable limitation, toxic pretreatment, or performance standards, and shall be available to the public, except that upon a showing satisfactory to the water board by any person that records, reports, or information, or particular portion thereof (other than discharge data), to which the water board has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the water board shall consider such record, report, or information, or particular portion thereof confidential, except that such record, report, or information may be disclosed to officers, employees, or authorized representatives of the United States or the state concerned with carrying out the Clean Water Act 33 U.S.C. § 1251 et seq., and any applicable state law related thereto or when relevant to any proceeding under this title or the Clean Water Act, 33 U.S.C. § 1251 et seq., and any applicable state law related thereto.

6. (a) Whenever the water board determines, after investigation, that there has been a violation of any of the provisions of this title or any rules, regulations, orders or permits issued pursuant thereto, the water board shall give notice in writing, in such form as will reasonably notify the alleged violator or violators setting forth any thing or act done or omitted to be done or claimed to be in violation of any such provisions, and requiring that the matters complained of be corrected. Such notice shall inform the violator of an opportunity for a hearing, or that the alleged violator appear in person or by attorney before the water board, at a reasonable time and place in said notice specified, and show cause why enforcement action should not be taken.

(b) The water board shall establish in its rules and regulations procedures for the conduct of any hearings.

(c) The executive director may designate an agent of the water board or any other person, independent of the water board, to serve and preside as hearing officer.

(d) In any hearing, a hearing officer may administer oaths, examine witnesses, and issue, in the name of the water board, notices of hearings and subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any hearing conducted by the water board.

(e) In any proceeding before the water board, the burden of proof, with respect to violations of or liability imposed by this title or by rules, regulations, orders or permits issued pursuant thereto shall be upon the user or person cited by notice. In any such proof, the water board or the hearing officer may rely upon the self-monitoring reports submitted by the person being investigated or any other evidence.

(f) After due consideration of the written and oral statements, and testimony and arguments, or on default in appearance, the water board may issue and enter such final order to make such final determination as it deems appropriate under the circumstances, and shall notify such person or persons thereof in writing.

(g) In case of contumacy or refusal to obey a notice of hearing or subpoena issued by the water board, the supreme court shall have jurisdiction, upon application of the water board, to issue an order requiring such person to appear and testify or produce evidence as the case may require.

§ 1230-h. Transfer of facilities by the city of Niagara Falls or any municipality. 1. The city or any municipality may, by resolution approved by a majority of the entire voting strength of the applicable governing body of the board of the city or municipality, as the case may be, enter into an agreement with the water board for the transfer, by deed, lease or other arrangement, to the water board, for use in the exercise of its corporate powers and purposes, of any property, real, personal or mixed or any interest therein, constituting a water, wastewater or storm water facility or facilities or otherwise owned by it. Any such property offered to be transferred to the water board within the period commencing on the date the certificate described in paragraph (a) of subdivision five of section twelve hundred thirty-e of this title shall be filed by the mayor and terminating three hundred sixty-five days thereafter shall be accepted by the water board in the physical condition in which it then exists. Any such agreement shall state the consideration, if any, for such transfer and shall provide that the authority shall assume the obligation to pay any or all outstanding indebtedness of the transferring body relating to the system and/or pay all or part of any purchase or acquisition price in cash or in installments over such period of years, at such rate of interest, if any, and may be subject to such other terms and conditions as the water board, the authority, the city or municipality, as the case may be, shall agree to be fair, adequate and reasonable. Notwithstanding the provisions of any general, special or local law or charter to the contrary, any action taken by the city or any municipality pursuant to this subdivision shall not be subject to a permissive or mandatory referendum.

2. Any such agreement shall set forth the liabilities of the city or of any municipality in which it is contemplated are to be paid by the authority or the water board from moneys available to it.

3. Any such agreement may provide for the payment by the city or any municipality to the water board of any funds, including the remaining proceeds of any bonds or notes issued for any facility of the system, to be transferred by the city or municipality to the water board as may be determined appropriate by the city or such municipality and the water board.

4. The city, any municipality, the authority and the water board, or any combination thereof, are hereby authorized and empowered to make or enter into any contracts, agreements, deeds, leases, conveyances or other instruments as may be necessary or appropriate to effectuate the purposes of this title, and they shall have power and authority to do so and to authorize the doing of all things incidental, desirable or necessary to implement the provisions of this title.

5. Notwithstanding the foregoing provisions of this section, no agreement relating to the transfer of system facilities contemplated by this section shall become effective for any purpose unless and until the same shall have been approved in writing by resolution of the authority.

6. Upon the filing by the water board with the clerk of the city and the secretary of state of a copy of the instruments or documents effectuating the transfer authorized by this section, the water board shall take possession of the system facilities or any part thereof of the city or any municipality thereby transferred.

7. Any application filed or proceeding heretofore commenced in relation to any facility of the system transferred to the water board pending with the state departments of environmental conservation or health or any other state agency or with the United States environmental protection agency or any other federal agency or instrumentality, shall inure to and for the benefit of the water board and be binding upon the water board to the same extent and in the same manner as if the water board had been a party to such application or proceeding from its inception, and the water board shall be deemed a party thereto to the extent not prohibited by any federal or state law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the water board and shall be assigned and transferred by the city or applicable municipality to the water board unless such assignment and transfer is prohibited by federal or state law.

§ 1230-i. Agreements among the water board, the city, municipalities and the authority for the provision of projects. 1. The authority, the water board, the city, any municipality and any other person may enter into agreements for the purpose of providing for the construction and financing of a project.

2. Any such agreements: (a) shall describe in sufficient detail for reasonable identification the particular project or groups of projects to be financed in whole or in part by the authority, (b) shall describe the plan for the financing of the cost of the construction of such project, including the amount, if any, to be provided by the water board and the source or sources thereof, (c) shall set forth the method by which and by whom and the terms and conditions upon which moneys provided by the authority shall be disbursed, (d) may require, in the discretion of the authority, the payment to the authority of the proceeds of any state and federal grants available to the water board, (e) shall provide for the establishment of user fees, rates and other charges and the charging and collection thereof by the water board for

the use of, or services furnished, rendered or made available by such project such as to provide that the water board receive revenues at least sufficient, together with other revenues of the water board, if any, to meet the requirements of this title, (f) may provide for the transfer by the city, any state agency, or by any municipality to the water board pursuant to this title of ownership of any project, (g) may provide for the construction and completion of such project by the city, any municipality or the water board and for the management, operation, maintenance and repair thereof, as an integrated part of the system of which such project forms a part, subject to such terms and conditions, not inconsistent with this title, which may be in the public interest and necessary or desirable properly and adequately to secure the holders of bonds of the authority, (h) shall provide for the discontinuance or disconnection of the supply of water for nonpayment of fees, rates or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to the public service law, and (i) shall, in the discretion of the authority, require reports concerning the project from the water board to the authority and any municipality.

3. If the city executes an agreement pursuant to this section, relating to the financing of projects by revenue bonds, it shall have and shall be deemed to have annulled its power to levy user fees, rents and other charges on participating properties or customers for the cost of financing, operating and maintaining such projects under its jurisdiction until all bonds of the authority shall have been paid or discharged in accordance with the agreement and the resolution of the authority authorizing such bonds. If the city has outstanding general obligation bonds issued for acquiring or constructing system facilities, whether the bonds are payable from revenues, special assessments, or taxes, it may authorize the authority pursuant to the agreement to issue its revenue bonds under this title for the purpose of retiring the outstanding bonds.

4. No such agreement shall be executed until the water board shall have held a public hearing at which users of the project shall have had

opportunity to be heard concerning the proposed provisions thereof. Notice of such hearing shall be published not less than ten nor more than twenty days in advance in a newspaper or newspapers having a general circulation in the service area as designated by the water board.

5. Such agreement shall be effective upon the issuance by the authority of bonds to finance the cost of constructing projects of the city, any municipality or the water board.

6. Any such agreement may be amended, revised or extended by supplemental agreements authorized and executed in the same manner as the original agreement, provided that any such supplemental agreement shall not be inconsistent with the provisions of this title.

7. (a) Following the execution of the initial agreement by and between the authority, the water board, the city, any state agency and any municipality pursuant to this section, the secretary of the water board shall, and following the execution of any subsequent agreement by and between the authority, the water board, any state agency, and any municipality pursuant to this section, publish a notice in substantially the following form:

> "Notice is hereby given that (here insert the parties to the agreement) (has) (have) on the   day of   entered into an agreement with the Niagara Falls Public Water Authority in relation to the construction and financing of (here insert a brief description of the project or facility to which such agreement relates) pursuant to the Niagara Falls Public Water Authority act for the purpose of placing its facilities on an independent basis, imposing fees and rates on system users, which, together with other revenues available for such purposes, if any, are sufficient to pay to the authority debt service on bonds issued by the authority pursuant to the agreement and for management, operation, repair and maintenance of the facility (title to which is transferred to the water board pursuant to the agreement). Such agreement in general terms provides (here insert a brief summary of the substantive provisions of such agreement). A copy of the

complete agreement is on file for public inspection in the office of the secretary of the water board where the same may be examined by any interested person during regular business hours. The validity of the agreement may be hereafter contested only upon the ground or grounds that: (i) such agreement violates, or the performance of any provision thereof by any party thereto would violate, the provisions of the state constitution or (ii) the provisions of law which should have been complied with, in relation to the authorization and execution thereof were not substantially complied with, and an action, suit or proceeding is commenced within sixty days after the date of this notice."

(b) The publication authorized by this subdivision shall be in a newspaper or newspapers having a general circulation in the service area as designated by the water board.

(c) After the expiration of the sixty day period set forth in such notice, the validity of such agreement shall be conclusively presumed and the validity thereof shall not thereafter be questioned by either a party plaintiff or a party defendant and no court shall have jurisdiction in any action, suit or proceeding contesting such validity.

(d) Neither any error nor omission in the notice of publication provided for in this subdivision shall affect or impair the validity of an agreement executed pursuant to this section so long as the notice substantially conforms to the provisions of this section.

§ 1230-j. Imposition and disposition of fees, rates or charges. 1. The water board shall establish, fix and revise, from time to time, fees, rates or other charges for the use of, or services furnished, rendered or made available by, all projects, the facilities and system owned, leased or utilized by the water board pursuant to this title in an amount at least sufficient at all times so as to provide funds in an amount sufficient, together with other revenues available to the board, if any, (a) to pay to the authority, in accordance with any agreement with the authority, an amount sufficient for the purpose of paying the principal of and the interest on the outstanding bonds of the authority as the same shall become due and payable and maintaining or funding a capital or debt service reserve fund therefor, if any, or any other fund determined necessary by the authority, and, to the extent requested by the city or any municipality in, or annually pursuant to, any agreement, to pay to the city or any municipality, in accordance with any agreement, an amount sufficient for the purpose of paying the principal of and interest on general obligation bonds of the city or any municipality issued for or allocable to the facilities of the system, as the same shall become due and payable, and to maintain or fund reserves therefor, (b) to pay to the city or any municipality, in accordance with any agreement, an amount sufficient for the purpose of paying the costs of administering, maintaining, repairing and operating and the cost of constructing capital improvements to the system, (c) to pay to the city or any municipality in accordance with any agreement entered into pursuant to section twelve hundred thirty-h of this title an amount sufficient for the purpose of paying liabilities issued for or allocable to the system, as the same shall become due and payable, (d) to pay to the city or any municipality, in accordance with this title or any agreement entered into pursuant to this title, an amount sufficient for the purpose of paying any payment in lieu of taxes as the same shall become due and payable, (e) to raise an amount sufficient for the purpose of paying the costs of administering, managing, maintaining, repairing and operating any system facility, (f) to meet any requirements of any agreement, including requirements relating to the establishment of reserves for renewal and replacement and for uncollected rates, fees or other charges and covenants respecting rates, (g) to pay all other reasonable and necessary expenses of the authority and the water board in relation thereto, and (h) to pay or provide for such other purposes or projects as the water board considers appropriate and in the public interest.

2. There is hereby established in the custody of the water board a special fund to be known as the local water fund. Such fund shall consist of the revenues derived from the fees, rates, rents and service charges established, charged and collected pursuant to this title and any other income earned or moneys received by the water board. Revenues in the local water fund shall be kept separate and shall not be commingled with any other moneys in the custody of the water board. Subject to any agreements made by the water board in connection with the

issuance of any bonds of the authority, all moneys, properties and assets acquired by the water board, whether as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and reused in accordance with the purposes and provisions of this article.

3. The water board shall deposit promptly, to the credit of the local water fund, revenues collected under this article in a bank, banking house or trust company as may be designated in or pursuant to the agreements.

4. No fee, rate or other charge shall be established, fixed or revised unless and until the water board has held a public hearing at which the users of the system, the owners of property served or to be served and other interested persons have had an opportunity to be heard concerning the same. Notice of such public hearing shall be published by the water board not less than ten nor more than twenty days before the date set therefor in a newspaper or newspapers having general circulation in the service area, as shall be designated by the water board. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such hearing. A copy of the notice shall be filed in the office of the secretary of the water board and shall be available for inspection by the public. At all such hearings, any users of the system, owners of property served or to be served and any other interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision of the water board on matters considered at such public hearing shall be in writing and be made available in the office of the secretary of the water board for public inspection. Such decision shall be published in a newspaper or newspapers having a general circulation in the service area as shall be designated by the water board not later than thirty days after such decision is made. The fees, rates or other charges so established for any class of users of property served shall be extended to cover any additional premises thereafter served which are within the same class, without the necessity of a hearing thereon.

5. The fees, rates or other charges established, fixed and revised from time to time by the water board shall be collected by the water board at such times and in such manner as may be determined by the rules and regulations adopted by the water board consistent with the provisions of this title.

6. Such fees, rates or other charges, if not paid when due, shall constitute a lien upon the premises served and a charge against the owners or users thereof, which lien and charge shall bear interest at the same rate as would unpaid taxes of the city. Such lien shall take precedence over all other liens or encumbrances, except taxes, and may be foreclosed against the lot or building served in the same manner as a lien for such taxes. The amount which remains due and unpaid for sixty days may, with interest thereon, at the same rate as unpaid city taxes and with reasonable attorneys' fees, be recovered by the water board in a civil action in the name of the water board against such owners. The city and any state agency or municipality in the service area shall be subject to the same fees, rates, rents or other charges under the same conditions as other users of the system. All rights, powers, duties, obligations and functions provided by law with respect to the fixing of charges or rates for the supply of water, wastewater or storm water services to users outside the city, shall be deemed to apply, as appropriate, to the water board established pursuant to this title.

7. The water board shall pay to the authority such amounts at such times and in such manner as may be provided in the agreement by and among the authority, the water board, the city, and any municipality consistent with the priorities set forth in such agreement. There is hereby created a lien, by this title made a statutory lien within the meaning of the uniform commercial code and any other state or federal law, upon the gross revenues of the water board, in favor of the payment of all amounts due pursuant to such agreement and in the order and priority set forth therein and which lien shall be a first lien upon such gross revenues. The gross revenues so subject to such statutory lien shall be and remain subject to such statutory lien until the payment in full of each such item in accordance with such priority. Said statutory lien shall not be construed to give any holder or owner of any

bond of the authority power to compel the sale of any system facility.

8. If there be any default by the water board, in the making of the payments to the authority required under this title, as a result of the failure by the water board to impose sufficient fees, rates or other charges, the authority may petition for the appointment by any court having jurisdiction in any proper action of a receiver to administer on behalf of the water board, under the direction of said court, the affairs of the water board in order to achieve revenues at least sufficient to make such payments; and by and with the approval of said court, to establish, fix and revise, from time to time, fees, rates or other charges at least sufficient therefor in conformity with this title, and the resolution or trust indenture of the authority providing for the issuance of its bonds and in accordance with such orders as the court shall make.

9. The water board shall prepare and transmit to the city or municipality in the service area of the water board, on or before the first day of December in each year, a list of those persons or property owners within the city or such municipality who are in arrears in the payment of fees, rates, or other charges for a period of sixty days or more after the last day fixed for payment thereof without penalty. The list shall contain a brief description of the properties for which the services were provided, the names of the persons liable to pay for the same and the amounts chargeable to each, including applicable penalties and interest. The city or such municipality shall levy or cause to be levied such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of such municipality under the name of "delinquent water or wastewater or storm water charges, if any". Such amounts, as and when collected by the city or such municipality, shall be paid over to the water board. All of the provisions of the tax laws of the state covering the enforcement and collection of unpaid taxes of an applicable municipality shall apply to the collection of such unpaid fees, rates or other charges. In the event that the enforcement of unpaid taxes, including unpaid delinquent water board charges, does not yield moneys sufficient to pay in full all unpaid taxes including unpaid delinquent water board charges, the amount

of unpaid water board charges to be paid to the water board shall be prorated.

10. The public service commission shall have no jurisdiction over the water board or the authority with respect to the regulation of the fees, rates or other charges established, fixed or revised by the water board except as provided by law with respect to the supply of water to users outside the city or the service area.

§ 1230-k. Appropriations for purposes of the water board or the authority; transfer of property to the water board or authority; acquisition of property by the city or municipality for the authority; contracts with the city or any municipality. 1. In addition to any powers granted to it by law, the city or any municipality may, from time to time, appropriate by resolution sums of money for purposes of either the water board or the authority to defray project costs or any other costs and expenses of either the water board or the authority or to pay amounts payable or anticipated to be payable to either the water board or the authority pursuant to any agreement authorized by this title. Subject to the rights of bondholders, the city, or such municipality may determine if the moneys so appropriated shall be subject to repayment by either the water board or the authority and, in such event, the manner and time or times for such repayment.

2. The city, any state agency or any municipality may give, grant, sell, convey, loan or license the use of or lease to either the water board or to the authority any properties which are useful to either the water board or the authority in order to carry out their powers under this title. Any such transfer of property shall be for such term and upon such terms and conditions, subject to the rights of the holders of any bonds, as the water board, the authority, such state agency and such municipality may agree, including provision for the authority to assume the primary responsibility for the payment of any bonds or notes issued by the city, such state agency or such municipality for such properties.

3. Notwithstanding the provisions of any other law, general, special

or local to the contrary, real property acquired by either the water board, the authority or any municipality from the state or a state agency may be used for any corporate purpose of either the water board or the authority.

4. Any municipality, state agency, the water board and/or the authority shall have the power to contract, from time to time, between or among themselves, or with any other person, in relation to the purchase, sale, production, accumulation, supply, transmission, or treatment of water, or the provision of wastewater or storm water services and/or the construction, use, sale and/or leasing, of any system facility of the water board, which contracts may include any or all of the following provisions: (a) requiring the purchase by any municipality of specified amounts of water, wastewater or storm water services; (b) requiring the use by any municipality of a system facility; (c) limiting the right, including a prohibition, of any municipality to construct a facility which will serve the same, or substantially the same, function as a system facility constructed or to be constructed by the water board; (d) requiring the water board to reserve capacity in any system facility to assure the availability to any municipality of a specified amount of use of any system facility; (e) providing for specified minimum periodic payments whether or not water, wastewater or storm water services are actually taken and used, or such system facility is actually used, subject to such limitations, exceptions and provisions therein, and (f) requiring any municipality to pay to the water board such amounts as shall be necessary to assure the continued operation of the water board. All such payments shall be determined and paid in such manner and at such times as may be provided in such contracts.

5. No gift, grant, sale, conveyance, loan, contract or lease authorized by this section shall be subject to referendum, permissive or otherwise.

6. Any agreement for the supply of water services, wastewater services or storm water services between the city or an agency thereof and any other municipality or state agency, or any administrative determination

by a state agency, or any other arrangement in this regard, in effect at the time the water board shall be established, shall remain in full force and effect and be binding upon the water board as if it were a party to such agreement, determination or other arrangement.

7. (a) Notwithstanding any other provision of this title, neither the authority nor the water board shall supply, or enter into any agreement to supply water to any municipality within the Niagara county water district, or any person or entity within the boundaries of the Niagara county water district without the consent and approval by resolution of a majority of the members of the Niagara county water district administrative board; (b) that nothing contained in paragraph (a) of this subdivision, or elsewhere in this title shall affect in any manner either the existing rights of the city, or such rights assumed by the authority or the water board, or the existing rights of any other municipality with respect to those persons or entities presently receiving water from the city.

§ 1230-l. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the city that currently works in the system, may, at the request of the water board and with the consent of such city and board, be transferred to the water board and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the water board. Any such officers or employees so transferred to the water board pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the water board, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the water board.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor

employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such unit were such titles created prior to the establishment of the water board. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 1230-m. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in conformance with applicable provisions of the uniform commercial code in such principal amounts as it may determine to be necessary to pay the cost of any project or projects, or for any other corporate purpose, including reasonable and incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligation bonds secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the city, and the authority, the water board and the city, and subject to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States or the state or any non-governmental insurer or financial institution, any insurance, guaranty or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part

thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of bonds or notes of the authority as may then exist.

3. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine provided that no issue of bonds may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to such comptroller, or (b) by the state director of the budget, where such sale is to be to the comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds or authority obligations.

4. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

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

(a) pledging all or part of the revenues, other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including, but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

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

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

(d) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(g) the creation of special funds into which any revenues or monies may be deposited;

(h) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bond may be issued;

(i) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders to appoint a trustee pursuant to this title or limiting or abrogating the rights of the bondholders to appoint a trustee, or limiting the rights, duties and powers of such trustee;

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

(k) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(l) limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;

(m) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(n) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority or the water board, pursuant to this title, shall be valid, binding and perfected against all persons, from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest

shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority or the water board, irrespective of whether such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

9. Neither the members of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

§ 1230-n. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any

issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the offices of the clerk of the city, secretary of the water board and the authority and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may and, upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding, shall in his, her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to require the water board to collect fees, rates and charges adequate to carry out any agreement as to, or pledge of, such fees, rates and charges and to require the authority to carry out any other agreements with the water board, the city and/or any municipality and/or the holders of such bonds to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

any such action or proceeding shall be laid in Niagara county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenue derived from the properties.

§ 1230-o. State, city, water board or municipality, other than the authority, not liable on authority bonds. Neither the state, the city, the water board nor any municipality, other than the authority, shall be liable on the bonds of the authority and such bonds shall not be a debt of either the state, the water board, the city or any municipality, and each such bond shall contain, on the face thereof, a statement to such effect.

§ 1230-p. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or trust company in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such moneys shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bond and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1230-q. Bonds, legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are not or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any inconsistent provision of law, the bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state are now or hereafter may be authorized.

§ 1230-r. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority or the water board, pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority or the water board to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority or the water board, as the case may be. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 1230-s. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the water board and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city and any municipality in the service area and is a public purpose, and the authority and the water board shall be regarded as performing governmental functions in the exercise of the powers conferred upon each by this title, and the authority and the water board shall not be required to pay any fees, taxes, special ad valorem levies or assessments, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other excise taxes, upon any property owned by them or under their jurisdiction, control or supervision, or upon the uses thereof, or upon their activities in the operation and maintenance of its facilities or any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority or the water board. The authority and the water board shall at all times be exempt from any filing, mortgage recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the water board, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority or the water board shall at all times be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

3. Notwithstanding the provisions of this section to the contrary, any real property of the authority or water board located outside the boundaries of the city shall be exempt from the payment of taxes,

special ad valorem levies and special assessments only if and to the extent that such real property would have been exempt if owned by the city.

4. Notwithstanding any provision in this section to the contrary, the water board may pay, or may enter into agreements with the city or any municipality to pay, a sum or sums, annually or otherwise, or to provide other considerations to such city or municipality, with respect to real property of the water board located within such municipality and provided that any such payment or agreement to pay shall be subject to approval by the authority.

5. The water board shall not be required to pay any taxes or other governmental fees or charges, whether imposed by the state or any municipality, including, without limitation, franchise taxes, sales taxes or other excise taxes, or any other tax or charge upon its property or activities or upon any of its revenues or other income.

6. Notwithstanding any other provision of this section, any payment by the water board in lieu of tax payments described in this subdivision shall be subordinate to any other payments required to be made to the authority pursuant to this title, including, without limitation, the payment of sums to the authority or to any trustee representing the holders of any bonds issued by the authority.

§ 1230-t. Actions against the water board and authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against either the water board or the authority or their members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of either the water board or the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the water board or the authority, as the case may be, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the board or authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. Any action or proceeding to which the authority, water board or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the water board or the authority upon any judgment for which it is liable, other than a judgment on bonds of the authority, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

§ 1230-u. Contracts. All contracts for construction or purchase of supplies, materials or equipment shall be let by the water board, shall be made in conformity with the applicable provisions of section one hundred three of the general municipal law and section one hundred thirty-five of the state finance law. For the purposes of article fifteen-A of the executive law only, the authority and the water board shall each be deemed a state agency as that term is used in such article, and its contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article. All construction contracts shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards and working hours. The water board may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the water board receives bids. The water board shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The water board may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The water board may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed. Nothing in this title shall be construed to limit or diminish the power of the water board to do any construction directly by the officers, employees or agents of the water board.

§ 1230-v. Code of ethics. 1. As used in this section the term "employee" shall mean any member, officer, agent or employee of the authority or the water board.

2. No employee shall have any interest financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards for such code of ethics shall be as follows:

(a) No employee shall accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.

(b) No employee shall accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No employee shall disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

(e) No employee shall engage in any transaction as representative or agent of the authority or water board with any person or business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An employee shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An employee shall abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No employee employed on a full-time basis nor any person, firm or association of which such an employee is a member, nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the water board in which such employee serves or is employed.

(j) If any employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more, in any activity which is subject to the jurisdiction of a regulatory agency, he or she shall file with the secretary of state and secretary of the water board a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. In addition to any penalty contained in any other provision of law, any such employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in accordance with the rules and regulations of the water board. It shall be a misdemeanor for any such employee to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, in any contract therefor which the authority or the water board is empowered to make by this title.

§ 1230-w. Equal employment opportunity. The water board and the authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 1230-x. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the water board and of the authority shall be subject to the supervision of the comptroller and an annual audit shall be performed by an independent certified accountant. The water board and the authority shall annually submit to the governor and comptroller and to the state legislature a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county and city.

§ 1230-y. Limited liability. Neither the members of the governing body of either the water board or of the authority, nor any officer, or employee thereof acting in their behalf, shall be subject to any personal liability resulting from the ownership, construction, maintenance or operation of any of the projects or properties of either the water board or the authority or from carrying out any of the powers expressly given in this title.

§ 1230-z. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 1230-aa. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority or water board otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority and the water board shall be subject to all applicable general or special laws of the state, the county charter, city charter and any local law or ordinance.

TITLE 10-C

NIAGARA FALLS WATER BOARD

§ 1231-a. Short title. This title shall be known and may be cited as the "Niagara Falls water board act".

§ 1231-b. Niagara Falls water board. For the benefit of the city of Niagara Falls and the inhabitants thereof, a water board to be known as the Niagara Falls water board is hereby established for the accomplishment of any or all of the purposes specified in title ten-B of this article. It shall have the powers and duties now or hereafter conferred by title ten-B of this article upon a water board. It shall be organized in a manner prescribed by and be subject to the provisions of title ten-B of this article. The water board, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title ten-B of this article.

TITLE 10-D

NASSAU COUNTY SEWER AND STORM WATER FINANCE AUTHORITY

§ 1232. Legislative intent. The state legislature hereby recognizes that the creation of a Nassau county sewer and storm water finance authority will be an effective mechanism to achieve substantial savings for past and prospective sewer and storm water capital investments. Moreover, such authority will help ensure the health and well-being of all Nassau county residents and promote local environmental protection. As such, the state legislature herein effectuates these laudable public purposes through the establishment of said authority for the specific and limited objective of refinancing outstanding sewer and storm water debt issued by or on behalf of the county and financing future sewer and storm water projects. In no manner is this legislation designed to alter the county's administration or delivery of sewer and storm water services to county residents nor is the authority intended to impose any additional pecuniary burden on its ratepayers. As a vehicle expressly created to consolidate existing sewer districts, refinance debt, provide a means for financing new debt and prepare for pending federal storm water regulatory requirements, the authority will serve as an important tool to aid the county's fiscal recovery and benefit county taxpayers. Further, the State legislature recognizes that the enactment of chapter three hundred fourteen of the laws of two thousand three, extending the oversight capacity of the Nassau county interim finance authority (NIFA) through calendar year two thousand seven, together with the chapter of the laws of two thousand three which added this title, offers an opportunity for NIFA to continue financing the county's tax certiorari settlements, thereby providing additional budgetary relief and fiscal stability.

§ 1232-a. Short title. This title shall be known and may be cited as the "Nassau county sewer and storm water finance authority act".

§ 1232-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Attorney general" means the state attorney general.

2. "Authority" means the public benefit corporation created by section twelve hundred thirty-two-c of this title.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Comptroller" means the state comptroller.

5. "Construction" means the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of storm water resources facility, sewerage facility or storm water resources and sewerage facility as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, environmental and economic investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

6. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property both real and personal, and improved and unimproved; the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all systems, facilities, machinery, apparatus, fixtures and equipment; financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources; the cost of engineering and architectural surveys, plans and specifications; the cost of consultant and legal services; the cost of lease guarantee or bond insurance; and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

7. "County" means the county of Nassau.

8. "County charter" or "charter of the county" means the county government law of Nassau county.

9. "County executive" means the county executive of the county.

10. "County legislature" means the county legislature of the county.

11. "District" means the Nassau county sewer and storm water resources district created by the chapter of the laws of two thousand three that added this title.

12. "Facility" or "facilities" means collectively a sewerage facility or sewerage facilities and storm water resources facility or storm water

resources facilities.

13. "Governing body" means the members of the authority constituting and acting as the governing body of the authority.

14. "Municipality" means any county, city, town, village, improvement district under the town law, commissioner-run district, any other such instrumentality, including any agency, or public corporation of the state, or any of the foregoing or any combination thereof.

15. "Person" means any natural person, partnership, association, joint venture, limited liability company or corporation, exclusive of a public corporation as defined pursuant to article two-A of the general construction law.

16. "Prior districts" means the twenty-seven county sewage collection districts and three county sewage disposal districts heretofore established by the county pursuant to the county charter and existing on the day immediately prior to the effective date of this title.

17. "Project" means any storm water resources facility, sewerage facility or storm water resources and sewerage facility, as the case may be, including the acquisition, planning, development, financing or construction thereof.

18. "Properties" means the storm water resources, sewerage and storm water resources and sewerage system or systems of the authority, whether situated within or without the territorial limits of the district, including the plants, works, structures, instrumentalities or parts thereof and appurtenances thereto, real property, storm water resources facilities, sewerage facilities or any other property incidental to and included in such system or systems or part thereof, and any improvements, extensions and betterments.

19. "Real property" means lands, structures, franchises, rights and interests in lands, waters, lands underwater, riparian rights and air rights, and any and all things and rights included within said term and

includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

20. "Revenues" means all payments and other income and receipts derived by the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance and condemnation, together with all federal, state or municipal aid.

21. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. The admixture of sewage with industrial or other waste also shall be considered "sewage" within the meaning of this title.

22. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, ground water recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage and to the extent not covered by the foregoing, any facilities operated and maintained by the prior districts.

23. "Sewerage services" means the collection, treatment and disposal of sewage, any services provided by a sewerage facility and any other service related thereto.

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

25. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau or division, or any other agency or instrumentality of the state.

26. "Storm water resources facility" or "storm water resources facilities" means any plants, structures and other real and personal property acquired, rehabilitated, constructed or planned for the purpose of providing storm water resources services, including but not limited to accumulating, transmitting or treating surface water, storm water or ground water, including but not limited to surface water, storm water or ground water reservoirs, basins, dams, canals, aqueducts, standpipes, outfalls, conduits, pipelines, mains, pumping stations, pumps, ditches, wells, injection wells, treatment plants and works, contract rights, franchises, approaches, connections, permits, meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, transmission, or treatment of surface water or ground water; provided, however, that such facilities shall not include any facility for the provision of potable water.

27. "Storm water resources services" means the collection, treatment and disposal of storm water and contaminated surface water or ground water; the development, implementation and monitoring of insect control programs; the monitoring and testing of surface and ground water quality; the development and implementation of hazardous waste testing programs; the development and implementation of hydro-geological studies and reports of the territory encompassing the district; and any services provided by a storm water resources facility and any other service related thereto; provided, however, that such services shall not include the provision of potable water; provided further that in no way shall the provisions of this title be construed to expand storm water related services for which the authority is authorized to provide beyond such services provided by the county department of public works prior to the

effective date of this title.

§ 1232-c. Nassau county sewer and storm water finance authority. 1. A public benefit corporation, to be known as the "Nassau county sewer and storm water finance authority" is hereby created for the public purposes, charged with the duties and having the powers provided in this title. The authority shall be a "covered organization", as such term is defined pursuant to the Nassau county interim finance authority act in subdivision ten of section thirty-six hundred fifty-one of this chapter, and shall maintain itself as a publicly rated investment grade entity. The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. The authority's governing body shall consist of seven members who shall be residents of the county, and be appointed by the county executive and confirmed by the county legislature; one upon the recommendation of the county comptroller, two upon recommendation of the presiding officer of the county legislature and two upon recommendation of the minority leader of the county legislature. No more than four members shall be members of the same political party. The first members appointed by the county executive shall be appointed for the following terms of office: two for a term ending on December thirty-first, two thousand five, three for a term ending on December thirty-first, two thousand six and two for a term ending on December thirty-first, two thousand seven. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify, provided that any member who is a county employee shall cease to hold office upon termination of his or her status as a county employee. Vacancies shall be filled in the same manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. The governing body shall appoint a chairperson, a vice chairperson and a treasurer from their own members and a secretary who need not be a member. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. In addition, a member may be removed from office for inefficiency, neglect of duty or misconduct in office, after the governing body has given such member a copy of the charges against him or her and opportunity to be heard in person or by counsel in his or her defense, upon not less than ten days notice. If a member fails to attend three consecutive regular meetings of the authority, unless such absence is for good cause and is excused by the chairperson of the authority or, in the case of the chairperson of the authority, by the chairperson of the county legislature, the office may be deemed vacant for purposes of nomination and appointment of a successor. Members shall serve without compensation, but each member shall be entitled to reimbursement of their actual and necessary expenses, including travel expenses, incurred in the discharge of their duties, provided that the aggregate of such reimbursement allowance to any one member of the authority in any one fiscal year of the authority shall not exceed the sum of five thousand dollars; provided, however, that the authority shall adopt by-laws regarding the approval of such reimbursement of their actual and necessary expenses that specifically include a procedure for prior approval of such expenses by a majority vote of the authority.

2. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of four members is present. No action shall be taken except pursuant to the favorable vote of at least four members; provided, however, that no action shall be taken approving borrowing and contracts in an amount exceeding fifty thousand dollars, except by favorable vote of five members of the governing body. The governing body may delegate to one or more of its members or officers such powers and duties as it may deem proper.

3. The officers of the authority, consisting of the chairperson, the vice chairperson, the treasurer and the secretary shall serve in such capacities at the pleasure of the governing body without compensation, but each such officer shall be reimbursed for actual and necessary expenses incurred in the performance of such officer's official duties as officers of the authority. The governing body may also from time to

time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the governing body and the premium therefore shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality or any public benefit corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member or officer of the authority, nor shall service as such member or officer be deemed incompatible or in conflict with such office, membership or employment, provided, that such officer serves in an unpaid capacity.

5. The authority shall hire no employees.

6. (a) The county executive shall file on or before March thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the authority; (2) the names of the members appointed by the county executive and their terms of office; and (3) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate, and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights, properties, responsibilities and liabilities of the authority then remaining shall pass to and vest in the county.

7. Nothing herein shall be construed to exempt the authority from the

requirements set forth in the environmental conservation law and the regulations promulgated thereunder implementing the provisions of the state environmental quality review act.

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

9. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

§ 1232-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued;

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

3. To borrow money and issue bonds or other obligations and to provide for the rights of the holders thereof;

4. To finance or refinance the acquisition, design, construction, reconstruction, rehabilitation and improvement, or otherwise provide and furnish and equip facilities for the county, provided, however, that the county shall have requested such financing or refinancing;

5. To enter into contracts and to execute all instruments necessary, convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

6. To acquire, by purchase, gift, grant, transfer, contract or lease, lease as lessee, hold, use, and lease as lessor, sell or otherwise

convey any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided however, that any sale or lease by the authority must be approved by the county legislature unless the proceeds therefrom are used to pay debt service on authority bonds. In connection with the purchase or lease of such properties, the authority may assume any obligations of the owner of such properties or facilities and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; provided that any acquisition of any real or personal property or any interest therein from the county or any county agency, entity or subsidiary shall occur for no consideration or compensation greater than the amount necessary to defease obligations outstanding with respect to such property;

7. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

8. To apply for and to accept any gifts, grants or loans of funds or property, or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

9. To enter into agreements with the county, the state, or any other person for the financing by the authority of projects as herein provided; and

10. To do all things necessary, convenient or desirable for the exercise of the powers granted in this title.

In accordance with the legislative intent, nothing contained within this title shall be construed to affect, alter or modify the county's responsibility: (a) to provide sewerage services, (b) to provide storm water services and (c) to collect moneys generated from charges by the county related to the provision of sewerage and storm water resources services.

§ 1232-e. Advances on behalf of the authority; transfer of property to authority. 1. In addition to any powers granted to it by law, the county from time to time may appropriate sums of money to or on behalf of the authority to defray costs and expenses of the authority. Subject to the rights of bondholders, the county may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title; provided, however, that any such transfer of property shall be upon such terms and conditions and subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree. Notwithstanding the provisions of any state or local law to the contrary, the county shall transfer to the authority any funds which were in the prior districts' accounts upon dissolution thereof, as well as any prior district fund balance held by the county on behalf of the prior districts, or grant recoveries received in connection with assets acquired by the authority from the county, which funds shall be used by the authority for the limited purposes of supporting necessary capital investments, debt service, debt service-related expenses and reserve requirements in a manner consistent with the rate stabilization program established in section six of the chapter of the laws of two thousand three which added this title.

3. Notwithstanding the foregoing, the county shall not have authority

to give, grant or sell to the authority any real property upon which county owned facilities are located.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

§ 1232-f. Governmental capacity of the authority and municipalities. The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 1232-g. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts, not to exceed three hundred fifty million dollars ($350,000,000), as it may determine to be necessary to pay the cost of any project or for any other of its corporate purposes, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purpose. The authority shall have power from time to time to refund any bond, including bonds of the county issued to pay the cost of any project, by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues, earnings or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent available, in each case for securing its bonds or to provide direct payment of any costs that the authority is authorized to pay.

2. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years from the date of original issuance of any such bonds or within the applicable period of probable usefulness of the object or purpose financed as set forth in the local finance law assuming such provision was applicable, whichever is less. Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority, other than obligations designated as notes, shall be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, or by the state director of the budget, where such sale is to be to the comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

3. The authority shall have the power and is hereby authorized to assume any bonds of the county issued and sold to the New York state environmental facilities corporation and in connection therewith to issue its bonds to the New York state environmental facilities corporation in substitution therefor.

4. Any resolution or resolutions authorizing bonds or any issue of

bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or any part of the revenues of the authority, together with any other moneys or property of the authority to secure the payment of the bonds or any costs of the issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

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

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

(d) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(g) the creation of special funds into which any revenues or moneys may be deposited;

(h) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

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

(j) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title; notwithstanding any provision to the contrary, nothing contained in this title shall be deemed to restrict the right of the state or county of Nassau to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto. The authority shall not include in any resolution or contract or agreement with the holder of its bonds any provision which provides that a default shall occur as a result of the state or county exercising its right to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto;

(k) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof or other property;

(l) limitations on the amount of revenues and other moneys to be expended for administrative or other expenses of the authority;

(m) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(n) any other matters of like or different character which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers conferred by this section upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any of its properties and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or properties and the doing of any act (including refraining from doing any act) which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such

agreements may be made a part of the contract with the holders of bonds of the authority.

6. Notwithstanding any provision of the uniform commercial code to the contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

8. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

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

10. The authority shall have the power and is hereby authorized to issue negotiable notes only for the purpose of paying the cost of any project or for any other of its corporate purposes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issuance of such original note.

§ 1232-h. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (i) of subdivision four of section twelve hundred thirty-two-g of this title:

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

2. Such trustee may, and upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding shall, in his, her or its own name:

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall, in addition to the foregoing provisions of this

section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The state supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 1232-i. State and county not liable on authority bonds. Neither the state nor the county shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or the county, and such bonds shall contain, on the face thereof, a statement to such effect.

§ 1232-j. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in such bank or banks in the state designated by the governing body. Moneys derived from charges by the authority related to sewerage services shall be kept separate and shall not be commingled with moneys from charges by the authority related to storm water resources services. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county of a market value equal at all times to the amount on deposit, and all banks and trust companies are authorized to give such security for such deposits. The authority shall have the power, notwithstanding any other provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Notwithstanding any other provision of this title to the contrary, for the purpose of any such contract with the holders of any bonds, any moneys of the authority from whatever source derived may be used in whole or in part for the payment of bonds or in any way to secure bonds, and to carry out any such contract. Provided however, that any monies derived from charges by the authority related to sewerage services or storm water resources services shall continue to be accounted for with respect to their source and any such monies which are used for the payment of bonds or in any way to secure bonds, and to carry out any contract with the holders of any bonds, shall be accounted for separately after reduction by an amount equal to the portion thereof applied to the payment of debt service, reserve requirements, if any, and other costs associated with bond-related payments. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1232-k. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is authorized.

§ 1232-l. Agreement of the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to finance or refinance the acquisition, design, construction, reconstruction, rehabilitation and improvement of facilities and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The state does also hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights of the county to assess, levy and collect special assessments within the district or the county's ability to collect any such charges, rents or fees. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders. Notwithstanding any provision to the contrary, nothing contained in this title shall be deemed to restrict the right of the state or county of Nassau to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto. The authority shall not include in any resolution or contract or agreement with the holder of its bonds any provision which provides that a default shall occur as a result of the state or county exercising its right to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto.

§ 1232-m. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

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

§ 1232-n. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer or agent thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and

(c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

3. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state, and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the state supreme court of the county.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

§ 1232-o. Prevailing wage. Each contract to which the authority is a party including, but not limited to, any contract, lease, grant, bond, covenant or other debt agreement entered into directly or indirectly by the authority financing or refinancing in whole or in part, the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation or alteration of a facility or an improvement to property shall require that the work covered by such contract shall be deemed "public work" and subject to and performed in accordance with articles eight and nine of the labor law and, for the purposes of article fifteen-A of the executive law only, the contracting party under such contracts shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article. Project labor agreements may be entered into wherever possible in order to protect the financial interest of the county in such project by fostering labor harmony in promoting efficient adoption of labor work rules and practices.

§ 1232-p. Code of ethics. 1. Definition. As used in this section the term "authority member" shall mean any officer or member of the board of the authority.

2. No authority member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. (a) No authority member shall accept other employment, which will impair his or her independence of judgment in the exercise of his or her official duties.

(b) No authority member shall accept employment or engage in any business or professional activity which will require the member to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority member shall disclose confidential information acquired by the member in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority member shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for him or herself or others.

(e) No authority member shall engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority member shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence such member or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority member shall abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the member or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority member shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority member employed on a full-time basis nor any firm or association of which such a member is a member nor a corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such member, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such member serves or is employed.

(j) If any authority member shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she shall file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. In addition to any penalty contained in any other provision of law, any such authority member who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

5. All members of the authority shall be deemed to be public officers and shall, notwithstanding any other ethical requirements established by state or local law, and when not inconsistent with the provisions of this title, comply with sections seventy-three, seventy-three-a and seventy-four of the public officers law. Notwithstanding any other provision of law, the filing of a Nassau county financial disclosure statement, pursuant to the Nassau county code of ethics as set forth in section twenty-two hundred eighteen of the county charter, by a member of the authority shall constitute and be deemed in compliance with the financial disclosure requirements imposed by this section and section

seventy-three-a of the public officers law.

§ 1232-q. Audit, annual report and budget review. 1. In conformity with the provisions of section five of article ten of the state constitution, the accounts of the authority shall be subject to the supervision of the comptroller and an annual audit shall be performed by an independent certified public accountant. The authority shall annually submit to the governor, comptroller, chairperson of the senate finance committee and chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the county executive, the clerk of the county legislature, the county treasurer and each member of the county legislature.

2. The authority shall be subject to the oversight of the county office of legislative budget review.

§ 1232-r. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting on its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be deemed to apply to any independent contractor.

§ 1232-s. Environmental application, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title filed prior to the effective date of this title, or any proceeding commenced prior to the effective date of this title, by the county with the department of environmental conservation, the department of health, the department of transportation, any other state agency or instrumentality, or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any agency thereof to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

§ 1232-t. Separability. If any section, clause or provision of this title shall be held by a court of competent jurisdiction to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, such section, clause or provision shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1232-u. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other provision of law, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county. Nothing in this section shall be construed to affect section twelve hundred twenty-one of the county charter, which shall remain in full force and effect.

TITLE 11

METROPOLITAN COMMUTER TRANSPORTATION AUTHORITY

§ 1260. Short title. This title may be cited as the "Metropolitan Transportation Authority Act."

§ 1261. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section twelve hundred sixty-three of this title.

2. "Authority facilities" shall mean the authority's railroad, omnibus, marine and aviation facilities and operations pursuant to joint service arrangements.

3. "Budget" shall mean the preliminary, final proposed and adopted final plans of the authority, and each of its agencies.

4. "Comptroller" shall mean the comptroller of the state of New York.

5. "Equipment" shall mean rolling stock, omnibuses, vehicles, air, marine or surface craft, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements, materials, supplies, instruments and devices of every nature whatsoever used or useful for transportation purposes or for the generation or transmission of motive power including but not limited to all power houses, and all apparatus and all devices for signalling, communications and ventilation as may be necessary, convenient or desirable for the operation of a transportation facility.

6. "Federal government" shall mean the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

7. "Gap" shall mean the difference between projected revenues and expenses for any given fiscal year based on the existing fare structure.

8. "Gap-closing initiative" shall mean any action to reduce a projected gap.

9. "Governor" shall mean the governor of the state of New York.

10. "Joint service arrangements" shall mean agreements between or among the authority and any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state, or any political subdivision or municipality of the state,

relating to property, buildings, structures, facilities, services, rates, fares, classifications, divisions, allowances or charges (including charges between operators of railroad, omnibus, marine and aviation facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part in or upon railroad, omnibus, marine or aviation facilities located within the district and in part in or upon railroad, omnibus, marine or aviation facilities located outside the district.

11. "Marine and aviation facilities" shall mean equipment and craft for the transportation of passengers, mail and cargo between points within the district or pursuant to joint service arrangements, by marine craft and aircraft of all types including but not limited to hydrofoils, ferries, lighters, tugs, barges, helicopters, amphibians, seaplanes or other contrivances now or hereafter used in navigation or movement on waterways or in the navigation of or flight in airspace. It shall also mean any marine port or airport facility within the transportation district but outside the port of New York district as defined in chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, including but not limited to terminals, docks, piers, bulkheads, ramps or any facility or real property necessary, convenient or desirable for the accommodation of passengers and cargo or the docking, sailing, landing, taking off, accommodation or servicing of such marine craft or aircraft.

12. "Omnibus facilities" shall mean motor vehicles, of the type operated by carriers subject to the jurisdiction of the public service commission, engaged in the transportation of passengers and their baggage, express and mail between points within the district or pursuant to joint service arrangements, and equipment, property, buildings, structures, improvements, loading or unloading areas, parking areas or other facilities, necessary, convenient or desirable for the accommodation of such motor vehicles or their passengers, including but not limited to buildings, structures and areas notwithstanding that portions may not be devoted to any omnibus purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

13. "Railroad facilities" shall mean right of way and related trackage, rails, cars, locomotives, other rolling stock, signal, power, fuel, communication and ventilation systems, power plants, stations, terminals, storage yards, repair and maintenance shops, yards, equipment and parts, offices and other real estate or personalty used or held for or incidental to the operation, rehabilitation or improvement of any railroad operating or to operate between points within the district or pursuant to joint service arrangements, including but not limited to buildings, structures, and areas notwithstanding that portions thereof may not be devoted to any railroad purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

14. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

15. "State" shall mean the state of New York.

16. "State agency" shall mean any officer, department, board, commissioner, bureau, division, public benefit corporation, agency or instrumentality of the state.

17. "Transportation facility" shall mean any transit, railroad, omnibus, marine or aviation facility and any person, firm, partnership, association or, corporation which owns, leases or operates any such facility or any other facility used for service in the transportation of passengers, United States mail or personal property as a common carrier for hire and any portion thereof and the rights, leaseholds or other interest therein together with routes, tracks, extensions, connections, parking lots, garages, warehouses, yards, storage yards, maintenance and

repair shops, terminals, stations and other related facilities thereof, the devices, appurtenances, and equipment thereof and power plants and other instrumentalities used or useful therefor or in connection therewith.

18. "Transportation district" and "district" shall mean the metropolitan commuter transportation district created by section twelve hundred sixty-two of this title.

18-a. "Transportation purpose" shall mean a purpose that directly supports the missions or purposes of the authority, any of its subsidiaries, New York city transit authority or its subsidiary, including the realization of revenues derived from property that is, or is to be used as, a transportation facility.

19. "New York city transit authority" shall mean the corporation created by section twelve hundred one of this chapter.

20. "Triborough bridge and tunnel authority" shall mean the corporation created by section five hundred fifty-two of this chapter.

21. "Inspector general" shall mean the metropolitan transportation authority inspector general.

22. "Revenues." All monies received by the authority or its subsidiaries, or New York city transit authority or its subsidiaries, or Triborough bridge and tunnel authority, as the case may be, from whatever source, derived directly or indirectly from or in connection with the operations of the respective entity.

23. "Transit facility." Transit facility as defined in subdivision fifteen of section twelve hundred of this article.

24. "Utilization" shall mean public usage of the subway, bus, railroad and paratransit services, and bridge and tunnel crossings, of the authority and its affiliates and subsidiaries as reflected in empirical data.

§ 1262. Metropolitan commuter transportation district. There is hereby created and established a commuter transportation district to be known as the metropolitan commuter transportation district which shall embrace the city of New York and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester, provided, however, that the district shall not include a county that has withdrawn from the district pursuant to section twelve hundred seventy-nine-b of this article.

§ 1263. Metropolitan transportation authority. 1. * (a) (1) There is hereby created the "metropolitan transportation authority." The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of a chairperson, sixteen other voting members, and two non-voting and four alternate non-voting members, as described in subparagraph two of this paragraph appointed by the governor by and with the advice and consent of the senate. Any member appointed to a term commencing on or after June thirtieth, two thousand nine shall have experience in one or more of the following areas: transportation, public administration, business management, finance, accounting, law, engineering, land use, urban and regional planning, management of large capital projects, labor relations, or have experience in some other area of activity central to the mission of the authority. Four of the sixteen voting members other than the chairperson shall be appointed on the written recommendation of the mayor of the city of New York; and each of seven other voting members other than the chairperson shall be appointed after selection from a written list of three recommendations from the chief executive officer of the county in which the particular member is required to reside pursuant to the provisions of this subdivision. Of the members appointed on recommendation of the chief executive officer of a county, one such member shall be, at the time of appointment, a resident of the county of Nassau, one a resident of the county of Suffolk, one a resident of the county of Westchester, one a resident of the county of Dutchess, one a resident of the county of Orange, one a resident of the county of Putnam and one a resident of the county of Rockland, provided that the term of any member who is a resident of a county that has withdrawn from the metropolitan commuter transportation district pursuant to section twelve hundred seventy-nine-b of this title shall terminate upon the effective date of such county's withdrawal from such district. Of the five voting members, other than the chairperson, appointed by the governor without recommendation from any other person, three shall be, at the time of appointment, residents of the city of New York and two shall be, at the time of appointment, residents of such city or of any of the aforementioned counties in the metropolitan commuter transportation district. Provided however, notwithstanding the foregoing residency requirement, one of the five voting members appointed by the governor without recommendation from any other person, other than the chairperson, may be the director of the New York state division of the budget, and provided further that, in the event of such appointment, the budget director's membership in the authority shall be deemed ex-officio. Provided further, one of the twelve voting members, other than the chairperson, appointed by the governor without recommendation by any other person, or on the recommendation of the mayor of the city of New York, or of the chief executive officer of the counties of Westchester, Nassau, or Suffolk shall be a transit dependent individual. A "transit dependent individual" shall mean an individual who is limited to public transit as their primary mode of transportation because the individual has a permanent disability, provided that any local or statewide transit advocacy organization may recommend one or more transit dependent individuals to be considered for appointment pursuant to this section. The chairperson and each of the members shall be appointed for a term of six years, provided however, that the chairperson first appointed shall serve for a term ending June thirtieth, nineteen hundred eighty-one, provided that thirty days after the effective date of the chapter of the laws of two thousand nine which amended this subparagraph, the term of the chairperson shall expire; provided, further, that such chairperson may continue to discharge the duties of his or her office until the position of chairperson is filled by appointment by the governor upon the advice and consent of the senate and the term of such new chairperson shall terminate June thirtieth, two thousand fifteen. The sixteen other members first appointed shall serve for the following terms: The members from the counties of Nassau and

Westchester shall each serve for a term ending June thirtieth, nineteen hundred eighty-five; the members from the county of Suffolk and from the counties of Dutchess, Orange, Putnam and Rockland shall each serve for a term ending June thirtieth, nineteen hundred ninety-two; two of the members appointed on recommendation of the mayor of the city of New York shall each serve for a term ending June thirtieth, nineteen hundred eighty-four and, two shall each serve for a term ending June thirtieth, nineteen hundred eighty-one; two of the members appointed by the governor without the recommendation of any other person shall each serve for a term ending June thirtieth, nineteen hundred eighty-two, two shall each serve for a term ending June thirtieth, nineteen hundred eighty and one shall serve for a term ending June thirtieth, nineteen hundred eighty-five. The two non-voting and four alternate non-voting members shall serve until January first, two thousand one. The members from the counties of Dutchess, Orange, Putnam and Rockland shall cast one collective vote.

(2) There shall be two non-voting members and four alternate non-voting members of the authority, as referred to in subparagraph one of this paragraph.

The first non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the New York city transit authority advisory council. The first alternate non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the Metro-North commuter council. The second alternate non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the Long Island Rail Road commuter's council.

The second non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the Long Island Rail Road. The third alternate non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the New York city transit authority. The fourth alternate non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the

Metro-North Commuter Railroad Company. Notwithstanding any other provision of law, the alternate non-voting member recommended by the labor organization representing the majority of employees of the Metro-North Commuter Railroad Company may be a resident of any state in which the Metro-North Commuter Railroad Company operates. The chairman of the authority, at his direction, may exclude such non-voting member or alternate non-voting member from attending any portion of a meeting of the authority or of any committee established pursuant to paragraph (b) of subdivision four of this section held for the purpose of discussing negotiations with labor organizations.

The non-voting member and the two alternate non-voting members representing the New York York city transit authority advisory council, the Metro-North commuter council, and the Long Island Rail Road commuter's council shall serve eighteen month rotating terms, after which time an alternate non-voting member shall become the non-voting member and the rotation shall continue until each alternate member has served at least one eighteen month term as a non-voting member. The other non-voting member and alternate non-voting members representing the New York city transit authority, Metro-North Commuter Railroad Company, and the Long Island Rail Road labor organizations shall serve eighteen month rotating terms, after which time an alternate non-voting member shall become the non-voting member and the rotation shall continue until each alternate member has served at least one eighteen month term as a non-voting member. The transit authority and the commuter railroads shall not be represented concurrently by the two non-voting members during any such eighteen month period.

* NB Effective until June 30, 2028

* (a) There is hereby created the "metropolitan transportation authority." The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of a chairman and sixteen other members appointed by the governor by and with the advice and consent of the senate. Any member appointed to a term commencing on or after June thirtieth, two thousand nine shall have experience in one or more of the following areas of expertise: transportation, public administration, business management, finance, accounting, law, engineering, land use, urban and regional planning,

management of large capital projects, labor relations, or have experience in some other area of activity central to the mission of the authority. Four of the sixteen members other than the chairman shall be appointed on the written recommendation of the mayor of the city of New York; and each of seven other members other than the chairman shall be appointed after selection from a written list of three recommendations from the chief executive officer of the county in which the particular member is required to reside pursuant to the provisions of this subdivision. Of the members appointed on recommendation of the chief executive officer of a county, one such member shall be, at the time of appointment, a resident of the county of Nassau; one a resident of the county of Suffolk; one a resident of the county of Westchester; and one a resident of the county of Dutchess, one a resident of the county of Orange, one a resident of the county of Putnam and one a resident of the county of Rockland, provided that the term of any member who is a resident of a county that has withdrawn from the metropolitan commuter transportation district pursuant to section twelve hundred seventy-nine-b of this title shall terminate upon the effective date of such county's withdrawal from such district. Of the five members, other than the chairman, appointed by the governor without recommendation from any other person, three shall be, at the time of appointment, residents of the city of New York and two shall be, at the time of appointment, residents of such city or of any of the aforementioned counties in the metropolitan commuter transportation district. Provided however, notwithstanding the foregoing residency requirement, one of the five voting members appointed by the governor without recommendation from any other person, other than the chairman, may be the director of the New York state division of the budget, and provided further that, in the event of such appointment, the budget director's membership in the authority shall be deemed ex-officio. The chairman and each of the members shall be appointed for a term of six years, provided however, that the chairman first appointed shall serve for a term ending June thirtieth, nineteen hundred eighty-one, provided that thirty days after the effective date of the chapter of the laws of two thousand nine which amended this paragraph, the term of the chairman shall expire; provided, further, that such chairman may continue to discharge the duties of his office until the position of chairman is filled by appointment by the governor upon the advice and consent of the senate and the term of such new chairman shall terminate June thirtieth, two thousand fifteen. The sixteen other members first appointed shall serve for the following terms: The members from the counties of Nassau and Westchester shall each serve for a term ending June thirtieth, nineteen hundred eighty-five; the members from the county of Suffolk and from the counties of Dutchess, Orange, Putnam and Rockland shall each serve for a term ending June thirtieth, nineteen hundred ninety-two; two of the members appointed on recommendation of the mayor of the city of New York shall each serve for a term ending June thirtieth, nineteen hundred eighty-four and, two shall each serve for a term ending June thirtieth, nineteen hundred eighty-one; two of the members appointed by the governor without the recommendation of any other person shall each serve for a term ending June thirtieth, nineteen hundred eighty-two, two shall each serve for a term ending June thirtieth, nineteen hundred eighty and one shall serve for a term ending June thirtieth, nineteen hundred eighty-five. The members from the counties of Dutchess, Orange, Putnam and Rockland shall cast one collective vote.

* NB Effective June 30, 2028

(a-1) The mayor of the city of New York shall, no later than April first, nineteen hundred ninety-one, develop and submit to the governor, the temporary president of the senate and the speaker of the assembly, a plan detailing how the four appointments to the metropolitan transportation authority board made by the governor upon the written recommendation of the mayor can be utilized to ensure that each county within the city of New York is represented on such board.

(b) Vacancies occurring otherwise than by expiration of term shall be filled in the same manner as original appointments for the balance of the unexpired term, provided, however, that in the event of a vacancy caused by the death, resignation, removal, or disability of the chairman, the vacancy shall be filled by the governor by and with the advice and consent of the senate for the unexpired term. Notwithstanding any other provision of law to the contrary, the governor shall designate an acting chairman for a period not to exceed six months or until a successor chairman has been confirmed by the senate, whichever comes first. Upon the expiration of the six-month term, if the governor has nominated a successor chairman, but the senate has not acted upon the nomination, the acting chair can continue to serve as acting chair for an additional ninety days or until the governor's successor chair nomination is confirmed by the senate, whichever comes first.

(b-1) Notwithstanding any inconsistent provision of this section, in the event that, upon a vacancy to be filled by the governor without recommendation, other than the chairperson, there is no transit dependent member serving, the governor shall appoint a transit dependent individual to fill the vacancy, consistent with paragraph (a) of this subdivision. Provided further that in the event that there is no transit dependent member serving and there is no vacancy to be filled by the governor without recommendation other than the chairperson, then upon a vacancy in a seat filled by the governor upon the recommendation of the mayor of the city of New York, the mayor of the city of New York shall recommend a transit dependent individual to fill the vacancy, consistent with paragraph (a) of this subdivision.

(c) (i) Notwithstanding any inconsistent provision of this section, the term of any member shall expire upon the expiration of the term in office being served by the county elected official upon whose recommendation they were appointed; provided, however, that in such circumstance such member may serve as a holdover appointee for sixty days, or until such time as a new member is appointed, whichever is less. The term of any member appointed to replace such a holdover appointee shall expire at the end of the term in office of the county elected official upon whose recommendation such member was appointed. If a county elected official leaves office because of death, resignation, removal or disability, however, a member appointed upon such official's recommendation shall continue to serve until such time as such county elected office is filled, at which time such member will become a holdover appointee and may serve for sixty days, or until such time as a new member is appointed, whichever is less.

(ii) Notwithstanding any inconsistent provision of this section, the term of any chairman or any member shall expire upon the expiration of the term in office being served by the city or state elected official upon whose recommendation they were appointed; provided, however, that in such circumstance the chairman or such member may serve as a holdover appointee until such time as a new chairman or member is appointed. The term of any chairman or member appointed to replace such a holdover appointee shall expire at the end of the term in office of the city or state elected official upon whose recommendation such chairman or member was appointed.

2. The chairman and the first vice chairman shall be paid a salary in the amount determined by the authority; the other members shall not receive a salary or other compensation. Each member, including the chairman and the first vice chairman, shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

3. (a) A majority of the whole number of members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the authority, the authority shall have power to act by a majority vote of the members present at any meeting at which a quorum is in attendance and except further, that in the event of a tie vote the chairman shall cast one additional vote.

(b) For purposes of determining the presence of a quorum, and for purposes of participation on any committee or subcommittee, those members who collectively cast a single vote pursuant to the provisions of paragraph (a) of subdivision one of this section shall be considered to be a single member, and the presence of such member shall be determined as provided in this subdivision. Except as otherwise provided in a by-law adopted as hereinafter provided, such single member constituting those members entitled to a collective vote shall be deemed present as a single member for purposes of a quorum if one or more of the members then in office entitled to cast such collective vote is present, and such collective vote shall be cast in accordance with the majority agreement of the members entitled to a collective vote who are present or in the event a single member entitled to a collective vote is present it shall be cast by that member. To evidence the existence of such majority agreement among the members entitled to a collective vote, each such member shall be polled as to his vote and such poll shall be recorded in the minutes. In the event a majority vote is not achieved by the members entitled to a collective vote who are present, then the vote shall not be cast. Nothing herein shall limit the right of an individual member to participate in board meetings or in other activities of the authority when the other members then in office entitled to collectively cast a vote are not present. At any meeting of the authority at which there is a quorum including all the members then in office entitled to cast a collective vote, the authority may adopt a by-law or by-laws regulating the casting of such collective vote, provided all members then in office entitled to cast a collective vote affirmatively approve such by-law or by-laws. Any action taken by the authority in accordance with any such by-law or by-laws adopted pursuant to the provisions of this paragraph shall take effect in the same manner as any other action of the authority. Any such by-law or by-laws shall not provide for the casting of any fractional vote. Nor shall such a by-law or by-laws provide for the amendment, repeal or adoption in the future of such a by-law or by-laws in a manner other than that set forth in this paragraph.

(c) No provision of paragraph (b) of this subdivision relating to the adoption of certain by-laws by the authority shall affect the manner in which by-laws of the authority are adopted concerning any subject other than the voting and presence for quorum purposes of the members from the counties of Dutchess, Putnam, Orange and Rockland.

(d) Notwithstanding the provisions of paragraph (a) of subdivision one of this section, any member appointed from the county of Dutchess, Orange, Putnam or Rockland prior to the increase in the number of members of the authority to include a member from each such county shall continue in office as the member from such counties pursuant to section five of the public officers law until the appointment and confirmation of all of the new members from such counties pursuant to the provisions of this section, and no individual member exercising a collective vote appointed and confirmed pursuant to paragraph (a) of subdivision one of this section shall take office until all such new members are appointed and confirmed.

4. (a) Notwithstanding any provision of law to the contrary, the chairman shall be the chief executive officer of the authority and shall be responsible for the discharge of the executive and administrative functions and powers of the authority. The chairman may appoint an

executive director and such other officials and employees as shall in his or her judgment be needed to discharge the executive and administrative functions and powers of the authority.

* (b) The chairman shall establish committees to assist him in the performance of his duties and shall appoint members of the authority to such committees. Among such committees, there shall be a committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority; a committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority; a committee on operations of the Metro-North commuter railroad; a committee on operations of the Triborough bridge and tunnel authority; a committee on finance; a committee on capital program oversight; and a committee on safety. In addition to such appointed members, each of the non-voting members referred to in subparagraph two of paragraph (a) of subdivision one of this section shall serve on the committee on capital program oversight, the committee on finance, the committee on safety, the committee on operations of the Triborough bridge and tunnel authority, and the operations committee relevant to the commuter council that recommended such member. The alternate non-voting members shall each serve on the respective operations committee relevant to the commuter council that recommended each member. The committee on capital program oversight and the committee on safety shall include not less than three members, and shall include the chairpersons of the committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority, the committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority, and the committee on operations of the Metro-North commuter railroad. The committee on safety shall convene at least once annually and each committee chairperson, that is a member of the committee on safety, shall report to the committee on safety any and all initiatives, concerns, improvements, or failures involving the safety of: (1) customers; (2) employees; and (3) the public at large, in relation to authority facilities and services. The capital program committee shall, with respect to any approved or proposed capital program plans, (i) monitor the current and future availability of funds to be utilized for

such plans approved or proposed to be submitted to the metropolitan transportation capital program review board as provided in section twelve hundred sixty-nine-b of this title; (ii) monitor the contract awards of the metropolitan transportation authority and the New York city transit authority to insure that such awards are consistent with (A) provisions of law authorizing United States content and New York state content; (B) collective bargaining agreements; (C) provisions of law providing for participation by minority and women-owned businesses; (D) New York state labor laws; (E) competitive bidding requirements including those regarding sole source contracts; and (F) any other relevant requirements established by law; (iii) monitor the award of contracts to determine if such awards are consistent with the manner in which the work was traditionally performed in the past provided, however, that any such determination shall not be admissible as evidence in any arbitration or judicial proceeding; (iv) review the relationship between capital expenditures pursuant to each such capital program plan and current and future operating budget requirements; (v) monitor the progress of capital elements described in each capital program plan approved as provided in section twelve hundred sixty-nine-b of this title; (vi) monitor the expenditures incurred and to be incurred for each such element; and (vii) identify capital elements not progressing on schedule, ascertain responsibility therefor and recommend those actions required or appropriate to accelerate their implementation. The capital program committee shall issue a quarterly report on its activities and findings, and shall in connection with the preparation of such quarterly report, consult with the state division of the budget, the state department of transportation, the members of the metropolitan transportation authority capital program review board and any other group the committee deems relevant, including public employee organizations, and, at least annually, with a nationally recognized independent transit engineering firm. Such report shall be made available to the members of the authority, to the members of the metropolitan transportation authority capital program review board, and the directors of the municipal assistance corporation for the city of New York.

* NB Effective until June 30, 2028

* (b) The chairman shall establish committees to assist him in the

performance of his duties and shall appoint members of the authority to such committees. Among such committees, there shall be a committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority; a committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority; a committee on operations of the Metro-North commuter railroad; a committee on operations of the Triborough bridge and tunnel authority; a committee on finance; a committee on capital program oversight; and a committee on safety. The committee on capital program oversight shall include not less than four members, and shall include the chairpersons of the committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority, the committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority, the committee on operations of the Metro-North commuter railroad, and the committee on safety. The committee on safety shall convene at least once annually and each committee chairperson, that is a member of the committee on safety, shall report to the committee on safety any and all initiatives, concerns, improvements, or failures involving the safety of: (1) customers; (2) employees; and (3) the public at large, in relation to authority facilities and services. The capital program committee shall, with respect to any approved or proposed capital program plans, (i) monitor the current and future availability of funds to be utilized for such plans approved or proposed to be submitted to the metropolitan transportation capital program review board as provided in section twelve hundred sixty-nine-b of this title; (ii) monitor the contract awards of the metropolitan transportation authority and the New York city transit authority to insure that such awards are consistent with (A) provisions of law authorizing United States content and New York state content; (B) collective bargaining agreements; (C) provisions of law providing for participation by minority and women-owned businesses; (D) New York state labor laws; (E) competitive bidding requirements including those regarding sole source contracts; and (F) any other relevant requirements established by law; (iii) monitor the award of contracts to determine if such awards are consistent with the manner in which the work was traditionally performed in the past provided, however, that any such determination shall not be admissible as evidence in any arbitration or judicial proceeding; (iv) review the relationship between capital expenditures pursuant to each such capital program plan and current and future operating budget requirements; (v) monitor the progress of capital elements described in each capital program plan approved as provided in section twelve hundred sixty-nine-b of this title; (vi) monitor the expenditures incurred and to be incurred for each such element; and (vii) identify capital elements not progressing on schedule, ascertain responsibility therefor and recommend those actions required or appropriate to accelerate their implementation. The capital program committee shall issue a quarterly report on its activities and findings, and shall in connection with the preparation of such quarterly report, consult with the state division of the budget, the state department of transportation, the members of the metropolitan transportation authority capital program review board and any other group the committee deems relevant, including public employee organizations, and, at least annually, with a nationally recognized independent transit engineering firm. Such report shall be made available to the members of the authority, to the members of the metropolitan transportation authority capital program review board, and the directors of the municipal assistance corporation for the city of New York.

* NB Effective June 30, 2028

(c) The chairman shall ensure that at every meeting of the board and at every meeting of each committee the public shall be allotted a period of time, not less than thirty minutes, to speak on any topic on the agenda.

(d) Notwithstanding paragraph (c) of subdivision one of section twenty-eight hundred twenty-four of this chapter or any other provision of law to the contrary, the chairman shall not participate in establishing authority policies regarding the payment of salary, compensation and reimbursement to, nor establish rules for the time and attendance of, the chief executive officer. The salary of the chairman, as determined pursuant to subdivision two of this section, shall also be compensation for all services performed as chief executive officer.

5. The authority shall be a "state agency" for the purposes of sections seventy-three and seventy-four of the public officers law.

6. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any public corporation as defined in the general corporation law, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his acceptance of membership on or chairmanship of the authority; provided, however, a member or chairman who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

7. The governor may remove any member for inefficiency, neglect of duty, breach of fiduciary duty or misconduct in office after giving the member a copy of the charges against the member and an opportunity to be heard, in person or by counsel in the member's defense, upon not less than ten days' notice. If any member shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

8. The authority shall continue so long as it shall have bonds or other obligations outstanding and until its existence shall be terminated by law. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the state.

9. Whenever the authority causes notices of hearings on proposed changes in services or fares to be posted pursuant to this section or any statute, regulation, or authority policy, or where it voluntarily posts such notices, such notices shall: (a) be written in a clear and coherent manner using words with common and every day meaning; (b) be captioned in large point type bold lettering with a title that fairly

and accurately conveys the basic nature of such change or changes; (c) where such change involves a proposed change in levels of fare, include in its title the range of amounts of fare changes under consideration; (d) contain, to the extent practicable, a concise description of the specific nature of the change or changes, including but not limited to a concise description of those changes that affect the largest number of passengers; (e) where such change involves a change in the nature of a route, contain, to the extent practicable, a clear graphic illustration of such change or changes; and (f) where such change involves a partial or complete station closing, such notice shall be posted at the affected station with a clear graphic illustration depicting the nature of any closing for such station.

§ 1264. Purposes of the authority. 1. The purposes of the authority shall be the continuance, further development and improvement of commuter transportation and other services related thereto within the metropolitan commuter transportation district, including but not limited to such transportation by railroad, omnibus, marine and air, in accordance with the provisions of this title. It shall be the further purpose of the authority, consistent with its status as the ex officio board of both the New York city transit authority and the triborough bridge and tunnel authority, to develop and implement a unified mass transportation policy for such district in an efficient and cost-effective manner that includes the use of design-build contracting on all projects over two hundred million dollars in cost for new construction and all projects over four hundred million dollars in cost for projects that are predominantly rehabilitation or replacement of existing assets except where a waiver is granted by the New York state budget director pursuant to a request in writing from the metropolitan transportation authority. For purposes of granting a waiver pursuant to this section, such review shall consider whether the design build contracting method is appropriate for the project that such waiver is sought for, and the amount of savings and efficiencies that could be achieved using such method. The determination for such waiver shall be made in writing within forty-five days from request or shall be deemed granted.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the authority shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

§ 1264-a. State of emergency; boarding of a commuter transportation by domestic companion animals. 1. For the purposes of this section:

(a) "Commuter transportation" means commuter transportation, and other related services and facilities, operated by the authority or any of its subsidiaries, including but not limited to such transportation by railroad, omnibus, marine and air, in accordance with this title.

(b) "Domestic companion animal" means a companion animal or pet as defined in section three hundred fifty of the agriculture and markets law and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Pet" or "companion animal" shall not include a "farm animal", as defined in section three hundred fifty of the agriculture and markets law.

2. (a) In the event that a state of emergency has been declared and an evacuation of any region of the state is in progress, the owner of a domestic companion animal shall be permitted to board any commuter transportation with such domestic companion animal so long as that animal is under the owner's control by use of a leash or tether, or is properly confined in an appropriate container or by other suitable means, provided that such boarding is authorized by and consistent with the provisions of state disaster emergency plans or local state of emergency plans pertaining to the needs of animals and individuals with an animal under their care. The provisions of this section shall only apply to the owners of domestic companion animals who are evacuating from a region of the state affected by an emergency or disaster, or a local state of emergency, as defined in section twenty-four of the executive law.

(b) A domestic companion animal may be refused permission to board any commuter transportation, even if the animal is under the owner's control or properly confined in accordance with this subdivision if there is reasonable cause to believe that, due to attendant circumstances, permitting the animal to board would pose a health or safety hazard.

3. All passengers with service animals shall be given priority seating on all means of transportation regulated by this title in accordance with the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.). For the purposes of this section, "service animal" shall have the same meaning as set forth in the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.) and any regulations under such act.

4. All passengers on any commuter transportation shall be provided seating before a domestic companion animal may be placed in a seat.

5. The authority is authorized to promulgate and enforce such rules and regulations as shall be necessary for the implementation of this section.

§ 1265. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

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

3. To borrow money, to issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof, and to finance or refinance all or any part of the costs to the authority or to any other person or entity, public or private, of the planning, design, acquisition, construction, improvement, reconstruction or rehabilitation of any transportation facility;

3-a. (b) The authority shall report on any issuances or obligations incurred related to paragraph (a) of this subdivision. Such report shall include, but not be limited to, an explanation of each note, bond, or obligation and their respective values issued by the authority pursuant to decreases in revenue in whole or in part due to the state disaster emergency caused by novel coronavirus, COVID-19. The report shall also provide: (i) details of such decreases in revenue in whole, (ii) details of such decreases in revenue in part, (iii) details of such increases in costs, (iv) the methodology used by the authority or metropolitan transportation authority to calculate such changes, (v) an explanation for attributing a particular increase in cost or a particular decrease in revenue, to the state disaster emergency caused by coronavirus, COVID-19, and (vi) how the authority determined that the particular note, bond, or obligation issued was its most desired option. Such report shall be posted on the authority's website and be submitted to the governor, the temporary president of the senate, the speaker of the assembly, the mayor and council of the city of New York, the metropolitan transportation authority board, and the metropolitan transportation authority capital program review board.

4. To invest any funds, accounts or other monies not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) certificates of deposit of banks or trust companies in this state, secured, if the authority shall so require, by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, (d) banker's acceptances with a maturity of ninety days or less which are eligible for purchase by the Federal Reserve Banks and whose rating at the time of purchase is in the highest rating category of two nationally recognized independent rating agencies, provided, however, that the amount of banker's acceptances of any one bank shall not exceed two hundred fifty million dollars, (e) obligations of any bank or corporation created under the laws of either the United States or any state of the United States maturing within two hundred seventy days, provided that such obligations receive the highest rating of two nationally recognized independent rating agencies and, provided further, that no more than two hundred fifty million dollars may be invested in

such obligations of any one bank or corporation, (f) as to any such moneys held in reserve and sinking funds, other securities in which the trustee or trustees of any public retirement system or pension fund has the power to invest the monies thereof pursuant to article four-a of the retirement and social security law, each such reserve and sinking fund being treated as a separate fund for the purposes of article four-a of the retirement and social security law, (g) notes, bonds, debentures, mortgages and other evidences of indebtedness, issued or guaranteed at the time of the investment by the United States Postal Service, the federal national mortgage association, the federal home loan mortgage corporation, the student loan marketing association, the federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency or its obligations are rated and the agency receives, or its obligations receive, the highest rating of all independent rating agencies that rate such agency or its obligations, provided, however, that no more than two hundred fifty million dollars or such greater amount as may be authorized for investment for the state comptroller by section ninety-three of the state finance law may be invested in the obligations of any one agency, (h) general obligation bonds and notes of any state other than the state, provided that such bonds and notes receive the highest rating of at least one independent rating agency, and bonds and notes of any county, town, city, village, fire district or school district of the state, provided that such bonds and notes receive either of the two highest ratings of at least two independent rating agencies, (i) mutual funds registered with the United States securities and exchange commission whose investments are limited to obligations of the state described in paragraph (a) of this subdivision, obligations the principal and interest of which are guaranteed by the state described in paragraph (b) of this subdivision, and those securities described in paragraph (h) of this subdivision and that have received the highest rating of at least one independent rating agency, provided that the aggregate amount invested at any one time in all such mutual funds shall not exceed ten million dollars, and, provided further, that the authority shall not invest such funds, accounts or other monies in any mutual fund for longer than thirty days, and (j) financial contracts in a foreign currency entered into for the purpose of minimizing the foreign currency exchange risk of the purchase price of a contract with a vendor chosen through competitive process for the acquisition of capital assets for the benefit of the capital program of the Triborough bridge and tunnel authority or either the transit or transportation capital programs;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

6. (a) To enter into contracts and leases and to execute all instruments necessary or convenient;

(b) With respect to any lease transaction entered into pursuant to section 168 (f) (8) of the United States internal revenue code or any successor provisions, the authority shall meet the following standards and procedures:

(i) notice of intention to negotiate shall be published in at least one newspaper of general circulation, and a copy thereof shall be mailed to all parties who have requested notification from the authority to engage in transactions of this type. Such notice shall describe the nature of the proposed transaction and the factors subject to negotiation, which shall include, but not be limited to, the price to be paid to the authority;

(ii) the authority shall negotiate with those respondents whose response complies with the requirements set forth in the notice;

(iii) the board of the authority shall resolve on the basis of particularized findings relevant to the factors negotiated that such transaction will provide maximum available financial benefits, consistent with other defined objectives and requirements.

(c) The authority shall provide to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, notice of each lease entered into pursuant to paragraph (b) of this subdivision and supporting documentation of compliance by the authority with subparagraphs (i), (ii) and (iii) of paragraph (b) of this subdivision;

(d) Paragraphs (b) and (c) of this subdivision shall be of no force and effect with respect to any lease transaction entered into pursuant to a commitment approved prior to January first, nineteen hundred eighty-five by the board of the authority.

* 7. To acquire, hold and dispose of real or personal property in the exercise of its powers, including, the power to dispose of personal property with a value of five hundred thousand dollars or less by public auction in accordance with guidelines adopted by the authority pursuant to title five-A of article nine of this chapter. The board shall adopt guidelines that shall provide for advertising and such other safeguards as the authority may deem appropriate in the public interest.

* NB Effective until June 30, 2028

* 7. To acquire, hold and dispose of real or personal property in the exercise of its powers;

* NB Effective June 30, 2028

8. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

9. (a) Notwithstanding section one hundred thirteen of the retirement and social security law or any other general or special law, the authority and any of its subsidiary corporations may continue or provide to its affected officers and employees any retirement, disability, death or other benefits provided or required for railroad personnel pursuant to federal or state law;

(b) The authority and any of its public benefit subsidiary corporations may be a "participating employer" in the New York state employees' retirement system with respect to one or more classes of officers and employees of such authority or any such public benefit subsidiary corporation, as may be provided by resolution of such authority or any such public benefit subsidiary corporation, as the case may be, or any subsequent amendment thereof, filed with the comptroller and accepted by him pursuant to section thirty-one of the retirement and social security law. In taking any action pursuant to this paragraph (b), the authority and any of its public benefit subsidiary corporations shall consider the coverages and benefits continued or provided pursuant to paragraph (a) of this subdivision;

10. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

11. To enter upon such lands, waters or premises as in the judgment of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

12. The authority may conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the authority shall fail or refuse to aid or assist the authority in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the authority is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

13. A copy of any report submitted by the authority pursuant to sections twenty-eight hundred, twenty-eight hundred one and twenty-eight hundred two of this chapter shall be forwarded to the mayor of the city of New York and to the chairman of the board of supervisors and to the county executive, if any, of each county within the district.

14. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1265-a. Contracts. 1. The provisions of this section shall only apply to procurements by the authority commenced during the period from April first, nineteen hundred eighty-seven until December thirty-first, nineteen hundred ninety-one, and during the period from December sixteenth, nineteen hundred ninety-three until June thirtieth, two thousand twenty-eight; provided, however, that the provisions of this section shall not apply to (i) the award of any contract of the authority if the bid documents for such contract so provide and such bid documents are issued within sixty days of the effective date of this section or within sixty days of December sixteenth, nineteen hundred ninety-three, or (ii) for a period of one hundred eighty days after the effective date of this section or for a period of one hundred eighty days after December sixteenth, nineteen hundred ninety-three, the award of any contract for which an invitation to bid, solicitation, request for proposal, or any similar document has been issued by the authority prior to the effective date of this section or during the period from January first, nineteen hundred ninety-two until December sixteenth, nineteen hundred ninety-three.

2. * (a) Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of one million dollars and all contracts for public work involving an estimated expenditure in excess of one million dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth. For purposes hereof, contracts for public work shall exclude contracts for personal, engineering and architectural, or professional services. The authority may reject all bids and obtain new bids in the manner provided by this section when it is deemed in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such bidders or obtain new bids from such bidders. Nothing in this paragraph shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, and inspection services so long as the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

* NB Effective until June 30, 2028

* (a) Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of fifteen thousand dollars and all contracts for public work involving an estimated expenditure in excess of twenty-five thousand dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth. For purposes hereof, contracts for public work shall exclude contracts for personal, engineering and architectural, or professional services. The authority may reject all bids and obtain new bids in the manner provided by this section when it is deemed in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such bidders or obtain new bids from such bidders. Nothing herein shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, and inspection services so long as the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

* NB Effective June 30, 2028

* (b) Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided (i) that a contract for services in the actual or estimated amount of one million dollars or less shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for services in the actual or estimated amount in excess of one million dollars shall require approval by the board of the authority regardless of the length of the period over which the services are rendered unless such a contract is awarded to the lowest responsible bidder after obtaining sealed bids, and (ii) the board of the authority may by resolution adopt guidelines that authorize the award of contracts to

small business concerns, to service disabled veteran owned businesses certified pursuant to article seventeen-B of the executive law, or minority or women-owned business enterprises certified pursuant to article fifteen-A of the executive law, or purchases of goods or technology that are recycled or remanufactured, in an amount not to exceed one million five hundred thousand dollars without a formal competitive process and without further board approval. The board of the authority shall adopt guidelines which shall be made publicly available for the awarding of such contract without a formal competitive process.

* NB Effective until June 30, 2028

* (b) Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided that a contract for personal services in the actual or estimated amount of less than twenty thousand dollars shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for personal services in the actual or estimated amount of twenty thousand dollars or more shall require approval by the board of the authority regardless of the length of the period over which the services are rendered.

* NB Effective June 30, 2028

(c)(1) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority shall establish guidelines governing the qualifications of bidders entering into contracts for its project to bring the Long Island Rail Road into Grand Central Terminal ("East Side Access Project"). The bidding may be restricted to those who have qualified prior to the receipt of bids according to standards fixed by the authority; provided, however, that the award of contracts shall, to the extent not inconsistent with this paragraph, be in accordance with paragraph (a) of this subdivision.

(2) In determining whether a prospective bidder qualifies for the inclusion on a list of prequalified bidders for the East Side Access Project, the authority shall consider: (i) the experience and past performance of the prospective bidder; (ii) the prospective bidder's ability to undertake work, including but not limited to whether it participates in state approved apprenticeship programs and whether it

utilizes employees who are represented by labor organizations; (iii) the financial capability and responsibility of the prospective bidder; and (iv) the records of the prospective bidder in complying with existing labor standards. The authority may also consider such other factors as it deems appropriate.

3. (a) Advertisement for bids, when required by this section, shall be published at least once in a newspaper of general circulation in the area served by the authority and in the procurement opportunities newsletter published pursuant to article four-C of the economic development law provided that, notwithstanding the provisions of article four-C of the economic development law, an advertisement shall only be required for a purchase contract for supplies, materials or equipment when required by this section. Publication in a newspaper of general circulation in the area served or in the procurement opportunities newsletter shall not be required if bids for contracts for supplies, materials or equipment are of a type regularly purchased by the authority and are to be solicited from a list of potential suppliers, if such list is or has been developed consistent with the provisions of subdivision six of this section. Any such advertisement shall contain a statement of: (i) the time and place where bids received pursuant to any notice requesting sealed bids will be publicly opened and read; (ii) the name of the contracting agency; (iii) the contract identification number; (iv) a brief description of the public work, supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term; (v) the address where bids or proposals are to be submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement; (ix) any other information deemed useful to potential contractors; and (x) the name, address, and telephone number of the person to be contacted for additional information. At least fifteen business days shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids.

(b) The authority may designate any officer or employee to open the bids at the time and place bids are to be opened and may designate an officer to award the contract to the lowest responsible bidder. Such designee shall make a record of all bids in such form and detail as the authority shall prescribe. All bids received shall be publicly opened and read at the time, place and in the manner specified in the advertisement or at the time of solicitation, or to which the opening and reading or posting have been adjourned by the authority, provided that any sealed bid may be received and secured through an electronic platform as permitted by the authority, and that any sealed bid received electronically is made public at the same time as any competing paper bid. The authority shall, at minimum, provide the same opportunity and time for submitting sealed bids physically as for sealed bids submitted electronically, and shall provide the opportunity for bidders to submit sealed bids physically any time that it provides the opportunity to submit sealed electronic bids. In addition, the authority shall establish a process for accommodating force majeure events that prevent the submission of a sealed electronic bid, including but not limited to internet and power outage events, and for automatically confirming receipt of any sealed electronic bid received. All bidders shall be notified of the time and place of any such adjournment.

4. Notwithstanding the foregoing, the authority may, by resolution approved by a two-thirds vote of its members then in office, or by a majority vote of its members with respect to contracts proposed to be let pursuant to paragraph (a) of this subdivision declare that competitive bidding is impractical or inappropriate because of the existence of any of the circumstances hereinafter set forth and thereafter the authority may proceed to award contracts without complying with the requirements of subdivision two or three of this section. In each case where the authority declares competitive bidding impractical or inappropriate, it shall state the reason therefor in writing and summarize any negotiations that have been conducted. Except for contracts awarded pursuant to paragraphs (a), (b), (c) and (e) of this subdivision, the authority shall not award any contract pursuant to this subdivision earlier than thirty days from the date on which the authority declares that competitive bidding is impractical or

inappropriate. Competitive bidding may only be declared impractical or inappropriate where:

(a) the existence of an emergency involving danger to life, safety or property requires immediate action and cannot await competitive bidding or the item to be purchased is essential to efficient operation or the adequate provision of service and as a consequence of unforeseen circumstance such purchase cannot await competitive bidding;

(b) the item to be purchased is available only from a single responsible source, provided that if bids have not been solicited for such item pursuant to subdivision two of this section within the preceding twelve months public notice shall first be given pursuant to subdivision three of this section;

(c) the authority receives no responsive bids or only a single responsive bid in response to an invitation for competitive bids;

(d) the authority wishes to experiment with or test a product or technology or new source for such product or technology or evaluate the service or reliability of such product or technology;

(e) the item is available through an existing contract between a vendor and (i) another public authority provided that such other authority utilized a process of competitive bidding or a process of competitive requests for proposals to award such contracts, (ii) Nassau county, (iii) the state of New York, (iv) the city of New York or (v) the United States general services administration provided that such administration utilized a process of competitive bidding or a process of competitive requests for proposals to award such contract, provided that in any case when under this paragraph the authority determines that obtaining such item thereby would be in the public interest and sets forth the reasons for such determination. Such rationale shall include, but need not be limited to, a determination of need, a consideration of the procurement method by which the contract was awarded, an analysis of alternative procurement sources including an explanation why a competitive procurement or the use of a centralized contract let by the commissioner of the office of general services is not in the best interest of the authority, and the reasonableness of cost. The authority shall accept sole responsibility for any payment due the vendor as a result of the authority's order; or

(f) the authority determines that it is in the public interest to award contracts pursuant to a process for competitive requests for proposals as hereinafter set forth. For purposes of this section, a process for competitive requests for proposals shall mean a method of soliciting proposals and awarding a contract on the basis of a formal evaluation of the characteristics, such as quality, cost, delivery schedule and financing of such proposals against stated selection criteria. Public notice of the requests for proposals shall be given in the same manner as provided in subdivision three of this section and shall include the selection criteria. In the event the authority makes a material change in the selection criteria from those previously stated in the notice, it will inform all proposers of such change and permit proposers to modify their proposals.

* (i) Except for a contract with a value of one hundred million dollars or less that is awarded pursuant to this paragraph to the proposer whose proposal is the lowest cost, the authority may award a contract pursuant to this paragraph only after a resolution approved by a two-thirds vote of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made provided however that for purposes of this subparagraph the board may, at its discretion, require such a resolution be approved for contracts with a value of one hundred million dollars or less.

* NB Effective until June 30, 2028

* (i) The authority may award a contract pursuant to this paragraph only after a resolution approved by a two-thirds vote of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

* NB Effective June 30, 2028

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals, or (B) the rejection of any or all proposals at any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

(g) the authority issues a competitive request for proposals pursuant to the procedures of paragraph (f) of this subdivision for the purchase or rehabilitation of rail cars and omnibuses. Any such request may include among the stated selection criteria the performance of all or a portion of the contract at sites within the state of New York or the use of goods produced or services provided within the state of New York, provided however that in no event shall the authority award a contract to a manufacturer whose final offer, as expressed in unit cost is more than ten percent higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York or the use of goods produced or services provided within the state of New York, and further provided that the authority's discretion to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle, reliability, or any other factor the authority deems relevant to its operations.

* (i) Except for a contract with a value of one hundred million dollars or less that is awarded pursuant to this paragraph to the proposer whose proposal is the lowest cost, the authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of not less than a two-thirds vote of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made provided however that for purposes of this subparagraph the board may, at its discretion, require such a resolution be approved for contracts with a value of one hundred million dollars or less.

* NB Effective until June 30, 2028

* (i) The authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of not less than a two-thirds vote of its members then in office at a public meeting of the authority

with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

* NB Effective June 30, 2028

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals, or (B) the rejection of any or all proposals at any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

5. Upon the adoption of a resolution by the authority stating, for reasons of efficiency, economy, compatibility or maintenance reliability, that there is a need for standardization, the authority may establish procedures whereby particular supplies, materials or equipment are identified on a qualified products list. Such procedures shall provide for products or vendors to be added to or deleted from such list and shall include provisions for public advertisement of the manner in which such lists are compiled. The authority shall review such list no less than once a year for the purpose of making such modifications. Contracts for particular supplies, materials or equipment identified on a qualified products list may be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in accordance with this section or without competitive sealed bids in instances when the item is available from only a single source, except that the authority may dispense with advertising provided that it mails copies of the invitation to bid to all vendors of the particular item on the qualified products list.

6. The authority shall compile a list of potential sources of supplies, materials or equipment regularly purchased. The authority shall, by resolution, set forth the procedures it has established to identify new sources and to notify such new sources of the opportunity to bid for contracts for the purchase of supplies, materials or equipment. Such procedures shall include, but not be limited to: (a) advertising in trade journals; (b) cooperation with federal, state and

local agencies within its area of operations; (c) publication in the state register quarterly; and (d) procedures established pursuant to subdivision thirteen of section twelve hundred sixty-six-c of this article.

7. The provisions of this section shall not supersede any other provisions of law relative to purchases of products or devices manufactured or provided by the blind or other severely handicapped persons, to the invitation and acceptance of bids from small or minority business enterprises or to the purchases of supplies, materials or equipment through the office of general services. Except as may otherwise be provided by law or as more restrictively defined in the official policy or bid specifications of the authority, the term "small business" means a small business or similar term, under federal regulations applicable to projects of the authority which are federally assisted.

* 8. Notwithstanding any other provisions in this section, the authority shall be allowed to use an electronic bidding system for the purchase of goods, materials, and commodities that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure of bids in violation of section twenty-eight hundred seventy-eight of this chapter.

* NB Effective until June 30, 2028

* 8. The provisions of this section shall not apply to any procurement made by any other public entity not otherwise required by law to award contracts for such purchases to the lowest responsible bidder if such purchases are made at the sole cost and expense of such entity.

* NB Effective June 30, 2028

* 9. The provisions of this section shall not apply to any procurement made by any other public entity not otherwise required by law to award contracts for such purchases to the lowest responsible bidder if such purchases are made at the sole cost and expense of such entity.

* NB Repealed June 30, 2028

10. (a) Whenever the comptroller pursuant to section twenty-eight hundred seventy-nine-a of this chapter intends to require supervision in

the form of prior review and approval of a contract or contract amendment to be awarded by the authority pursuant to this section, then such contract or contract amendment shall be submitted to the comptroller by the authority for approval and shall not be a valid enforceable contract unless it shall first have been approved by the comptroller but only if the comptroller has notified the authority of such determination within thirty days of having received written notice of such contract or contract amendment either in the authority's annual report or any revised report;

(b) If the comptroller has timely notified the authority as provided in paragraph (a) of this subdivision that any contract or contract amendment shall be subject to comptroller prior review and approval, and such contract or contract amendment has been submitted to the comptroller, it shall become valid and enforceable without such approval if the comptroller has not approved or disapproved it within thirty days of submission to the comptroller.

*** § 1265-b. Metropolitan transportation authority small business mentoring program.** 1. Definitions. As used in this section, unless the context requires otherwise: (a) "authority" means the metropolitan transportation authority and its subsidiaries consisting of the Long Island rail road company, Metro-North commuter railroad company, metropolitan suburban bus authority, Staten Island rapid transit operating authority, MTA bus, MTA capital construction company, and first mutual transportation assurance company, and its affiliates consisting of the New York City transit authority, triborough bridge and tunnel authority, and Manhattan and Bronx surface transit operating authority;

(b) "chairman" means the chairman of the authority and its subsidiaries and affiliates;

(c) "small business" means a business in the construction trades which (i) is independently owned and operated; (ii) has annual revenues not exceeding a fiscal limitation of ten million dollars or such lesser amount as established by the authority pursuant to these provisions; and (iii) meets additional criteria as otherwise established by the chairman in consultation with the members of the MTA small business mentoring program advisory committee. The chair of the committee shall be the chief diversity officer of the MTA. The authority shall establish a detailed definition in general and specific to different segments of the construction industry to the extent necessary to reflect differing characteristics of such segments based on the criteria used by the United States small business administration for loans to small businesses as set forth in Sections 121.301 through 121.305, or for awarding government procurements as set forth in Sections 121.401 through 121.413, of Subpart A of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations as amended, and such other criteria as determined by the authority;

(d) "small business mentoring program" is a program established by the authority pursuant to these provisions to provide small businesses accepted into the program with the opportunity:

(i) for up to five years, to compete for and, where awarded, to perform certain authority public work contracts to be designated by the authority for inclusion in this program under this subparagraph, with the assistance of an authority-provided mentor, which shall be a firm competitively selected by the authority that has extensive construction management and mentoring experience, with the mentor to provide the small business with advice and assistance in competing for and managing authority public work contracts; and

(ii) for a small business mentoring program participant which the authority has determined has successfully completed the program under subparagraph (i) of this paragraph, for up to five additional years, (A) additional opportunities to compete with other designated small businesses in the program for certain public work contracts to be designated for inclusion under this subparagraph and, where awarded, to perform such authority public work contracts, with the further assistance of an authority-provided mentor, which shall be a firm competitively selected by the authority that has extensive construction management and mentoring experience, with the mentor to provide the small business with advice and technical assistance in competing for and managing authority public work contracts, and (B) authority-provided assistance, as determined by the authority, for such a small business to obtain bonding for public work contracts that are competitively awarded pursuant to provisions of law other than this section.

(e) "small business mentoring program contract" means a non-federally funded, unless authorized by the applicable federal funding agency, authority public work contract designated by the authority, in an estimated amount of not more than one million five hundred thousand dollars for contracts under subparagraph (i) of paragraph (d) of this subdivision and five million dollars for contracts under subparagraph (ii) of paragraph (d) of this subdivision, for which bids or proposals are to be invited and accepted only from businesses that are enrolled in the small business mentoring program and have been selected by the authority to compete for the contract.

2. Small business mentoring program. (a) Pursuant to these provisions, the authority may establish a small business mentoring program. In connection therewith, the authority may determine the criteria pursuant to which a small business shall be eligible for and selected to participate in the program under subparagraphs (i) and (ii) of paragraph (d) of subdivision one of this section, the number of participants to participate in each such components of the program, the criteria for the competitive selection of the firms that will provide small businesses with mentoring services, the assignment of a mentor to a specific small business in the small business mentoring program, and the funding for the program.

(b) Under the small business mentoring program, the chairman or the chairman's designee is authorized, notwithstanding any other provision of law:

(i) to designate which eligible public work contracts shall be small business mentoring program contracts under subparagraphs (i) and (ii) of paragraph (d) of subdivision one of this section, respectively;

(ii) to establish standards for qualifying small business mentoring program participants to compete for a small business mentoring program contract, provided that no less than three qualified small businesses in the program must submit responsive offers to perform the contract;

(iii) to determine when bids or proposals for a small business mentoring program contract should be restricted to small business mentoring program participants which, prior to the receipt of bids or proposals, have been qualified by the authority for such competition;

(iv) to competitively select, designate and contract with one or more experienced construction management firms that, under the general supervision of the authority, will provide mentoring services to the small businesses participating in the small business mentoring program, and to assign such mentors one or more designated small businesses participating in the program;

(v) for small business mentoring program contracts, except as set forth herein, to waive requirements for the solicitation and award of a public work contract pursuant to sections twelve hundred nine, twelve hundred sixty-five-a and twenty-eight hundred seventy-nine of this chapter and any other provision of law;

(vi) to assist only small business mentoring program participants that have been awarded small business mentoring program contracts to obtain any surety bond or contract of insurance required of them in connection with such contract only notwithstanding any provision of section two thousand five hundred four of the insurance law to the contrary; and

(vii) for small businesses that have been accepted into the small business mentoring program under subparagraph (ii) of paragraph (d) of subdivision one of this section, in addition to the benefits of such program and notwithstanding any other provision of law, to provide technical assistance in obtaining bid, payment and performance bonding for authority public work contracts that are not small business mentoring program contracts, for which the small business is otherwise qualified.

3. Withdrawal of designation of small business mentoring program contracts. (a) If the total number of qualified small business mentoring program participants that respond to a competition and are considered capable of meeting the specifications and terms of the invitation to compete is less than three, or if the chairman or the chairman's designee determines that acceptance of the best offer will result in the payment of an unreasonable price, the authority may reject all offers and withdraw the designation of the contract as a small business mentoring program contract.

(b) If the authority withdraws the designation of contract as a small business mentoring program contract, the firms, if any, that made offers shall be notified. Invitations to compete containing the same or rewritten specifications and terms shall then be re-issued as a small business mentoring program contract for one or more additional contract period.

4. Construction manager mentors. A mentor shall provide services and assistance to a small business as designated by the authority, which may include the following: (a) provide business training in the skills necessary to operate a successful construction business and to compete for and perform a public work contract;

(b) provide technical assistance to the small business to assess the outcome if the small business competes for but is not awarded a contract;

(c) if the small business mentoring program contract is awarded to the small business, provide guidance, advice and technical assistance to the small business in the performance of the contract;

(d) provide other technical assistance to the small business to facilitate learning, training and other issues which may arise.

5. The authority may delegate to the chairman or the chairman's designee, the authority's responsibilities set forth herein.

6. The small business mentoring program contracts authorized by this legislation shall, for the initial year of the program, be in an aggregate amount of not less than ten million dollars, and shall not exceed one hundred million dollars, with the maximum amount in future years to be set by the chairman.

7. The authority shall submit a report, no later than September thirtieth, two thousand twenty-five, and annually thereafter, to the governor, the temporary president of the senate, and the speaker of the assembly regarding procurements made pursuant to this section. Such report shall include a description of each procurement made pursuant to this subdivision and the rationale for why the public work contract was selected as a small business mentoring program contract, information regarding the procurement process for each such mentoring program contract and the name or names of the small businesses that fulfilled the contract, the project identification number and a description for each such project performed pursuant to the contract, the contractual

completion date for each contract, the status of each such project, the contract price, including executed modifications, whether a project received surety bond or insurance contract assistance pursuant to subparagraph (vi) of paragraph (b) of subdivision two of this section, the total dollar value of monies paid to minority-owned and women-owned business enterprises and disadvantaged business enterprises pursuant to this section itemized by year and including the total dollar values for the five years preceding the respective annual report's release date. Such report shall additionally identify the authority-provided construction manager mentors and describe their competitive selection process, describe the technical assistance and advice provided by the authority and the mentors to program participants, and describe the business training provided by such mentor. For annual reports, any new procurements and changes during the period covered by the report shall be identified separately.

* NB Repealed December 31, 2029

§ 1266. Special powers of the authority. In order to effectuate the purposes of this title:

1. The authority may acquire, by purchase, gift, grant, transfer, contract or lease, any transportation facility other than a transit facility or, subject to subdivision two of this section or any transportation facility constituting a transit facility, wholly or partially within the metropolitan commuter transportation district, or any part thereof, or the use thereof, and may enter into any joint service arrangements as hereinafter provided. Any such acquisition or joint service arrangement shall be authorized only by resolution of the authority approved by not less than a majority vote of the whole number of members of the authority then in office, except that in the event of a tie vote the chairman shall cast one additional vote.

2. The authority may on such terms and conditions as the authority may determine necessary, convenient or desirable itself plan, design, acquire, establish, construct, effectuate, operate, maintain, renovate, improve, extend, rehabilitate or repair (a) any transportation facility

other than a transit project, or (b) upon the request of the New York city transit authority, and upon such terms and conditions as shall be agreed to by the authority or any transportation facility constituting a transit facility (a "transportation assistance project"), or may provide for such planning, design, acquisition, establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension, rehabilitation or repair by contract, lease or other arrangement on such terms as the authority may deem necessary, convenient or desirable with any person, including but not limited to any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state, the port of New York authority or any political subdivision or municipality of the state. In connection with the operation of any transportation facility, the authority may plan, design, acquire, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair or may provide by contract, lease or other arrangement for the planning, design, acquisition, establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any related services and activities it deems necessary, convenient or desirable, including but not limited to the transportation and storage of freight and the United States mail, feeder and connecting transportation, parking areas, transportation centers, stations and related facilities. Upon the completion of any such transportation assistance project or any part thereof or the termination of any contract, lease or other arrangement relating to such transportation assistance project, the authority shall cause the same to be transferred, leased or subleased to the New York city transit authority or its designated subsidiary, as appropriate, with or without consideration.

3. The authority may establish, levy and collect or cause to be established, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, levy and collection of such fares, tolls, rentals, rates, charges and other fees as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority

or by a subsidiary corporation of the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Any such fares, tolls, rentals, rates, charges or other fees for the transportation of passengers shall be established and changed only if approved by resolution of the authority adopted by not less than a majority vote of the whole number of members of the authority then in office, with the chairman having one additional vote in the event of a tie vote, and only after a public hearing, provided however, that fares, tolls, rentals, rates, charges or other fees for the transportation of passengers on any transportation facility which are in effect at the time that the then owner of such transportation facility becomes a subsidiary corporation of the authority or at the time that operation of such transportation facility is commenced by the authority or is commenced under contract, lease or other arrangement, including joint service arrangements, with the authority may be continued in effect without such a hearing. Such fares, tolls, rentals, rates, charges and other fees shall be established as may in the judgment of the authority be necessary to maintain the combined operations of the authority and its subsidiary corporations on a self-sustaining basis. The said operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or cause to be paid from revenue and any other funds or property actually available to the authority and its subsidiary corporations (a) as the same shall become due, the principal of and interest on the bonds and notes and other obligations of the authority and of such subsidiary corporations, together with the maintenance of proper reserves therefor, (b) the cost and expense of keeping the properties and assets of the authority and its subsidiary corporations in good condition and repair, and (c) the capital and operating expenses of the authority and its subsidiary corporations. The authority may contract with the holders of bonds and notes with respect to the exercise of the powers authorized by this section. No acts or activities taken or proposed to be taken by the authority or any subsidiary of the authority pursuant to the provisions of this subdivision shall be deemed to be "actions" for the purposes or within the meaning of article eight of the environmental conservation law.

3-a. In furtherance of the authority's mandate to develop and implement a unified mass transportation policy for the metropolitan commuter transportation district and the exercise of its powers, including the power to issue notes, bonds and other obligations secured in whole or in part by the revenues of the authority and its subsidiaries, and New York city transit authority and its subsidiaries, the authority shall join with the New York city transit authority and its subsidiaries in connection with any change in the establishment, levy and collection of fares, tolls, rentals, rates, charges and other fees for the transportation of passengers on any transportation facilities operated by New York city transit authority and its subsidiaries. Such fares, tolls, rentals, charges and other fees on transit facilities shall be established in accordance with the requirements of sections twelve hundred five and twelve hundred seven-i of this article.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct and safety of the public as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing the conduct and safety of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct or the safety of the public and any local law, ordinance, rule or regulation, such rule or regulation of the authority shall prevail. Violation of any such rule or regulation of the authority or any of its subsidiaries governing the conduct or the safety of the public in or upon any facility of the authority or any of its subsidiaries shall constitute an offense and shall be punishable by a fine not exceeding fifty dollars or imprisonment for not more than thirty days or both or may be punishable by the imposition of a civil penalty by the transit adjudication bureau established pursuant to the

provisions of title nine of this article, except that civil penalties relating to the payment of fares may be punishable by the imposition of a civil penalty not to exceed one hundred fifty dollars, provided that civil penalties relating to the payment of fares to the MTA bus company and the Metro-North railroad and Long Island rail road shall be in accordance with the conditions set forth in subdivisions eleven and twelve of section twelve hundred nine-a of this article, as applicable.

5. The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any transportation facilities through, and cause any one or more of its powers, duties, functions or activities to be exercised or performed by, one or more wholly owned subsidiary corporations of the authority, or by New York city transit authority or any of its subsidiary corporations in the case of transit facilities and may transfer to or from any such corporations any moneys, real property or other property for any of the purposes of this title upon such terms and conditions as shall be agreed to and subject to such payment or repayment obligations as are required by law or by any agreement to which any of the affected entities is subject. The directors or members of each such subsidiary corporation of the authority corporation shall be the same persons holding the offices of members of the authority. The chairman of the board of each such subsidiary shall be the chairman of the authority, serving ex officio and, provided that there is an executive director of the metropolitan transportation authority, the executive director of such subsidiary shall be the executive director of the metropolitan transportation authority, serving ex officio. Notwithstanding any provision of law to the contrary, the chairman shall be the chief executive officer of each such subsidiary and shall be responsible for the discharge of the executive and administrative functions and powers of each such subsidiary. The chairman and executive director, if any, shall be empowered to delegate his or her functions and powers to one or more officers or employees of each such subsidiary designated by him or her. Each such subsidiary corporation of the authority and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. Each such subsidiary

corporation shall be subject to the restrictions and limitations to which the authority may be subject. Each such subsidiary corporation of the authority shall be subject to suit in accordance with section twelve hundred seventy-six of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

If the authority shall determine that one or more of its subsidiary corporations should be in the form of a public benefit corporation, it shall create each such public benefit corporation by executing and filing with the secretary of state a certificate of incorporation, which may be amended from time to time by filing, which shall set forth the name of such public benefit subsidiary corporation, its duration, the location of its principal office, and any or all of the purposes of acquiring, owning, leasing, establishing, constructing, effectuating, operating, maintaining, renovating, improving, extending or repairing one or more facilities of the authority. Each such public benefit subsidiary corporation shall be a body politic and corporate and shall have all those powers vested in the authority by the provisions of this title which the authority shall determine to include in its certificate of incorporation except the power to contract indebtedness.

Whenever any state, political subdivision, municipality, commission, agency, officer, department, board, division or person is authorized and empowered for any of the purposes of this title to co-operate and enter into agreements with the authority such state, political subdivision, municipality, commission, agency, officer, department, board, division or person shall have the same authorization and power for any of such purposes to co-operate and enter into agreements with a subsidiary corporation of the authority.

6. Each of the authority and its subsidiaries, and the New York city transit authority and its subsidiaries, in its own name or in the name of the state, may apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person, government or agency, which it may use to meet capital or operating expenses and for any other use within the scope of its powers,

and to negotiate for the same upon such terms and conditions as the respective authority may determine to be necessary, convenient or desirable.

6-a. Subject to the rights of the holders of any outstanding bonds, notes or other obligations of the authority, New York city transit authority and Triborough bridge and tunnel authority, and to facilitate the efficient financial management of the authority, its subsidiary corporations, New York city transit authority and its subsidiary corporations, and Triborough bridge and tunnel authority (the "affiliated entities"), the authority may, and may permit and direct any affiliated entity to, transfer revenues, subsidies and other monies or securities to one or more funds or accounts of another affiliated entity for use by such other affiliated entity, provided at the time of such transfer it is reasonably anticipated that the monies and securities so transferred will be reimbursed, repaid or otherwise provided for by the end of the next succeeding calendar year if reimbursement or repayment is required by law or by any agreement to which any of the affected affiliated entities is subject. Any revenues of an affiliated entity that are transferred to another affiliated entity, which transfer was not authorized by a provision of law other than this subdivision, shall be considered to be required to be repaid to the affiliated entity which was the source of such revenues by the end of the next succeeding calendar year following such transfer.

7. The authority may lease railroad cars for use in its passenger service pursuant to the provisions of chapter six hundred thirty-eight of the laws of nineteen hundred fifty-nine.

8. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of transportation facilities, equipment or real property operated by or under contract, lease or other arrangement with the authority and its subsidiaries, and New York city transit authority and its subsidiaries. Except as hereinafter specially provided, no municipality or political subdivision, including but not limited to a county, city, village, town or school or other district shall have jurisdiction over any facilities

of the authority and its subsidiaries, and New York city transit authority and its subsidiaries, or any of their activities or operations. The local laws, resolutions, ordinances, rules and regulations of a municipality or political subdivision, heretofore or hereafter adopted, conflicting with this title or any rule or regulation of the authority or its subsidiaries, or New York city transit authority or its subsidiaries, shall not be applicable to the activities or operations of the authority and its subsidiaries, and New York city transit authority, or the facilities of the authority and its subsidiaries, and New York city transit authority and its subsidiaries, except such facilities that are devoted to purposes other than transportation or transit purposes. Each municipality or political subdivision, including but not limited to a county, city, village, town or district in which any facilities of the authority or its subsidiaries, or New York city transit authority or its subsidiaries are located shall provide for such facilities police, fire and health protection services of the same character and to the same extent as those provided for residents of such municipality or political subdivision.

The jurisdiction, supervision, powers and duties of the department of transportation of the state under the transportation law shall not extend to the authority in the exercise of any of its powers under this title. The authority may agree with such department for the execution by such department of any grade crossing elimination project or any grade crossing separation reconstruction project along any railroad facility operated by the authority or by one of its subsidiary corporations or under contract, lease or other arrangement with the authority. Any such project shall be executed as provided in article ten of the transportation law and the railroad law, respectively, and the costs of any such project shall be borne as provided in such laws, except that the authority's share of such costs shall be borne by the state.

9. Upon approval by the commissioner of transportation of the state of New York of detailed plans and specifications, which approval may be based upon considerations of relative need and the timing of construction, the authority is authorized to design, construct,

maintain, operate, improve and reconstruct a highway bridge crossing Long Island sound, as follows:

(a) Upon (i) the enactment by the state of Connecticut of legislation having like effect as the provisions of this paragraph and the granting of the consent of the congress of the United States of America to the interstate compact thereby created, and (ii) in conformity with recommendations of the New York-Connecticut bi-state bridge study commission, the authority is authorized, in cooperation with any duly designated agency or agencies of the state of Connecticut, to design, construct, maintain, operate, improve and reconstruct a highway bridge crossing Long Island sound from a point in the vicinity of the city of Bridgeport in the state of Connecticut to a point in the vicinity of the village of Port Jefferson in the state of New York, together with approaches to such bridge; and to contract from time to time with such agency or agencies of the state of Connecticut with respect to all matters affecting these authorizations, including, without limitation, the sharing of all capital, operational and maintenance expense (except that the capital expense of the original construction of such bridge, other than the expense of acquiring the needed real property, shall be in the ratio of fifty per-centum for the authority and fifty per-centum for such agency or agencies of the state of Connecticut), the manner and by whom the work of design, construction, reconstruction, improvement, maintenance and operation is to be performed or contracted to others for performance, the tolls, fees and other charges to be imposed from time to time for the use of such bridge, and the sharing of revenues derived from the imposition of such tolls, fees and charges (except that net revenues remaining after deduction of operational and maintenance expense of such bridge shall be in the ratio of fifty per-centum for the authority and fifty per-centum for the state of Connecticut or for such agency or agencies of the state of Connecticut. Subject to the limitations imposed upon the authority by the provisions of the said contracts, that portion of the said bridge and its approaches situate and lying within the territorial boundaries of the state of New York shall be deemed a "transportation facility" of the authority for all the purposes of this title, but tolls, fees and other charges imposed for the use of such bridge shall not be deemed to have been imposed "for the transportation of passengers" within the intendment of subdivision three of this section.

(b) If funds are made available by the authority for the payment of the cost and expense of the acquisition thereof, the commissioner of transportation of the state of New York, when requested by the authority, may acquire in the name of the state such real property lying within the territorial boundaries of the state as may be determined from time to time by the authority to be necessary, convenient or desirable to carry out the authorizations set forth in paragraphs (a) and (b) of this subdivision, may remove the owner or occupant thereof where necessary and obtain possession and, when requested by the authority, may dispose of any real property so acquired, all according to the procedure provided in section thirty of the highway law. The authority shall have the right to possess and use for its corporate purposes all such real property so acquired, all according to the procedure provided in section thirty of the highway law. The authority shall have the right to possess and use for its corporate purposes all such real property so acquired. Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by the commissioner of transportation with the approval of the authority or by the court of claims as provided in section thirty of the highway law. When a claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before such court. All awards and judgments arising from such claims shall be paid out of moneys of the authority.

(c) The authority, acting independently or jointly or in cooperation with such agency or agencies of the state of Connecticut, may also apply for and accept, upon condition or otherwise, from the duly authorized agencies of the federal government, and of the governments of the states of Connecticut and New York, such underwater and overwater grants of real property, licenses or permits as shall be necessary, convenient or desirable to carry out the authorizations set forth in paragraphs (a) and (b) of this subdivision.

(d) The provisions of chapter four hundred forty-two of the laws of nineteen hundred sixty-five (and of any agreement entered into in pursuance thereof) relating to the repayment of a loan made by the state to the authority for the purchase of the Long Island railroad shall be inapplicable to (i) the construction of such bridges and their approaches, (ii) bonds, notes or other obligations of the authority issued for or in connection with the financing of the cost of design, construction and reconstruction of such bridges and their approaches, or the proceeds realized upon such issuance; and (iii) revenues derived from the investment of such proceeds or of any part thereof, and from the imposition of tolls, fees or other charges for the use of such bridges.

10. Notwithstanding the provisions of any other law, general, special or local, or of any agreement entered into in pursuance thereof, relating to the repayment of any loan or advance made by the state to the authority or to the New York city transit authority, neither the authority nor the New York city transit authority shall be required to repay any such loan or advance heretofore made from or by reason of the issuance of bonds or notes of either of them or from the proceeds realized upon such issuance or from any other funds received by either of them from any source whatever in aid or assistance of the project or projects for the financing of which such bonds or notes are issued.

11. No project to be constructed upon real property theretofore used for a transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article. Nor shall any acts or activities taken or proposed to be taken by the authority or by any other person or entity, public or private, in connection with the planning, design, acquisition, improvement, construction, reconstruction or rehabilitation of a transportation facility, other than a marine or aviation facility, be subject to the provisions of article eight of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article if such acts or activities require the preparation of a statement under or pursuant to any federal law or regulation as to the environmental impact thereof.

12. The authority may, upon suitable notice to and an offer to consult with an officer designated by the city of New York, occupy the streets of the city of New York for the purpose of doing any work over or under the same in connection with the improvement, construction, reconstruction or rehabilitation of a transportation facility without the consent of or payment to such city.

* 12-a. (a) Whenever the authority determines in consultation with the city of New York that it is necessary to obtain the temporary or permanent use, occupancy, control or possession of vacant or undeveloped or underutilized but replaceable real property, or any interest therein, or subsurface real property or any interest therein then owned by the city of New York for a project in the two thousand fifteen to two thousand nineteen, two thousand twenty to two thousand twenty-four, or two thousand twenty-five to two thousand twenty-nine approved capital programs in connection with (i) the installation of one or more elevators to make one or more subway stations more accessible, (ii) the construction or reconstruction of an electrical substation to increase available power to the subway system to expand passenger capacity or reliability, (iii) the capital project to construct four commuter railroad passenger stations in the borough of the Bronx known as Penn Station access, (iv) the Second Avenue Subway capital project, (v) the Interborough Express capital project, or (vi) the construction or reconstruction of signal or communication systems, the authority upon approval by the board of the metropolitan transportation authority and upon suitable notice and with the consent of the city of New York may cause the title to such real property, or any interest therein, to be transferred to the authority by adding it to the agreement of lease dated June first, nineteen hundred fifty-three, as amended, renewed and supplemented, authorized by section twelve hundred three of this article, or may itself acquire title to such property from the city of New York, and any such transfer or acquisition of real property shall be subject to the provisions of subdivision five of section twelve hundred sixty-six-c of this title. Nothing in this subdivision shall be deemed to authorize any temporary or permanent transfer or acquisition of real property, or interest therein, that is dedicated parkland without separate legislative approval of such alienation.

(b) (i) Upon the execution of any transfer or acquisition pursuant to this subdivision, which shall be final upon the approval by the board of the metropolitan transportation authority and consent of the city of New York, the fair market value shall be determined pursuant to this paragraph. The authority shall make a written offer to pay to the city of New York the fair market value of the authority's use, occupancy, control, possession or acquisition of such property. The offer by the authority shall be based on an appraisal of the value of such property and a copy of such appraisal shall be included with the offer. Such appraisal shall be done by an independent New York state licensed or certified appraiser, who may not be employed by the authority, selected at random from a panel of appraisers maintained by it for such purpose. Such appraisal and a second appraisal, if required pursuant to subparagraph (ii) of this paragraph, shall consider only the reasonably anticipated lawful use of the property and its zoning designation under the zoning resolution of the city of New York at the time the authority notified the city of New York of its determination to use, occupy, control, possess or acquire such property.

(ii) Within thirty days of receipt of the offer by the authority, the city of New York may accept it, agree with the authority on another amount, or request a second appraisal by an independent New York state licensed or certified appraiser, who may not be employed by the city of New York, selected at random by the city of New York from a panel of appraisers maintained by it for such purpose. Such second appraisal shall be completed within thirty days. If the second appraisal produces an estimate of the fair market value of the property that is greater than that of the first appraisal, the authority shall have ten days to increase its offer to such higher amount, otherwise the two appraisers shall reconcile their valuations and agree on a final valuation within ten days, which shall be an amount not less than the first appraisal nor greater than the second appraisal.

(c) Nothing in this subdivision shall be construed to affect or limit the authority's power under subdivision twelve of this section.

* NB Repealed December 31, 2030

13. The authority and each of its subsidiary corporations shall place on each transformer and substation which contains polychlorinated

biphenyls (PCBs) a symbol so indicating the presence of PCBs. Use of a PCB mark illustrated in the rules and regulations promulgated pursuant to the federal Toxic Substances Control Act shall constitute compliance with the provisions of this subdivision.

14. Notwithstanding any other provisions of law or the terms of any contract, the authority, in consultation with the Long Island Rail Road, shall establish and implement a no fare program for transportation on the Long Island Rail Road for police officers employed by the city of New York, county of Nassau, Nassau county villages and cities, county of Suffolk, Suffolk county villages and towns, the division of state police, the port authority of New York and New Jersey, the Metro-North Commuter Railroad Company, the New York city housing authority and the New York city transit authority. In establishing such program, which has as its goal increased protection and improved safety for its commuters, the authority and the Long Island Rail Road shall, among other things, consider: (a) requiring police officers who ride without cost to register with the Long Island Rail Road as a condition of riding without cost; (b) requiring such officers to indicate during such registration process their regular working hours and the Long Island Rail Road trains that such officers expect to ride; and (c) periodically re-registering and re-validating such officers. The authority and the Long Island Rail Road shall also have the power to consider other matters necessary to carry out the goals and objectives of this section.

15. (a) Notwithstanding any other provisions of law or the terms of any contract, the authority, in consultation with the New York city transit authority, the Long Island Rail Road and the Metro-North Commuter Railroad Company, shall establish and implement a no fare program for transportation on New York city transit authority systems, the Long Island Rail Road and the Metro-North Commuter Railroad Company for individuals serving as personal care attendants accompanying an Americans With Disabilities Act paratransit eligible individual.

(b) In order to be eligible for such no fare program the personal care attendant must show his or her community based personal care attendant agency issued identification card.

(c) In order to be considered accompanying an Americans With

Disabilities Act paratransit eligible individual the personal care attendant shall have the same origin and destination as such paratransit eligible individual.

16. Notwithstanding any other provision of law, the authority and any of its subsidiary corporations shall establish and implement a half fare rate program for persons with serious mental illness who are eligible to receive supplemental security income benefits as defined pursuant to title sixteen of the federal social security act and section two hundred nine of the social services law.

17. Notwithstanding any conflicting provisions of general, special or local law, and pursuant to the authority's 2000-2004 capital program plans approved by the metropolitan transportation authority capital program review board, the authority or any of its subsidiaries, the New York city transit authority or any of its subsidiaries, or Triborough bridge and tunnel authority, shall provide, from funds identified in such approved 2000-2004 capital program plans, up to twelve million dollars for the financing of a bus and heavy duty vehicles emission research and testing facility and related equipment located in the state of New York, whether within or outside of the transportation district, which facility shall be operated by the department of environmental conservation and shall be available for use on a non-exclusive basis by the authority and any of its subsidiaries, the New York city transit authority and any of its subsidiaries, and Triborough bridge and tunnel authority.

18. The authority shall conduct a campaign of public outreach to inform the public of the provisions pertaining to assault on employees described in subdivision eleven of section 120.05 of the penal law.

19. In connection with their lawful responsibilities or functions, the authority and its subsidiaries, including Metro-North Commuter Railroad, the Long Island Rail Road, MTA bus and the Staten Island rapid transit operating authority, the Triborough bridge and tunnel authority, and the New York city transit authority and its subsidiary the Manhattan and Bronx surface transit operating authority, are authorized to request,

receive and review criminal history information through the division of criminal justice services with respect to any person applying for a safety sensitive position. When requested, such applicant shall submit to the authority or the requesting affiliate or subsidiary his or her fingerprints in such form and in such manner as specified by the division, for the purpose of conducting a criminal history search identifying criminal convictions and pending criminal charges and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the reasonable prescribed processing fee for the cost of the division's full search and retention procedures and a national criminal history record check. The authority or requesting affiliate or subsidiary shall submit such fingerprints and the processing fee to the division. The division shall forward to the authority or the requesting affiliate or subsidiary a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check. If additional copies of fingerprints are required, the applicant shall furnish them upon request. Upon receipt of such criminal history information, the authority or the requesting affiliate or subsidiary shall provide such applicant with a copy of such criminal history information, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to regulations and procedures established by the division of criminal justice services. The authority or the requesting affiliate or subsidiary shall ensure that adequate notice be provided to such applicant regarding the fact that state and national criminal history record checks may be conducted. This provision shall not preclude or alter the process by which a municipal civil service commission obtains and provides background information pursuant to subdivision four of section fifty of the civil service law relating to applicants for civil service appointments at the New York city transit authority and the Triborough bridge and tunnel authority.

§ 1266-a. Medical emergency services. The authority is hereby authorized and directed to prepare and develop a medical emergency services program to be implemented at a time to be specified in such program for the benefit of persons utilizing transportation and other related services of the authority. Such program may include but not be limited to provision for the following: The training of designated employees in first aid, emergency techniques and procedures, handling and positioning of stricken commuters, and knowledge of procedures and equipment used for respiratory and cardiac emergencies. Such program shall be submitted to the legislature not later than one hundred eighty days next succeeding the effective date of this section.

§ 1266-b. Medical emergency services plan; implementation on Long Island Rail Road. 1. a. The authority in consultation with the Long Island Rail Road is hereby authorized and directed to implement a comprehensive medical emergency services program, including an emergency response protocol, not later than September first, two thousand five, for the benefit of persons utilizing transportation and other related services of the Long Island Rail Road. Such program shall include but not be limited to provision for the following: The training of designated employees in first aid, emergency techniques and procedures, handling and positioning of stricken commuters, knowledge of procedures and equipment used for respiratory and cardiac emergencies and an emergency response protocol for all employees.

b. Such program and plan shall be submitted to the temporary president of the senate, the speaker of the assembly and the governor on or before September first, two thousand five, and shall be updated as necessary. The authority will issue an annual report on or before April first of each year beginning April first, two thousand six, which will include current updates, descriptions of medical emergencies, responses and outcomes since the most recent report, information regarding training of personnel, analysis of the current plan and any recommendations for improving the program.

2. Notwithstanding any inconsistent provision of any general, special or local law, a designated employee employed upon facilities of the Long Island Rail Road who has been trained in first aid, emergency techniques and procedures, handling and positioning of stricken commuters, and the applicable procedures and equipment used for respiratory and cardiac emergencies who voluntarily and without the expectation of monetary compensation renders any of the foregoing treatment in an emergency to a commuter upon facilities of the Long Island Rail Road who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such commuter or for damages for the death of such commuter alleged to have occurred by reason of an act or omission in the rendering of such treatment in an emergency unless it is established that such injuries were or such death was caused by gross negligence on the part of such designated employee.

§ 1266-c. Transit projects. 1. Subject to the provisions of this section, the authority is hereby authorized, upon the request of the New York city transit authority and upon such terms and conditions as shall be agreed to by the authority (i) to plan, design, acquire, construct, reconstruct, rehabilitate and improve facilities, equipment, devices and appurtenances, and property or property rights constituting or to constitute part of, or used or to be used in connection with the operation of any transit facility now or hereafter owned or operated by the New York city transit authority or any of its subsidiaries (each of the foregoing activities and programs being referred to in this section as a "transit project"), (ii) to finance the costs of a transit project by the issuance of its notes, bonds or lease obligations, (iii) upon the completion of any transit project or part thereof, to cause the same to be transferred, leased or subleased to the New York city transit authority or its designated subsidiary or other designee, for consideration. The terms "facilities", "equipment", "devices and appurtenances", "property" or "property rights" and "transit facility" shall have the meanings given to such terms from time to time in section twelve hundred of this article. The authority shall have no obligation to operate or, except as may otherwise be provided in any lease to which it may be a party as hereinafter provided, repair or maintain any transit project or part thereof subsequent to its completion nor shall it be liable to the transferee, lessee or sublessee by reason of any warranty, express or implied, in respect thereof. Warranties furnished in connection with such transit project shall be assignable and assigned as directed by the New York city transit authority and approved by the authority.

2. In connection with any transit project, and in order to effectuate the purposes of this section, the authority shall, subject to the provisions of this section, have all of the powers provided elsewhere in this title, and, in addition, the authority may:

(a) issue its notes or bonds to finance all or any part of the costs of a transit project;

(b) finance all or any part of the costs to the authority or to any other person or entity, public or private, of such transit project through, or accompanied by, a leasing of such project or any part thereof by such person or entity to the authority or through or accompanied by a sale by the authority to any such person or entity and leaseback to the authority, in each case for subleasing to the New York city transit authority, its designated subsidiary or other designee for consideration, except that such leasing or leaseback from such person or entity may be directly to the New York city transit authority or its designated subsidiary or other designee with the consent of the authority;

(c) issue its notes or bonds to defease the lien of, refund or otherwise repay any outstanding notes, bonds or other obligations of the New York city transit authority which in the judgment of the authority would otherwise delay, impede or prevent its financing a transit project;

(d) accept the notes, bonds, lease, sublease and other contractual obligations of the New York city transit authority and any of its designated subsidiaries in payment for a transfer, lease or sublease of a transit project;

(e) accept from the New York city transit authority or its designated subsidiary or from the city of New York, acting by its mayor alone, a transfer of title to or the use, occupancy, control or possession of any real or personal property (or any interest therein) needed or useful for or in connection with any transit project;

(f) obtain security for the payment by the New York city transit authority or its designated subsidiary of its notes, bonds, lease, sublease or other contractual obligations, including a pledge of all or any part of any of their revenues, which pledge may contain covenants with respect to the charging and fixing of fares, fees and rentals, the use and disposition of such fares, fees, rentals and other revenues, and the setting aside of reserves therefrom;

(g) with the consent of the New York city transit authority or its designated subsidiary, use, with or without compensation, its agents, employees and facilities; and

(h) apply for, accept, enter into contracts for, administer and disburse any federal, state or local aid or assistance, subject to the terms and conditions thereof, which may be available for any transit project.

3. All of the provisions of this title not inconsistent with the provisions of this section shall be applicable with respect to any bonds, notes or lease obligations of the authority issued or entered into to finance any transit project, or to defease the lien of, refund or otherwise repay outstanding bonds, notes or other obligations of the New York city transit authority, subject to the following conditions:

(a) such bonds and notes shall be payable as to principal, redemption premium, if any, and interest and such other obligations shall be payable, all in the manner more particularly provided by the authority in the resolution under which the same shall be authorized to be issued;

(b) such lease obligations shall be non-recourse obligations limited to the recovery of the leased property by the lessor and as to the payments of sums of money coming due thereunder, to proceedings against the sublessee under any underlying sublease or pursuant to any pledge or assignment given to secure sums payable under such underlying sublease;

(c) no bonds or notes of the authority shall be issued for the purpose of defeasing the lien of, refunding or otherwise repaying outstanding bonds, notes or other obligations of the New York city transit authority unless (i) the city of the New York shall have entered into an agreement on terms satisfactory to the authority to make periodic payments to the

New York city transit authority, and (ii) the New York city transit authority shall have entered into an agreement on terms satisfactory to the authority to make periodic payments to the authority, in each case sufficient to pay, when due, the principal, redemption premium, if any, and interest upon the bonds or notes of the authority issued to effect such defeasance, refunding or repayment;

(d) notwithstanding and in addition to any provisions for the redemption of such bonds or notes which may be contained in any contract with the holders thereof, the city of New York may, upon furnishing sufficient funds therefor, require the authority to redeem as a whole any issue of such bonds or notes at the time or times and at the place or places and in accordance with the terms upon which such bonds or notes are redeemable; and

(e) the city of New York shall not be liable on such bonds or notes, and such bonds or notes shall not be a debt of the city of New York, and shall contain on the face thereof a statement to such effect.

4. The authority shall not undertake any transit project unless the New York city transit authority or the subsidiary for whose benefit the transit project is to be undertaken, or both, shall pay or agree to pay, in the form of a bond, note, lease, sublease or other contractual obligation, in a manner and on terms and conditions satisfactory to the authority, any portion of the costs to the authority of such transit project and the financing thereof which is not paid to the authority from any federal, state or local aid or assistance or which is not payable from any other moneys made available or payable to the authority by others for such project.

5. Neither the provisions of section one hundred ninety-seven-c of the New York city charter, relating to a uniform land use review procedure, nor the provisions of any other local law of the city of New York of like or similar tenor or import shall apply (i) to the acquisition of any real property (or any interest therein) for the purposes of any transit project by the city or by the New York city transit authority or any of its subsidiaries; (ii) to the subsequent transfer of any real property (or interest therein) so acquired to the authority or its designee for the purposes of such project or to the transfer to the

authority or its designee for such purposes of any real property (or interest therein) then owned by the city or by the New York city transit authority or any such subsidiary; nor (iii) to the transfer to the authority or its designee for such purposes of the right of use, occupancy, control or possession of any real property (or interest therein), whether presently owned or hereafter acquired by the city or by the New York city transit authority or any such subsidiary; provided in each such case, however, that if at the time of such proposed acquisition or transfer the real property which is the subject of such acquisition or transfer is not then being utilized for a transit or transportation purpose or is not an insubstantial addition to such property contiguous thereto; (a) the authority proposing to acquire or receive such property shall, unless a submission with respect to such property has previously been made and approved as herein provided, submit to the community board for the community district in which such property is located, data with respect to the proposed use of such property and to the design of any facility proposed to be constructed thereon; (b) such community board shall inform the board of estimate of the city of New York, with copies to the city planning commission of the city of New York and the proposing authority, of its views and recommendations with respect thereto within forty-five days of such submission, and if the community board shall fail to so inform the board of estimate within such period it shall be deemed to have recommended the proposal; and (c) the board of estimate shall, within forty-five days of the recommendation of the community board, approve or disapprove such acquisition or transfer, and if the board of estimate shall fail to act within such period it shall be deemed to have approved the same.

6. In its performance of any transit project, the authority shall not be deemed the agent or instrumentality of the city of New York or the New York city transit authority or any of its subsidiaries notwithstanding the fact that title to any real or personal property (or any interest therein) which is the subject of or is a part of such project is held by or upon completion of such project is to be transferred to such other entity. In its performance of any transit project, however, the provisions of section twelve hundred nine of this chapter shall apply to the authority as if it were the "authority"

referred to therein.

7. The authority, in addition to the powers provided elsewhere in this title, shall possess all of the powers, rights and privileges of the New York city transit authority or its designated subsidiary in connection with the undertaking by the authority of any transit project. The authority, upon suitable notice to and an offer to consult with an officer designated by the city of the New York, may occupy the streets of the city of New York for the purpose of doing any work over or under the same in connection with any transit project without the consent of or payment to such city.

8. After the transfer, transfer back, lease or sublease to the New York city transit authority or its designated subsidiary or other designee of any transit project or part thereof, actions for damages for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, based upon the use, condition or state of such project or part thereof may not be instituted against the authority, which shall have no liability or responsibility to the transferee, lessee or sublessee or to third parties therefor.

9. Except as the authority shall otherwise agree, title to any transit project or any part thereof or interest therein which shall have been transferred, leased or subleased to the New York city transit authority or its designated subsidiary, shall remain in such transferee, lessee or sublessee any provision of title nine of this article or of any lease or other agreement entered into under the provisions of that title to the contrary notwithstanding.

10. The providing of any transit project shall not relieve the city of New York of its obligations under law and by lease to pay the capital costs of the New York city transit authority or its subsidiaries.

11. No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior

transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article. Nor shall any transit project or any acts or activities in connection therewith taken by any person or entity, public or private, pursuant to this section be subject to the provisions of article eight of the environmental conservation law if such project, acts or activities require the preparation of a statement under or pursuant to any federal law or regulation as to the environmental impact thereof.

12. The provisions of this section and of all agreements undertaken by the New York city transit authority in accordance therewith shall in all respects be subject to the rights of the holders of any outstanding bonds or notes of such authority.

13. a. All contracts for design, construction, services and materials pursuant to this title of whatever nature and all documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(i) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(ii) At the request of the New York city transit authority, the metropolitan transportation authority, and their subsidiaries (hereinafter referred to as the authority), the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the authority to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(iii) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor in the performance of the contract with the authority, that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. (iv) The contractor will include the provisions of subparagraphs (i) through (iii) of this paragraph in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract with the authority.

b. The authority shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action and equal employment opportunity as required by this subdivision. Such procedures may require after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. The authority may take appropriate action including contractual sanctions for non-compliance to effectuate the provisions of this subdivision and shall be responsible for monitoring compliance with this title.

14. (a) (i) In the performance of projects pursuant to this title minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The authority provided for in this title shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this title shall be construed to limit the ability of the authority to assure that qualified

minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract.

(ii) In the implementation of this subdivision, the authority shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority and women-owned business enterprises, which may effectuate the requirements of this subdivision. If the authority determines that by virtue of the imposition of the requirements of any such law, in respect to capital project contracts, the provisions thereof duplicate or conflict with such law, the authority may waive the applicability of this subdivision to the extent of such duplication or conflict.

(iii) Nothing in this subdivision shall be deemed to require that overall state and federal requirements for participation of minority and women-owned business enterprises in programs authorized under this title be applied without regard to local circumstances to all projects or in all communities.

(b) In order to implement the requirements and objectives of this subdivision, the authority shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority and women-owned business enterprises to these contracts.

15. (a) In connection with the performance of projects pursuant to this section, the authority shall, to the extent practicable and not inconsistent with any federal law, regulation or requirement, promote the meaningful participation of small business and New York state business enterprises in the provision of goods and services that are produced or manufactured in New York state as part of procurements undertaken by the authority.

(b) The authority shall within one hundred eighty days after the effective date of this subdivision develop, and review annually thereafter, a plan to effect the purposes of this subdivision.

§ 1266-d. Long Island rail road commuter's council. 1. There is hereby created the Long Island rail road commuter's council, to study, investigate, monitor and make recommendations with respect to the maintenance and operation of the Long Island rail road. Such council shall study and investigate all aspects of the day to day operations of such railroad, monitor its performance and recommend changes to improve the efficiency of the operation thereof. Such council shall study and make recommendations in regard to improving bicycle and pedestrian access at bridges, stations and other facilities operated by the Long Island Railroad and submit such recommendations to the metropolitan transportation authority on or before June first, two thousand twenty-two and every five years thereafter.

2. Such council shall consist of thirteen members who shall be commuters who regularly use the transportation services of such railroad, and who shall be residents of Nassau, Suffolk, Queens or Brooklyn county. Members shall be appointed by the governor upon the recommendation of the county executive of each such county, provided, however, that such members shall be chosen from a list of ten names submitted by each such county executive and provided further however

that no more than six members of such council shall be residents of either such county. Provided, however, that one member shall be appointed on the recommendation of the borough president of Queens and one member shall be appointed on the recommendation of the borough president of Brooklyn. Provided, however, that one member shall be appointed who has a demonstrated expertise or interest in the promotion and development of improved bicycle and pedestrian access at bridges, stations and other facilities operated by the authority and its affiliates and subsidiaries. Vacancies occurring in the membership of the council shall be filled in the same manner as original appointments, provided, however, that such vacancy shall be filled from a list of three names submitted by each such county executive.

3. The members of the council shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties hereunder.

4. The council may request and shall receive from any department, division, board, bureau, commission, agency, public authority of the state or any political subdivision thereof such assistance and data as will enable it properly to carry out its activities hereunder and effectuate the purposes set forth herein.

§ 1266-e. Metro-North rail commuter council. 1. There is hereby created the Metro-North rail commuter council to study, investigate, monitor and make recommendations with respect to the maintenance and operation of those portions of, if any, the Hudson, Harlem, New Haven, Pascack Valley and Port Jervis commuter railroad lines remaining within the metropolitan commuter transportation district. Such council shall study and investigate all aspects of the day to day operation of such railroad lines, monitor their performance and recommend changes to improve the efficiency of the operation thereof. Such council shall study and make recommendations in regard to improving bicycle and pedestrian access at bridges, stations and other facilities operated by such railroad lines and submit such recommendations to the metropolitan transportation authority on or before June first, two thousand twenty-two and every five years thereafter.

2. Such council shall consist of twelve members and shall be commuters who regularly use the transportation services of such railroad lines. At least five of such members shall be residents of the county of Westchester. Of the other seven members, at least one of such members shall be a resident of each of the counties of Rockland, Putnam, Dutchess, Orange and Bronx, provided that such county has not withdrawn from the metropolitan commuter transportation district pursuant to section twelve hundred seventy-nine-b of this title; provided further, should only the county of Putnam remain in the metropolitan commuter transportation district then membership on such council shall consist of eight members, six of whom reside in the county of Westchester and two of whom reside in the county of Putnam. Members shall be appointed by the governor. In making such appointments the governor shall consult with and solicit recommendations from local officials and to the extent possible appoint members who represent the ridership of the several commuter railroad lines. Provided, however, that one member shall be appointed who has a demonstrated expertise or interest in the promotion and development of improved bicycle and pedestrian access at bridges, stations and other facilities operated by the authority and its affiliates and subsidiaries. Vacancies occurring in the membership of the council shall be filled in the same manner as original appointments.

3. The members of the council shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties hereunder from funds appropriated to the commissioner of transportation.

4. The council may request and shall receive from any department, division, board, bureau, commission, agency, public authority of the state or any political subdivision thereof such assistance and data as it requests and will enable it to properly carry out its activities for the purposes set forth herein.

§ 1266-f. Medical emergency services plan; implementation on

Metro-North Commuter Railroad Company. 1. The authority is hereby authorized and directed to implement a medical emergency services program not later than April first, nineteen hundred eighty-six, for the benefit of persons utilizing transportation and other related services of the Metro-North Commuter Railroad Company. Such program shall include but not be limited to provision for the following: The training of conductors, trainmen and other designated employees in first aid, emergency techniques and procedures, handling and positioning of stricken commuters, and knowledge of procedures and equipment used for respiratory and cardiac emergencies.

2. Notwithstanding any inconsistent provision of any general, special or local law, a designated employee employed upon facilities of the Metro-North Commuter Railroad Company who has successfully completed a course in first aid, including instruction and training in cardiopulmonary resuscitation and who voluntarily and without expectation of monetary compensation renders first aid, emergency treatment or cardiopulmonary resuscitation at the scene of an accident or other emergency, in the course of his duties as an employee of the Metro-North Commuter Railroad Company to a person who is unconscious, ill or injured, shall not be liable for damages and injuries alleged to have been sustained by such person or for damages for death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid, emergency treatment or cardiopulmonary resuscitation unless it is established that such injuries were or such death was caused by gross negligence on the part of such designated employee.

§ 1266-g. Excess loss fund. 1. Subject to the provisions of this section, the authority is authorized to issue bonds and notes, in accordance with section twelve hundred sixty-nine of this title, in such principal amounts not in excess of the seventy-five million dollar limitation established in subdivision four of this section as, in the opinion of the authority, shall be necessary to provide sufficient funds to meet the capital and reserve requirements of a trust, pooling arrangement or other entity established for the purpose of providing reimbursement and funding to the authority and its subsidiaries, the New York city transit authority and its subsidiaries and Triborough bridge and tunnel authority for excess or extraordinary losses for damages to real or personal property or for the destruction thereof or for personal injuries or death and for certain property damage losses which may be incurred or sustained by any of them in connection with the use and operation of their respective facilities and in the conduct of their respective activities (the trust, pooling arrangement or other entity established in order to provide such benefits to such participants being referred to in this section as the "excess loss fund"). Prior to the issuance of any bonds or notes, other than refunding bonds or notes, authorized by this section, the authority shall make a finding that such issue is expected to result, on a present value basis, in a lower effective cost to the participating authorities than funding the requirements of the excess loss fund solely through the payment of premiums and assessments by such participating authorities.

2. In order to effectuate the purposes of the excess loss fund, the authority shall, subject to the provisions of this section, have all the powers provided elsewhere in this title and may:

(a) accept the notes, bonds and other contractual obligations of the excess loss fund for funds provided to it by the authority;

(b) obtain security for the payment by the excess loss fund of its notes, bonds and other contractual obligations issued to the authority, including a pledge of all or any part of the assets and revenues of the excess loss fund, including its receipts and rights to receive premiums, assessments, reimbursements and other payments from the participants in the excess loss fund, which pledge may contain covenants with respect to the charging and fixing by actuarial estimates, where appropriate, of premiums, assessments, reimbursements and other payments and the use and disposition thereof; and

(c) enter into contracts with the excess loss fund and with the participants therein, on such terms and conditions as the parties may agree, with respect to the payment of premiums, assessments, reimbursements and other payments to the excess loss fund and the nature and extent of the benefits to be paid by the excess loss fund to such participants.

3. The bonds and notes of the authority authorized by this section shall not constitute general obligations of the authority, but shall be special obligations of the authority payable as to principal, redemption premium, if any, and interest solely from the security, sources of payment and funds obtained from or on behalf of the excess loss fund, all in the manner more particularly provided by the authority in the resolution under which such bonds and notes shall be authorized to be issued.

4. The aggregate principal amount of bonds and notes issued for the purposes enumerated in subdivision one of this section shall not exceed seventy-five million dollars, excluding: (a) bonds and notes issued to fund costs of issuance and any reasonably required debt service reserve fund for such bonds or notes; (b) an amount equal to any original issue discount from the principal amount of any bonds or notes issued; and (c) bonds and notes issued to refund or otherwise repay bonds or notes theretofore issued for such purposes, provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds and notes (including for purpose of such calculation the principal amount of the refunding bonds or notes then to be issued and excluding the principal amount of the bonds or notes so to be refunded or repaid and any amounts excluded under paragraph (a) or (b) of this subdivision) may be greater than seventy-five million dollars, only if the present value of the aggregate debt service of the refunding or repayment bonds or notes to be issued shall not exceed the present value of the aggregate debt service of the bonds or notes so to be refunded or repaid. For purposes of paragraph (c) of this subdivision, the present values of the aggregate debt service of the refunding or repayment bonds or notes and of the aggregate debt service of the bonds or notes so to be refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment dates thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid including estimated accrued interest

or proceeds received by the authority including estimated accrued interest from the sale thereof.

5. The term "excess loss fund" as used in this section shall not include any trust, pooling arrangements or other entity (a) which provides or offers to provide reimbursement or funding for losses or liabilities to any entity other than the authority and its subsidiaries, the New York city transit authority and its subsidiaries and Triborough bridge and tunnel authority, or (b) in which any entity other than the authority and its subsidiaries, the New York city transit authority and its subsidiaries and Triborough bridge and tunnel authority holds an equity interest.

§ 1266-h. Authority police force. 1. The authority is hereby authorized and empowered, to provide and maintain an authority police department and a uniformed authority police force. Each member of such uniformed police force shall be a "police officer" for the purposes of the criminal procedure law, with all of the powers of such police officers thereunder and subject to the same jurisdictional provisions on the exercise of that power as set forth in such law. The geographical area of employment of such police officers for the purposes of the criminal procedure law shall embrace the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of this title. Such department and force shall have the power, in and about any or all of the facilities owned, occupied and/or operated by the authority and its subsidiary corporations, the New York city transit authority and its subsidiaries, and the triborough bridge and tunnel authority, as determined in the discretion of the authority, to enforce and prevent violation of all laws and ordinances. Nothing herein shall confer upon the authority police force or upon their collective negotiations representatives exclusive jurisdiction or claim over the exercise of police power or security work on behalf of the authority and its subsidiary corporations, the New York city transit authority and its subsidiaries, and the triborough bridge and tunnel authority. Nothing herein shall limit the authority and its subsidiary corporations, the New York city transit authority and its subsidiaries, and the triborough bridge and tunnel authority from continuing to rely on local police for police services. However, traditional police functions previously performed by the Long Island Rail Road Company and/or the Metro-North Commuter Railroad Company police force shall continue to be performed by the authority police forces.

2. Initial appointments to such authority police force shall be all incumbent police officers from the Long Island Rail Road Company and/or the Metro-North Commuter Railroad Company at the time of such appointment. The executive director of the authority, through the chief of police, shall have the power and authority to appoint and employ such number of police officers as he deems necessary to act as police officers of the authority and to administer to the officers an oath or affirmation faithfully to perform the duties of their respective positions or offices. Unless, at the time of appointment, the person is a police officer of Long Island Rail Road Company or Metro-North Commuter Railroad Company, only persons who have never been convicted of a felony and are citizens of the United States shall be appointed police officers on the authority police force. After the initial appointments are made, selection of police officer candidates shall be made pursuant to an examination process to be determined at the discretion of the authority and candidates must receive a certificate attesting to satisfactory completion of an approved municipal police basic training program, as described in section two hundred nine-q of the general municipal law. No person shall be eligible for appointment unless such person is not less than twenty years of age as of the date of appointment nor more than thirty-five years of age as of the date when the applicant takes the written examination, provided, however, that time spent on military duty or on terminal leave, not exceeding a total of six years, shall be subtracted from the age of any applicant who has passed his or her thirty-fifth birthday as provided in subdivision ten-a of section two hundred forty-three of the military law. Upon appointments made by transferring an entire group of police officers into the authority police force, thereby eliminating such other group of police officers, the authority shall recognize any representative previously chosen by the police officers for the purposes of collective negotiations consistent with the bargaining units already established

and shall also assume and continue to observe any existing labor contracts covering these police officers including such provisions which relate to the grievance and disciplinary procedures and interest arbitration. Subsequent to the establishment of the consolidated police force the authority and the collective bargaining representatives shall be authorized to negotiate a merger of the separate bargaining units.

3. The authority may appoint a chief and one or more deputy chiefs of the authority police department who, in the discretion of the authority, may be selected from the ranks of the authority police force, and assign powers and duties to them and fix their compensation. The chief shall be the head of such department. The deputy chief designated by the chief shall possess all the powers and perform all the duties of the chief during his absence or disability. The authority police force shall consist of such divisions, supervisors and officers, including but not limited to police officers, detectives, sergeants, lieutenants and captains as designated by the authority. Notwithstanding any law or provision to the contrary, the members of the uniformed authority police force shall not acquire civil service status or become members of the New York state and local employees' retirement system, except as set forth below.

4. The authority shall provide for a twenty year retirement plan under the same terms and conditions as provided by section three hundred eighty-nine of the retirement and social security law as enacted by chapter six hundred twenty-eight of the laws of nineteen hundred ninety-one; except that:

(a) any benefit provided pursuant to such plan shall be subject to an offset, as defined in this paragraph, for any tier II benefit payable pursuant to the federal Railroad Retirement Act to or in the respect of a member. The offset provided for by this paragraph shall be the amount of the tier II benefit which would be payable to or in respect to such member pursuant to the federal Railroad Retirement Act multiplied by a fraction, the numerator of which is the member's years of credited service covered by the federal Railroad Retirement Act rendered to, or credited by, the authority or any subsidiary corporation of the authority, and the denominator of which is the member's total years of service covered by the federal Railroad Retirement Act;

(b) references to Long Island Rail Road shall be to the authority;

(c) the transfer of funds described in subdivision f of section three hundred eighty-nine of the retirement and social security law as enacted by chapter six hundred twenty-eight of the laws of nineteen hundred ninety-one shall include the Metro-North Commuter Railroad Company Defined Contribution Pension Plan for Agreement Employees;

(d) the provisions of subdivision g of section three hundred eighty-nine of the retirement and social security law as enacted by chapter six hundred twenty-eight of the laws of nineteen hundred ninety-one to the extent of requiring contributions for past service liability shall not be applicable; and

(e) when a police officer transferred from the Long Island Rail Road Company police force to the authority police force reaches age sixty-two the authority will offset the amount payable under this plan by the amount of tier II benefit payable from the Railroad Retirement Board for a service age annuity or disability payable at the participants age sixty-two.

5. The authority may, in its sole discretion, establish within the authority's defined benefit program, a retirement program consistent with the foregoing. If the authority has not so established such program in its defined benefit program within one hundred eighty days after enactment, then the authority shall elect to participate in article fourteen-B of the retirement and social security law.

6. If the authority elects to participate in the New York state and local employees' retirement system, such election to participate shall be made by resolution filed with the comptroller and accepted by him pursuant to section thirty-one of the retirement and social security law.

7. Nothing herein contained shall be deemed to diminish, suspend or abolish an existing benefit inured to a police officer, transferred from the Long Island Rail Road Company and/or Metro-North Commuter Railroad Company police force and subject to the provisions of this section in and to the rights, privileges or status previously earned within a

pension or retirement system of which they were a member immediately prior to the enactment of this section; and any such existing right, privilege or status shall survive the effect of any decisions or determinations lawfully made in accordance with the provisions hereof so long as such right, privilege or status is greater in benefit to that which would be imposed or imputed to any subject officer as a result of actions of the authority authorized herein.

§ 1266-i. The permanent citizens advisory committee. There is hereby established a permanent citizens advisory committee. The members of the committee shall consist of the following members: the Long Island Rail Road commuter's council, the Metro-North commuter council, and the New York city transit authority advisory council, as defined in section twelve hundred four-e of this chapter.

§ 1266-j. Metropolitan transportation authority pledge to customers. 1. A metropolitan transportation authority pledge to customers shall be created and adopted by the metropolitan transportation authority. A copy of such pledge shall be posted on the web site of the authority and shall be posted in stations where the authority makes regular postings. The authority shall post the pledge in the language or languages it deems necessary and appropriate.

2. The metropolitan transportation authority pledge to customers shall be in the form and manner as prescribed by the authority, include the contact information of the authority, and include, but not be limited to, the following:

(a) a description of the authority's commitment to provide safe and reliable services;

(b) a description of the authority's commitment to provide timely and accurate information on its services;

(c) a commitment that employees will provide service in a courteous manner;

(d) a description of the authority's commitment to maintain clean stations, facilities, subways and buses;

(e) a description of the authority's policies when it comes to arranging alternative transportation when service is interrupted;

(f) when service is interrupted, a description of the authority's policies when it comes to considering the comfort of inconvenienced customers;

(g) when service is interrupted due to weather conditions, a description of the authority's policies on notifying customers;

(h) when service is severely interrupted, a description of the authority's policies on service restoration.

3. The authority from time to time may, update and amend the metropolitan transportation authority pledge to customers as it deems necessary and proper and may adopt rules and regulations for the proper administration of this section.

*** § 1266-k. Expired fare transfer policy.** Notwithstanding any other provision of law to the contrary, the authority shall, within ninety days of the effective date of this section, establish an expired fare transfer policy that may be amended from time to time. Such policy shall provide any person who purchases a fare the ability to transfer any remaining balance for two years after such fare is deemed expired.

* NB Repealed December 31, 2029

*** § 1266-l. Surveillance cameras; subway stations.** The authority shall install and reasonably maintain proper operation of surveillance cameras at all subway stations operated by the authority. Such surveillance cameras may be placed in all areas, including but not limited to, areas frequented by passengers and all train platforms.

* NB There are 2 § 1266's

*** § 1266-l. Light duty for employees.** 1. Should any employee engaged in the service of any commuter rail service owned or operated by the authority or its subsidiary, who is pregnant be prevented by such pregnancy from performing the activities involved in her regular assigned duties due, but is able, as determined by the employee's medical provider, to perform specified types of light duty, the employer shall make available such light duty to the employee, provided, however, that such light duty shall enable her to continue to be entitled to her concurrent assignment earnings, including increases thereof and fringe benefits, to which she would have been entitled if she were able to perform her regular assigned duties.

2. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any collective bargaining agreement or employment contract.

* NB There are 2 § 1266-l's

§ 1266-m. Information concerning services for human trafficking victims. 1. The authority shall make available in plain view and in a conspicuous place and manner in the public restrooms and in any lactation rooms of any transit facility operated by the authority, informational cards and/or signs developed by:

(a) the office of temporary and disability assistance in consultation with the New York state interagency task force on human trafficking; or

(b) the United States Department of Homeland Security.

2. All informational cards and signs shall only contain information concerning services for human trafficking victims and shall prominently include the national human trafficking hotline telephone number.

3. For purposes of this section, the term "lactation room" shall mean a hygienic place, other than a restroom, that is intended to be used for the primary purpose of breastfeeding or expressing breast milk.

§ 1267. Acquisition and disposition of real property. * 1. In addition to the powers provided in section twelve hundred sixty-six of this title to acquire transportation facilities, equipment and real property, the authority may acquire, by condemnation pursuant to the eminent domain procedure law, any real property it may deem necessary, convenient or desirable to effectuate the purposes of this title, provided however, that any such condemnation proceedings shall be brought only in the supreme court and the compensation to be paid shall be ascertained and determined by the court without a jury, and provided further that the rate of interest paid upon any judgment or accrued claim against the authority arising out of such condemnation proceedings shall not exceed six per centum. Notwithstanding the foregoing provisions of this subdivision, no real property may be acquired by the authority by condemnation for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such condemnation.

* NB Effective until June 24, 2028

* 1. In addition to the powers provided in section twelve hundred sixty-six of this title to acquire transportation facilities, equipment and real property, the authority may acquire, by condemnation pursuant to the condemnation law, any real property it may deem necessary, convenient or desirable to effectuate the purposes of this title, provided however, that any such condemnation proceedings shall be brought only in the supreme court and the compensation to be paid shall be ascertained and determined by the court without a jury. Notwithstand the foregoing provisions of this subdivision one, no real property may be acquired by the authority by condemnation for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such condemnation.

* NB Effective June 24, 2028

2. Nothing herein contained shall be construed to prevent the authority from bringing any proceedings to remove a cloud on title or such other proceedings as it may, in its discretion, deem proper and necessary or from acquiring any such property by negotiation or purchase.

3. Where a person entitled to an award in the proceedings to condemn any real property for any of the purposes of this title remains in possession of such property after the time of the vesting of title in the condemnor, the reasonable value of his use and occupancy of such

property subsequent to such time as fixed by agreement or by the court in such proceedings or by any court of competent jurisdiction shall be a lien against such award subject only to the liens of record at the time of vesting of title in the condemnor.

4. Subject to the provisions of sections twelve hundred sixty-six and twelve hundred sixty-six-c of this title, title to all property acquired under this act shall vest in the authority or one of its subsidiary corporations, or in the New York city transit authority or one of its subsidiary corporations as the authority directs.

5. The authority may, whenever it determines that it is in the interest of the authority, dispose of any real property or property other than real property, which it determines is not necessary, convenient or desirable for its purposes.

6. The authority may, whenever it shall determine that it is in the interest of the authority, rent, lease, or grant easements or other rights in, any land or property of the authority.

§ 1267-a. Acquisition and disposition of real property by department of transportation. If funds are made available by the authority for the payment of the cost and expense of the acquisition thereof, the commissioner of transportation of the state of New York, when requested by the authority, may acquire such real property in the name of the state as may be determined from time to time by the authority as being necessary, convenient or desirable to effectuate the purposes of this title, may remove the owner or occupant thereof where necessary and obtain possession and, when requested by the authority, may dispose of any real property so acquired, all according to the procedure provided in section thirty of the highway law. The authority shall have the right to possess and use for its corporate purposes all such real property so acquired. Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by such commissioner with the approval of the authority or by the court of claims as provided in section thirty of the highway law.

When a claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before such court. All awards and judgments arising from such claims shall be paid out of moneys of the authority. No real property may be acquired pursuant to the provisions of this section for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such acquisition. The provisions of this section shall not be applicable to the acquisition or disposition of real property required for the construction of the two highway bridges crossing Long Island sound referred to in section twelve hundred sixty-six of this chapter. The authority shall be empowered to lease for such other purposes as the authority may determine any part or parts of Republic airport not needed for transportation purposes.

§ 1267-b. Transit facilities for transit construction fund. 1. As used in this section, unless a different meaning clearly appears from the context:

a. "City" shall mean the city of New York.

b. "Transit construction fund act" shall mean title nine-a of article five of this chapter.

c. "Transit construction fund" shall mean the corporation created by section one thousand two hundred twenty-five-c of this chapter.

d. "Transit facility" shall mean such term as defined from time to time in section one thousand two hundred twenty-five-b of this chapter.

2. In addition to the powers provided elsewhere in this title, and to effectuate the purposes of the transit construction fund act, the authority may:

a. Plan, design, construct, acquire, extend, reconstruct, rehabilitate, modernize and otherwise improve transit facilities in accordance with the terms and conditions of any lease or other agreement with the transit construction fund;

b. Occupy the streets of the city of New York, without further consent or payment, in the course of constructing and thereafter owning a transit facility which consists of a rapid transit railroad or portion thereof, provided such construction is carried out in accordance with the terms of a lease or other agreement with the transit construction fund entered into pursuant to the provisions of the transit construction fund act;

c. Make and execute contracts, leases, subleases, and all other instruments or agreements deemed necessary or convenient;

d. Authorize the use by the transit construction fund, either with or without compensation to the authority or any subsidiary of the agents, employees and facilities of the authority or any subsidiary;

e. Undertake planning, design and feasibility studies in accordance with the terms and conditions of any agreement with the transit construction fund or the city; and

f. Do any and all other things deemed necessary or convenient.

3. All of the provisions of this title not inconsistent with the provisions of this section shall be applicable with respect to any bonds or notes of the authority issued to finance any purpose authorized under this section or the transit construction fund act, subject to the following conditions and exceptions:

a. Payment of the principal, redemption premium, if any, and interest on such bonds and notes shall be made only from monies payable to the authority from the transit construction fund under a lease or other agreement entered into pursuant to the provisions of the transit construction fund act, and any security given by the authority for the payment of such principal, redemption premium or interest on such bonds and notes shall be limited to the monies so payable from the transit construction fund. The authority shall not grant any security interest in or otherwise encumber any transit facility leased to the transit construction fund.

b. The provisions of section one thousand two hundred seventy of this chapter, relating to the creation and establishment of and appropriations and payments to certain debt service reserve funds shall be inapplicable; provided that nothing herein contained shall be deemed to prohibit the creation and establishment of one or more reserve funds for debt service as authorized by section one thousand two hundred sixty-nine of this chapter;

c. In addition to the statement required by subdivision eight of section one thousand two hundred sixty-nine of this chapter, such bonds and notes shall contain on the face thereof a statement to the effect that the city shall not be liable thereon and that the same shall not be a debt of the city.

4. Nowithstanding the provisions of any general or special law to the contrary, or of any agreement entered into in pursuance thereof relating to the repayment of any loan or advance made by the state to the authority, the authority shall not be required to repay any such loan or advance from or by reason of the issuance of (i) bonds or notes of the authority issued to finance any purpose authorized under this section or the transit construction fund act, or the proceeds realized upon such issuance, or from (ii) any other funds of the authority derived from the transit construction fund or from any other source whatever to effectuate the purposes of the transit construction fund act.

§ 1268. Co-operation and assistance of other agencies. 1. To avoid duplication of effort and in the interests of economy, the authority may make use of existing studies, surveys, plans, data and other materials in the possession of any state agency or any municipality or political subdivision of the state. Each such agency, municipality or subdivision is hereby authorized to make the same available to the authority and otherwise to assist it in the performance of its functions. At the request of the authority, each such agency, municipality or subdivision which is engaged in highway or other transportation activities or in land use or development planning, or which is charged with the duty of providing or regulating any transportation facility or any other public facility, is further authorized to provide the authority with information regarding its plans and programs affecting the transportation district so that the authority may have available to it current information with respect thereto. The officers and personnel of such agencies, municipalities or subdivisions, and of any other government or agency whatever, may serve at the request of the authority upon such advisory committees as the authority shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

2. The authority shall, at the request of any state agency, municipality or political subdivision of the state, engaged in highway or other transportation activities or in land use or development planning, provide said state agency, municipality or political subdivision with all current and relevant information regarding its plans or programs, so as to enable said agency, municipality or subdivision to properly effectuate said activities or planning.

3. To the extent that the provisions of this title authorize the authority to enter into any agreement or arrangement with, or undertake any other activity requiring the participation of, the New York city transit authority or any of its subsidiary corporations in furtherance of their respective purposes and powers or the Triborough bridge and tunnel authority in furtherance of its purposes and powers, such entities are hereby authorized and empowered to enter into and perform such contract or other arrangement and to undertake such activities.

§ 1268-a. Promotion of qualified transportation fringes. The authority shall promote the broad use of qualified transportation fringes, under section 132(f) of the internal revenue code, in order to increase the number of participating companies and employees in such programs. The authority may also study and report on ways in which programs may be improved so as to increase public participation.

§ 1269. Notes, bonds and other obligations of the authority. 1. (a) The authority shall have power and is hereby authorized from time to time to issue its bonds, notes and other obligations in such principal amount as, in the opinion of the authority, shall be necessary, convenient or desirable to effectuate any of its powers and purposes, including to provide sufficient funds for achieving its purposes, including the acquisition, establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension, rehabilitation or repair of any transportation facility, the payment of principal, redemption premium and interest on bonds, notes and other obligations of the authority, establishment of reserves to secure such bonds notes and other obligations, the provision of working capital and all other expenditures of the authority and its subsidiary corporations, and New York city transit authority and its subsidiary corporations incident to and necessary or convenient to carry out their purposes and powers. Such bonds, notes or other obligations may be issued for an individual transportation facility or issued on a consolidated basis for such groups or classes of facilities and projects as the authority in its discretion deems appropriate and be payable from and secured separately or on a consolidated basis by, among other things, all or any portion of such revenues and other monies and assets of the authority and its subsidiary corporations, and New York city transit authority and its subsidiary corporations as the authority determines in accordance with the provisions of section twelve hundred seventy-d of this title;

(b) The authority shall have power, from time to time, to issue renewal notes, to issue bonds to refund, redeem or otherwise pay, including by purchase or tender, notes of the authority and its subsidiary corporations, and New York city transit authority and its subsidiary corporations and whenever it deems refunding, redemption or payment expedient, to refund, redeem or otherwise pay, including by purchase or tender, any bonds of the authority and its subsidiary corporations, New York city transit authority and its subsidiary corporations and Triborough bridge and tunnel authority by the issuance of new bonds, whether the bonds to be refunded, redeemed or otherwise paid have or have not matured, and to issue bonds partly for such purpose and partly for any other purpose and to otherwise refund, redeem, acquire by purchase or tender, or in any other way repay any outstanding notes, bonds or other obligations of the authority, any of its subsidiary corporations, New York city transit authority, any of its subsidiary corporations and Triborough bridge and tunnel authority;

(c) Every issue of its notes, bonds or other obligations shall be general obligations or special obligations. Every issue of general obligations of the authority shall be payable out of any revenues or monies of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues. Every issue of special obligations shall be payable out of any revenues, receipts, monies or other assets of the authority and its subsidiary corporations, the New York city transit authority and its subsidiary corporations and the Triborough bridge and tunnel authority identified for such purposes in accordance with agreements with the holders of particular notes, bonds or other obligations. The authority may issue transportation revenue special obligation bonds, notes or other obligations as provided in section twelve hundred seventy-d of this title;

1-a. Pension obligation bonds. The authority may from time to time issue its bonds and notes in such principal amounts as, in the opinion of the authority, shall be necessary to finance the unfunded pension fund liabilities of the authority, its affiliates and subsidiaries, provided, however, that in no event shall the cumulative amounts of bonds and notes issued pursuant to the authority of this subdivision exceed one billion two hundred million dollars or sixty percent of such unfunded pension fund liabilities, whichever is less, and provided, further, that no bonds shall be issued under this subdivision for a term longer than twenty years. The authority may not issue bonds or notes in any twelve month period in a cumulative principal amount in excess of forty percent of the total amount permitted to be issued under this subdivision. Prior to the issuance of any bonds or notes, the authority shall make a finding that such issue is expected to result, on a present value basis, in a lower effective cost to the authority than funding the unfunded pension fund liability solely through the payment of annual amounts to the pension fund, assuming that the principal component of the unfunded liability will be amortized over the same number of years as the term of the bonds or notes and that the interest payable thereon is the actuarial rate of interest determined by the actuary for the pension fund at the time of the issuance of such bonds or notes. The aggregate principal amount of bonds and notes issued for such purposes may be increased to fund costs of issuance and may reasonably required debt service of other reserve funds. Bonds and notes may be issued to refund or otherwise repay bonds or notes theretofore issued for such purposes; provided, however, that upon any such refunding or repayment (including for purpose of such calculation the principal amount of the refunding bonds or notes then to be issued and excluding the principal amount of the bonds or notes so to be refunded or repaid and also excluding any amounts used to pay costs of issuance and reasonably required debt service or other reserve funds) the present value of the aggregate debt service of the refunding or repayment bonds or notes to be issued shall not exceed the present value of the aggregate debt service of the bonds or notes so to be refunded or repaid. For purposes of the preceding sentence, the present values of the aggregate debt service of the refunding or repayment bonds or notes and of the aggregate debt service of the bonds or notes so to be refunded or repaid shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment dates thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. Debt service on the bonds or notes shall be structured so that the economic benefits thereof shall be relatively uniform for each full year throughout the term of the bonds or notes. Beginning with the date of first issuance of bonds under this section, the authority and its subsidiaries shall make annual payments into the pension fund in amounts at least equal to the current pension contribution liability applicable to such year. The net proceeds of the bonds or notes intended to be invested in non-debt securities may be invested by the recipient pension fund in a fiscally prudent manner in securities consistent with any trust indentures and all applicable state and federal law over a reasonable period of time not less than 30 days following the issuance of the bonds or notes. The operating budget savings associated with the issuance of pension obligation bonds during the period from April first, two thousand five, through March thirty-first, two thousand ten, pursuant to this subdivision shall be dedicated to reducing service eliminations projected to occur within that period.

2. The notes, bonds and other obligations shall be authorized by resolution approved by not less than a majority vote of the whole number of members of the authority then in office, except that in the event of a tie vote the chairman shall cast one additional vote. Such notes, bonds and other obligations shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewals thereof not exceeding five years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes, bonds and other obligations shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes, bonds and other obligations of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine. No notes or bonds of the authority may be sold by the authority at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes, bonds or any issue thereof, or any other obligations of the authority, may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the revenues of the authority or of any of its subsidiary corporations or New York city transit authority or any of its subsidiary corporations or Triborough bridge and tunnel authority to secure the payment of the notes or bonds or of any issue thereof, or any other obligations of the authority, subject to such applicable agreements with bondholders, noteholders, or holders of other obligations of the authority, the New York city transit authority and its subsidiary corporations, and Triborough bridge and tunnel authority as may then exist;

(b) pledging all or any part of the assets of the authority or of any of its subsidiary corporations or New York city transit authority or any of its subsidiary corporations or Triborough bridge and tunnel authority to secure the payment of the notes or bonds or of any issue of notes or bonds, or any other obligations of the authority, subject to such agreements with noteholders, bondholders, or holders of other obligations of the authority, the New York city transit authority and its subsidiary corporations, and Triborough bridge and tunnel authority as may then exist;

(c) the use and disposition of revenues, including fares, tolls, rentals, rates, charges and other fees, made or received by the authority, any of its subsidiary corporations, New York city transit authority or any of its subsidiary corporations, or Triborough bridge and tunnel authority;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes, bonds or other obligations of the authority may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof or of other obligations;

(f) limitations on the issuance of additional notes, bonds or other obligations of the authority; the terms upon which additional notes, bonds or other obligations of the authority may be issued and secured; the refunding of outstanding or other notes, bonds or other obligations of the authority;

(g) the procedure, if any, by which the terms of any contract with noteholders, bondholders, or holders of other obligations of the authority, may be amended or abrogated, the amount of notes, bonds or other obligations of the authority the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of monies to be expended by the authority or any of its subsidiary corporations or New York city transit authority or any of its subsidiary corporations or Triborough bridge and tunnel authority for operating, administrative or other expenses of the authority or any of its subsidiary corporations or New York city transit authority or any of its subsidiary corporations or Triborough bridge and tunnel authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders, noteholders or holders of other obligations of the authority pursuant to this title, and limiting or abrogating the right of the bondholders, noteholders or holders of other obligations of the authority to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes, bonds or other obligations of the authority.

4. In addition to the powers herein conferred upon the authority to secure its notes, bonds and other obligations, the authority shall have power in connection with the issuance of notes, bonds and other obligations to enter into such agreements as the authority may deem necessary, convenient or desirable concerning the use or disposition of the monies or property of any of the authority, its subsidiary corporations, New York city transit authority, or any of its subsidiary corporations, or Triborough bridge and tunnel authority, including the mortgaging of any such property and the entrusting, pledging or creation of any other security interest in any such monies or property and the doing of any act (including refraining from doing any act) which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of the notes, bonds and

other obligations of the authority.

5. It is the intention hereof that any pledge, mortgage or security instrument made by the authority shall be valid and binding from the time when the pledge, mortgage or security instrument is made; that the monies or property so pledged, mortgaged and entrusted and thereafter received by the authority, or any of its subsidiary corporations shall immediately be subject to the lien of such pledge, mortgage or security instrument without any physical delivery thereof or further act; and that the lien of any such pledge, mortgage or security instrument shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, or any of its subsidiary corporations, irrespective of whether such parties have notice thereof. Neither the resolution nor any mortgage, security instrument or other instrument by which a pledge, mortgage lien or other security is created need be recorded or filed and neither the authority nor, any of its subsidiary corporations shall be required to comply with any of the provisions of the uniform commercial code.

6. Neither the members of the authority, the New York city transit authority or the Triborough bridge and tunnel authority nor any person executing the notes, bonds or other obligations shall be liable personally on the notes, bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority, subject to such agreements with the holders of notes, bonds or other obligations as may then exist, shall have power out of any funds available therefor to purchase notes, bonds or other obligations of the authority. The authority may hold, cancel or sell such bonds, notes and other obligations, subject to and in accordance with agreements with such holders.

8. Neither the state nor the city of New York shall be liable on notes, bonds or other obligations of the authority and such notes, bonds and other obligations shall not be a debt of the state or the city of New York, and such notes, bonds and other obligations shall contain on the face thereof, or in an equally prominent place, a statement to such

effect.

9. So long as the authority has outstanding any bonds, notes or other obligations issued pursuant to this section or any bonds, notes or other obligations issued or incurred pursuant to section twelve hundred sixty-six-c of this title, none of the authority or any of its subsidiary corporations, New York city transit authority or any of its subsidiary corporations, or Triborough bridge and tunnel authority shall have the authority to file a voluntary petition under chapter nine of the federal bankruptcy code or such corresponding chapter, chapters or sections as may, from time to time, be in effect, and neither any public officer nor any organization, entity or other person shall authorize the authority or any of its subsidiary corporations, New York city transit authority or any of its subsidiary corporations, or Triborough bridge and tunnel authority to be or become a debtor under chapter nine or said corresponding chapter, chapters or sections during any such period.

10. The term "monies" as used in this section shall include, but not be limited to, all operating subsidies provided by (i) any public benefit corporation, including without limitation transfers of operating surplus by Triborough bridge and tunnel authority pursuant to section twelve hundred nineteen-a of this article, or (ii) any governmental entity, federal, state or local.

11. Any resolution or agreement authorizing the issuance of bonds, notes or other obligations pursuant to this section may, in addition, authorize and provide for the issuance of lease obligations of the authority which may be issued for the purposes and on the terms and conditions under which the bonds, notes and other obligations authorized under this section may be issued, and may be secured in the same manner as such bonds, notes and other obligations, and which resolution with respect to such lease obligations, may contain such other provisions applicable to bonds, notes and other obligations not inconsistent with the provisions of this section, as the authority may determine.

12. The aggregate principal amount of bonds, notes or other obligations issued after the first day of January, nineteen hundred

ninety-three by the authority, the Triborough bridge and tunnel authority and the New York city transit authority to fund projects contained in capital program plans approved pursuant to section twelve hundred sixty-nine-b of this title for the period nineteen hundred ninety-two through two thousand twenty-nine shall not exceed one hundred fifteen billion five hundred million dollars. Such aggregate principal amount of bonds, notes or other obligations or the expenditure thereof shall not be subject to any limitation contained in any other provision of law on the principal amount of bonds, notes or other obligations or the expenditure thereof applicable to the authority, the Triborough bridge and tunnel authority or the New York city transit authority. The aggregate limitation established by this subdivision shall not include (i) obligations issued to refund, redeem or otherwise repay, including by purchase or tender, obligations theretofore issued either by the issuer of such refunding obligations or by the authority, the New York city transit authority or the Triborough bridge and tunnel authority, (ii) obligations issued to fund any debt service or other reserve funds for such obligations, (iii) obligations issued or incurred to fund the costs of issuance, the payment of amounts required under bond and note facilities, federal or other governmental loans, security or credit arrangements or other agreements related thereto and the payment of other financing, original issue premiums and related costs associated with such obligations, (iv) an amount equal to any original issue discount from the principal amount of such obligations or to fund capitalized interest, (v) obligations incurred pursuant to section twelve hundred seven-m of this article, (vi) obligations incurred to fund the acquisition of certain buses for the New York city transit authority as identified in a capital program plan approved pursuant to chapter fifty-three of the laws of nineteen hundred ninety-two, (vii) obligations incurred in connection with the leasing, selling or transferring of equipment, and (viii) bond anticipation notes or other obligations payable solely from the proceeds of other bonds, notes or other obligations which would be included in the aggregate principal amount specified in the first sentence of this subdivision, whether or not additionally secured by revenues of the authority, or any of its subsidiary corporations, New York city transit authority, or any of its subsidiary corporations, or Triborough bridge and tunnel authority.

§ 1269-a. Metropolitan transportation authority capital program review board. 1. The metropolitan transportation authority capital program review board is hereby created to exercise the powers, duties and prerogatives as hereinafter provided in sections twelve hundred sixty-nine-b and twelve hundred sixty-nine-c of this title.

2. The voting membership of the board shall consist of four persons appointed by the governor of which one shall be upon the recommendation of the temporary president of the senate, one upon the recommendation of the speaker of the assembly and one upon the recommendation of the mayor of the city of New York. The member appointed upon the recommendation of the mayor of the city of New York shall participate and be entitled to vote only with respect to bond resolutions and the capital program plans and any amendments or modifications thereof for transit facilities operated by the New York city transit authority, its subsidiaries and the Staten Island rapid transit operating authority. Upon recommendation of the nominating party, the governor may replace any member in accordance with the provision contained herein for the appointment of members. The governor shall designate one of the members to serve as chairman. Any determination of the board shall be evidenced by a certification thereof executed by all the members entitled to vote on the matter so certified. Each member of the board shall be entitled to designate a representative to attend meetings of the board in his place and to vote or otherwise act on his behalf in his absence. Notice of such designation shall be furnished in writing to the board by the designating member. A representative shall serve at the pleasure of the designating member during the member's term of office. A representative shall not be authorized to delegate any of his duties or functions to any other person.

3. The governor shall also appoint two non-voting members to the metropolitan transportation authority capital program review board of which one shall be upon the recommendation of the minority leader of the senate and one upon the recommendation of the minority leader of the assembly. Each non-voting member shall be entitled to designate a

representative to attend meetings of the board in his place.

4. The members of the metropolitan transportation authority capital program review board, and their representatives shall be deemed employees within the meaning of such term as provided for in section seventeen of the public officers law.

§ 1269-b. Capital program plans; approvals; effect of disapproval. 1. (a) On or before October first, nineteen hundred eighty-one, and on or before October first of every fifth year thereafter, through and including October first, nineteen hundred ninety-one, the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five year period commencing January first of the following year;

(b) not later than ten days after the effective date of this paragraph the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five-year period commencing January first, nineteen hundred ninety-five; and

(c) on or before October first, nineteen hundred ninety-nine and every fifth year thereafter, the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five-year period commencing January first of the following year.

For each of the periods described above, one such plan shall contain the capital program for the transit facilities operated by the New York city transit authority and its subsidiaries and for the Staten Island rapid transit operating authority; the other such plan shall contain the capital program for the railroad facilities, not including the Staten Island rapid transit operating authority, under the jurisdiction of the authority.

Each plan shall set system-wide goals and objectives for capital spending, establish standards for service and operations, and describe each capital element proposed to be initiated in each of the years covered by the plan and explain how each proposed element supports the achievement of the service and operational standards established in the plan. Each plan shall also set forth an estimate of the amount of capital funding required each year and the expected sources of such funding. Each plan subsequent to the first such plan and each proposed amendment or modification thereof shall also describe the current status of each capital element included in the previously approved plan, if any. Each plan shall be accompanied or supplemented by such supporting materials as the metropolitan transportation authority capital program review board shall require.

A capital element shall mean either a category of expenditure itemized in a plan, as hereinafter provided, for which a specified maximum dollar amount is proposed to be expended, or a particularly described capital project within one or more categories for which no maximum expenditure is proposed, but for which an estimate of expected cost is provided. A capital element shall be deemed to have been initiated for purposes of this section if in connection with such element the authority shall certify that (i) purchase or construction contracts have been entered into, obligating in the aggregate an amount exceeding ten percent of the maximum or estimated cost of the element as set forth in a plan, (ii) financing specific to the project has been undertaken, or (iii) in a case where such element is limited to design or engineering, a contract therefor has been entered into.

2. Each plan shall itemize the capital elements included in each section of the plan under the following categories of expenditure: (a) rolling stock and buses; (b) passenger stations; (c) track; (d) line equipment; (e) line structures; (f) signals and communications; (g) power equipment, emergency power equipment and substations; (h) shops, yards, maintenance facilities, depots and terminals; (i) service vehicles; (j) security systems; (k) electrification extensions; and (l) unspecified, miscellaneous and emergency.

2-a. (a) A copy of any proposed capital program plan that has been distributed to one or more committees of the authority shall be simultaneously provided, for informational purposes, to the members of the metropolitan transportation authority capital program review board.

Provision of such a proposed capital program plan to the capital program review board pursuant to this provision for informational purposes shall not constitute the submission of a capital program plan for capital program review board approval.

(b) A copy of any proposed capital program plan that has been distributed to one or more committees of the authority shall be simultaneously provided to the public by the metropolitan transportation authority, via its official or shared internet website.

(c) The authority shall publish data pertaining to capital programs of the authority and any amendments to such programs as required by this section on the authority's website in a common, machine readable format, as defined by executive order number ninety-five of two thousand thirteen, "Using Technology to Promote Transparency, Improve Government Performance and Enhance Citizen Engagement" or any successor order. Such data shall include, but not be limited to:

(i) all data required by paragraph (c) of subdivision one of this section, including estimates of capital budget required by element for an approved capital program and expected sources of such funding for the entire capital program; and

(ii) all data required by subdivision two of this section, including proposed annual commitments for individual capital elements required.

(d) At a minimum, individual capital project data for projects that are committed for construction shall be included in a capital program dashboard maintained by the authority on its website. Any summary views provided on the website shall include the original budgets at the time of project commitment when scope and budget are defined, project scopes, and schedules, in addition to current or amended budgets, project scopes, and schedules. Data pertaining to individual projects shall include, but not be limited to:

(i) the capital project identification number delineated by agency, category, element and project as used in the capital program;

(ii) the capital plan years;

(iii) the agency or authority undertaking the project;

(iv) a project description;

(v) the project location where appropriate;

(vi) the capital needs code of the project, such as state of good repair, normal replacement, system improvement, system expansion or other category;

(vii) budget information including the original budget at the time of project commitment when scope and budget are defined, all amendments, the current budget and planned annual allocations; and

(viii) a schedule for project delivery including original, amended and current start and completion dates as projects develop at each phase.

The status of projects shall be provided and state the current phase of the project, such as planning, design, construction or completion, and shall state how far the project has progressed as measured in percentage by expenditure. The dashboard shall measure progress based on original budgets at the time of project commitment when scope and budget are defined. At a minimum, all changes to planned budgets of greater than ten percent, significant project scope or a three month or more change in schedule shall be provided in narrative form and describe the reason for each change or amendment. The dashboard shall include a glossary or data dictionary which contains plain language descriptions of the data, including individual project data, and any other information provided on the dashboard. The authority shall provide a definition of resiliency in the glossary or data dictionary. The dashboard shall be updated, at a minimum, on a quarterly basis, and all data fields available on the dashboard shall be made available for download on the authority's website in a single tabular data file in a common, machine readable format. Capital dashboard data shall also be made available on the data.ny.gov website or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under executive order number ninety-five of two thousand thirteen, or any successor agency or order.

(e) The data required to be published pursuant to this subdivision shall be made in a single tabular data file in a common, machine readable format and shall be accessible on the authority's website and the website data.ny.gov or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under executive order number ninety-five of two thousand thirteen, or any successor agency or order.

(f) The authority shall create and maintain a separate section on its capital program dashboard website for projects related to accessibility or resiliency. Information on this website shall be updated quarterly. For the purposes of this subdivision, "accessibility" shall mean projects regarding elevators, escalators, or other projects related to compliance with the federal Americans with Disabilities Act of 1990, as amended, and corresponding guidelines, and "resiliency" shall have the same meaning as defined by the authority in its twenty-year needs assessment as required by subdivision c of section twelve hundred sixty-nine-c of this title.

3. A plan may only be approved in two ways: (i) a plan shall only be approved by the board by a unanimous vote of the members entitled to vote thereon and within ninety days or by September fifteenth, nineteen hundred ninety-six in the case of a plan submitted during the period described in paragraph (b) of subdivision one of this section, of the submission of a plan the metropolitan transportation authority capital program review board may notify the authority of its approval of the same; or (ii) if the plan is not approved by the board within such ninety day period or by September fifteenth, nineteen hundred ninety-six, as the case may be, and no individual member of the board who is entitled to vote thereon has notified the authority in writing of his or her disapproval with a written explanation of such disapproval including specific aspects of the plan that are of concern and what steps could be taken to address such concerns within such period, the plan shall be deemed to have been approved. Upon the receipt of a written disapproval, the authority shall be provided an opportunity to respond in writing within ten days of the receipt of such disapproval. Upon the receipt of such response, the disapproving member shall have ten days to reconsider and withdraw such written disapproval.

If the plan is not approved, the authority may thereafter reformulate and resubmit such plan at any time. Within thirty days of the submission of such reformulated plan the board may notify the authority of its approval of the same by the unanimous vote of the members entitled to vote thereon, or, if the reformulated plan is not approved and no individual member of the board who is entitled to vote on such reformulated plan has notified the authority in writing of his or her disapproval within such period, the reformulated plan shall be deemed to have been approved.

4. No general obligation bonds or notes of the authority, no special obligation bonds or notes of the authority to finance a transit project, as such term is defined in section twelve hundred sixty-six-c of this title, and no bonds or notes of the Triborough bridge and tunnel authority to finance a project pursuant to the authorization contained in paragraph (r) of subdivision nine of section five hundred fifty-three of this chapter shall be issued to finance the costs of a capital element unless such capital element and such source of funding was set forth in a plan submitted to and approved by the metropolitan transportation authority capital program review board.

5. The disapproval of a plan by the metropolitan transportation authority capital program review board shall not affect: (a) the right of the authority, of the Triborough bridge and tunnel authority, or of the New York city transit authority, or of the subsidiaries of any of them to initiate and complete any capital element which will be financed otherwise than through the issuance of the bonds or notes the issuance of which is prohibited under subdivision four of this section; (b) the right of the authority or the Triborough bridge and tunnel authority to issue bonds or notes to finance a capital element which was initiated prior to such disapproval in conformity with a previously approved plan; (c) the right of the New York city transit authority to issue its bonds, notes, lease, sublease or other contractual obligations in payment for a transit project initiated prior to such disapproval in conformity with a previously approved plan; (d) the right of the authority or of the Triborough bridge and tunnel authority to issue bonds or notes to refund or otherwise repay any of its outstanding bonds or notes or to fulfill any of their obligations to the holders of any of their outstanding bonds or notes; or (e) the right of the New York city transit authority to issue its bonds, notes, lease, sublease or other contractual obligations to refund or otherwise repay any of its outstanding bonds or notes or to fulfill any of its obligations to the holders of any of its outstanding bonds or notes.

6. Notwithstanding the provisions of subdivision four of this section, if a source of funding described in an approved plan shall be unavailable or be available in a lesser amount than that set forth in such plan, the authority and the Triborough bridge and tunnel authority may issue bonds or notes as necessary to provide the requisite funding for the capital elements included in the plan to the extent that the aggregate amount of such bonds or notes to be issued in substitution for such unavailable amounts shall not exceed the greater of fifty million dollars or twenty percent of the total amount described in such plan for either the substitute funding source or the funding source being substituted for, subject to the limitations set forth in subdivision eleven of section five hundred fifty-three-e of this chapter and paragraph (a) of subdivision four of section twelve hundred seven-m of this article.

7. (a) The authority may from time to time submit to the metropolitan transportation authority capital program review board amendments or modifications to any five-year plan theretofore submitted, and shall submit such an amendment or modification (i) if the estimated cost of any capital element for which a specified dollar amount was proposed to be expended exceeds the amount set forth in the approved plan for such element by more than ten percent, (ii) if with respect to a particularly described capital element for which only an estimate of projected cost has been provided in the plan there is a material change in the description of such element from that contained in the approved plan, (iii) if a capital element not previously included in the approved plan is proposed to be undertaken and its cost, together with the cost of other elements included in category (l) of the plan, exceeds by ten percent the amount provided for such category (l) elements, (iv) if the authority shall propose to change by more than one year the time when any capital element is proposed to be initiated or the effect of such change will be to increase the estimated amount of capital funding required in any year covered by the plan by more than twenty percent, or (v) if the availability of funding sources changes to the degree to which the authority or the Triborough bridge and tunnel authority are precluded from exercising the authorization provided in subdivision six of this section and the authority wishes to do so.

(b) An amendment or modification may only be approved in two ways: (i) an amendment or modification shall only be approved by the board by a unanimous vote of the members entitled to vote thereon and within thirty days of the submission of an amendment or modification the metropolitan transportation authority capital program review board may notify the authority of its approval of the same; or (ii) if the amendment or modification is not approved by the board within such thirty day period and no individual member of the board who is entitled to vote thereon, has notified the authority in writing of his disapproval within such period, the amendment or modification shall be deemed to have been approved.

8. In formulating its capital program plans, the authority shall give consideration to the physical condition and urgency of need of each of the several transportation and transit systems involved, to the needs of all of the communities and areas serviced by these systems, to the extent to which other capital aid or assistance may be available to each of these systems, and to the safety, comfort and convenience of its passengers. In determining the source or method of funding which the authority is to use to finance the cost of the capital elements included in its capital program plans, the authority shall, insofar as practicable, give consideration, among other things, to (i) the potential impact of each such source or method upon the level of passenger fares, (ii) the relative cost of the several funding alternatives, and (iii) the relative ability of each source or method to provide funding at times and in amounts estimated to be required by the capital program plan. To the extent funding is proposed to be obtained through the issuance and sale of bonds or notes, the authority shall, insofar as practicable and consistent with the matters set forth in (i), (ii) and (iii) above, give preference to the use of funds appropriated or to be appropriated to the authority by virtue of service contracts with the director of the budget entered into pursuant to the provisions of the transportation systems assistance and financing act of 1981 for purposes of paying the annual cost of debt service for such bonds or notes.

9. Prior to the adoption by the authority or the New York city transit

authority of its general resolution pursuant to which it is to issue any general or special obligation bonds or notes, not including any series resolution or resolutions, the authority shall submit a copy of such resolution to the metropolitan transportation authority capital program review board. Within fifteen days of such submission, the board may notify the authority of its unanimous approval of the same by the members entitled to vote thereon, or if the resolution is not approved and no individual member of the board who is entitled to vote on such resolution has notified the authority in writing of his disapproval, the resolution shall be deemed to have been approved. Neither the board nor any member thereof shall disapprove a proposed resolution by reason of any covenant requiring the authority, the New York city transit authority or their subsidiaries to charge and fix fares, fees and rentals sufficient to pay its operating expenses and the debt service, including the funding of requisite reserves, on the bonds and notes authorized by such resolution. If the board or any member thereof entitled to vote thereon shall disapprove a proposed resolution, the authority may, at any time, resubmit a reformulated resolution. Within ten days of the submission of such reformulated resolution the board may notify the authority of its unanimous approval of the same by the members entitled to vote thereon, or, if the reformulated resolution is not approved and no individual member of the board who is entitled to vote thereon has notified the authority in writing of his disapproval within such period, the reformulated resolution shall have been deemed to have been approved. Any individual member of the board who votes against a resolution or a reformulated resolution or who notifies the authority of his disapproval shall state his reasons therefor. The member appointed on the recommendation of the mayor of the city of New York shall not participate in the action of the board with respect to any bond resolution of the authority pursuant to which its general obligation bonds or notes may be issued. Neither the authority nor the New York city transit authority shall adopt a bond resolution disapproved by the board as herein provided.

10. In formulating its capital program plans, the authority shall develop criteria to determine how to best prioritize subway stations for accessibility improvements. Such criteria shall include, but not be

limited to: citywide geographic coverage; transit transfer options; annual ridership volume; census tract data for senior and disabled populations and percentage of those populations in poverty; residential density of surrounding neighborhoods; and proximity to medical centers, schools, parks, business districts, cultural hubs and senior centers. Such criteria shall be made publicly available.

11. In formulating their capital program plans, the authority and its affiliates and subsidiaries shall consider bicycle and pedestrian accessibility.

§ 1269-c. Metropolitan transportation authority capital program review board; additional powers and duties. a. The metropolitan transportation authority capital program review board, consisting of voting and non-voting members shall (1) monitor the progress of the capital elements described in each plan approved as provided in section twelve hundred sixty-nine-b of this title; (2) monitor the expenditures incurred and to be incurred for each such element; (3) identify capital elements not progressing on schedule; (4) ascertain responsibility therefor; and (5) recommend those actions required or appropriate to accelerate their implementation. The authority shall consult with the board upon its request and provide it with access to the records of the authority relating to such capital elements.

b. The authority shall submit to the review board within sixty days after the end of each calendar year (1) the actual commitments for the capital plan for the previous calendar year compared to planned commitments by capital element; (2) expenditures by funding source for each capital element in the previous calendar year; and (3) the proposed funding of capital elements in a plan for the current calendar year by funding source. Such submission shall be certified by the chairman of the authority and shall be entered into the permanent record of the minutes of the review board.

c. On or before October first, two thousand twenty-three, and on or before October first of every fifth year thereafter, the authority shall submit to the metropolitan transportation authority capital program review board a twenty-year capital needs assessment. Such assessment shall begin with the period commencing January first, two thousand twenty-five, and begin each assessment with every fifth year thereafter, and describe capital investments over the succeeding twenty years. Such assessment shall: (1) set forth broad long-term capital investments to be made throughout the district; and (2) establish a non-binding basis to be used by the authority in the planning of strategic investments involving capital elements in its five-year capital plans. Such assessment shall not require a vote of the metropolitan transportation authority capital program review board and shall be for informational purposes only. For purposes of this section, "broad long-term capital investments" shall include but not be limited to: system rebuilding, enhancement, and expansion needs; agency needs broken down by capital element or investment category; and projected future trends and network implications. Such assessment shall be certified by the chairman of the authority and shall be entered into the permanent record of the minutes of the review board.

§ 1269-d. Submission of strategic operation plan. 1. On or before July first nineteen hundred eighty-seven, the authority shall submit to the governor a strategic operation plan for the five year period commencing January first of the following year. One component of the plan shall be for the bus and subway services of the New York city transit authority and its subsidiaries and for the Staten Island rapid transit operating authority; the other component shall be for the commuter railroad services, not including the Staten Island rapid transit operating authority, under the jurisdiction of the authority. The plan may be amended as required but shall be updated at least annually. The plan shall include, but need not be limited to, the following:

a. Long-range goals and objectives for the operation of services and facilities;

b. Planned service and performance standards for each year of the period covered by the plan; including, in such plan submitted after July first, nineteen hundred eighty-eight, (a) standards for determining frequency of service at peak hours and off-peak hours, (b) frequency of service at peak and off-peak hours based on the application of such standards to the current period for each subway line, bus route or group of bus routes, and commuter rail lines, divisions or branches as appropriate, (c) projected performance for each subway line, bus route or group of bus routes, and commuter rail lines, divisions or branches as appropriate as measured by reliability indicators commonly utilized within the transit industry, including such measures as mean distance between failures for subway cars, planned number of vehicles with air conditioning and projected reliability of such equipment, planned standards for cleanliness of the interior and exterior of subway cars, commuter rail cars, buses, and passenger stations, and other appropriate measures of planned performance influencing the quality of services;

c. Level and structure of fares projected for each year of the period covered by the plan;

d. Estimated operating and capital resources anticipated to be available from internal sources as well as from federal, state, regional and local sources;

e. Estimated operating and capital costs to satisfy planned standards of performance and service;

f. Strategies to improve productivity; control cost growth; integrate and coordinate the delivery of services provided by the authority as well as other public and private transportation providers in the service area;

g. Specific allocation of operating and capital resources by mode and operation, including funds, personnel, and equipment;

h. Configuration by mode, operation and route of the services to be provided and the facilities to be operated, identifying major planned changes in services and routes; and

i. Identification of the operating and capital costs as compared to the revenues anticipated from system users for the metropolitan transportation authority and its subsidiaries and the New York city transit authority and its subsidiary.

j. An analysis of the relationship between specific planned capital elements contained in approved capital program plans and the achievement of planned service and performance standards. Such analysis shall include the relationship of specific planned capital elements to the achievement of such service and performance standards for each subway line, bus route or group of bus routes, or commuter rail lines, divisions or branches as appropriate.

2. Each annual update of the plan shall include a status report summarizing the extent to which planned service and performance standards developed for the previous year were achieved, the causes of any failure to achieve projected standards of service, and corrective measures the authority intends to take to avoid non-achievement of projected standards in the next upcoming year.

3. The metropolitan transportation authority shall take into consideration any petitions from local officials for improved services, including how these service improvements relate to the service and performance standards described above, and shall consult with appropriate local officials in its preparation and periodic updates to the operation plan.

§ 1269-e. Financial and operational reports. The authority shall submit to the governor, the temporary president of the senate and the speaker of the assembly, no later than thirty days following the submission of the annual independent audit report pursuant to section twenty-eight hundred two of this chapter, a complete detailed report or reports setting forth, to the extent such matters are not fully addressed in the annual independent audit report, the following:

1. its financial reports, including:

a. audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law;

b. grant and subsidy programs;

c. operating and financial risks;

d. current ratings of its bonds issued by recognized municipal bond rating agencies and notice changes in such ratings; and

e. long-term liabilities, including leases and employee benefit plans; and

2. an assessment of the effectiveness of its internal control structure and procedures, including:

a. descriptions of the authority and its major units and subsidiaries;

b. the number of employees, and minority and women employees, for each;

c. an organizational chart;

d. its charter, if any and by-laws;

e. the extent of participation by minority and women owned enterprises in authority contracts and services in accordance with article fifteen-A of the executive law; and

f. a listing of material changes in internal operations and programs during the reporting year.

§ 1269-f. Mission statement and measurement report. 1. The authority shall submit to the governor, the temporary president of the senate and the speaker of the assembly, on or before October thirty-first, two thousand nine, a proposed authority mission statement and proposed measurements. The proposed mission statement and proposed measurements shall have the following components: a brief mission statement expressing the purpose and goals of the authority; a description of the stakeholders of the authority and their reasonable expectations from the authority, which stakeholders shall include at a minimum: the residents and taxpayers of the area of the state served by the authority, the persons that use the services provided by the authority, and the employees of the authority and any employee organization; the goals of the authority in response to the needs of each group of stakeholders; and a list of measures by which performance of the authority and the achievement of its goals may be evaluated.

2. The authority shall thereafter reexamine its mission statement and measurements on an annual basis, and publish on its website self evaluations based on the stated measures.

§ 1269-g. Requirements for certain authority contracts and related subcontracts. 1. Any contractor or subcontractor subject to the posting requirements of paragraph a of subdivision three-a of section two hundred twenty of the labor law with respect to a public works contract of the authority shall:

(a) post information conforming to the provisions of subdivision two of this section in one or more conspicuous places at each major workplace site where persons who perform work on the contract or subcontract, including management, are most likely to see such postings; provided that, this requirement may be satisfied by the displaying of such information with other notices that inform persons of rights under federal or state laws or rules, human resource policies, or collective bargaining agreements;

(b) post information conforming to the provisions of subdivision two of this section on an internet and intranet website, if any, of that person or business organization; provided that, this requirement may be satisfied by providing on such website a conspicuous hyperlink to the authority website maintained pursuant to subdivision three of this section, which hyperlink shall be labeled "Protections for Reporting Fraud in New York";

(c) distribute information specified in subdivision two of this section to those persons, including employees and managers, who perform work on the contract; provided that, this requirement may be satisfied by distributing such information in an employee handbook or through a specific electronic communication containing the information to a known electronic mail address maintained by the person; and

(d) comply with the provisions of this subdivision, and provide to the authority satisfactory evidence of such compliance, within ninety days.

2. The disclosures required by subdivision one of this section shall:

(a) provide the telephone numbers and addresses to report information of fraud or other illegal activity to the appropriate officers of the inspector general of the authority and the attorney-general of the state;

(b) describe in detail conduct prohibited by section one hundred eighty-nine of the state finance law, and the role of that act in preventing and detecting fraud and abuse in work paid for by the authority or with funds originating from the authority;

(c) notify prospective qui tam plaintiffs on how to file a qui tam action, including the necessity to contact private counsel skilled in filing such actions and of the potential for cash rewards in such actions based on the percentage of the funds recovered by the government; and

(d) describe prohibitions on employer retaliation against persons who file or assist actions under article thirteen of the state finance law (the New York false claims act) pursuant to section one hundred ninety-one of the state finance law, or who report illegal conduct that threatens the health or safety of the public pursuant to section seven hundred forty of the labor law.

3. No later than forty-five days after the effective date of this section, the authority shall establish and continuously maintain on its public website and its intranet site a page that shall provide the information specified in subdivision two of this section, and that shall also provide sample statements, displays and other materials suitable

for insertion in employee handbooks or posting at workplaces or on websites that would satisfy the disclosure requirements of this section.

4. On and after the effective date of this section, the authority shall not enter into any contract described in subdivision one of this section that does not incorporate the terms of this section.

5. Material compliance by a covered person or business organization that has contracted with the authority under a contract that incorporates the terms of this section shall be a material condition of payment for the provision of goods or services.

6. The authority is authorized to adopt such rules and regulations as are necessary to effect the purposes of this section.

§ 1270. Reserve funds and appropriations. The authority may create and establish one or more reserve funds in accordance with agreements with bondholders, noteholders or the holders of other obligations of the authority and may pay into such reserve funds (a) any monies appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of notes, bonds or other obligations to the extent provided in the resolution of the authority authorizing the issuance thereof, and (c) any other monies which may be made available to the authority for the purpose of such funds from any other source or sources. In lieu thereof, the authority may provide for the deposit therein of, or substitute for moneys on deposit therein, a liquidity or credit facility, surety bond or other similar agreement.

§ 1270-a. Metropolitan transportation authority special assistance fund. 1. The authority shall create and establish a fund to be known as the "metropolitan transportation authority special assistance fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority. The special assistance fund shall consist of three separate accounts: (i) the "transit account", (ii) the "commuter railroad account" and (iii) the "corporate transportation account".

The authority shall make deposits in the transit account and the commuter railroad account of the moneys received by it pursuant to the provisions of subdivision one of section two hundred sixty-one of the tax law in accordance with the provisions thereof, and shall make deposits in the corporate transportation account of the moneys received by it pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law and section ninety-two-ff of the state finance law. The comptroller shall deposit, without appropriation, into the corporate transportation account the revenue fees, taxes, interest and penalties collected in accordance with paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, article seventeen-C of the vehicle and traffic law, article twenty-nine-A of the tax law and section eleven hundred sixty-six-a of the tax law.

2. Moneys in the transit account may be pledged to the Triborough bridge and tunnel authority to secure bonds and notes and, if so pledged, shall be paid to the Triborough bridge and tunnel authority in such amounts and at such times as necessary to pay or to reimburse that authority for its payment of debt service and reserve requirements on that portion of special Triborough bridge and tunnel authority bonds and notes issued by that authority pursuant to section five hundred fifty-three-d of this chapter for transit projects undertaken for the New York city transit authority and its subsidiaries. Subject to the provisions of such pledge, any excess monies, or in the event there is no such pledge, any moneys in such account shall, at the direction of the metropolitan transportation authority, be (a) deposited into one or more funds or accounts and used as contemplated by section twelve hundred seventy-d of this title or (b) used for the payment of operating and capital costs of the New York city transit authority and its subsidiaries and the Staten Island rapid transit operating authority.

3. The authority shall transfer in nineteen hundred eighty-seven up to twenty million dollars of the moneys in the commuter railroad account to

the suburban transportation fund in accordance with the terms of an agreement between the authority and the department of transportation with respect thereto, established herein, and pursuant to section eighty-eight-b of the state finance law. In subsequent years the authority shall transfer twenty million dollars of the moneys in the commuter railroad account to the suburban transportation fund in accordance with the terms of an agreement between the authority and the department of transportation with respect thereto, established herein, and pursuant to section eighty-eight-b of the state finance law.

In the event the transfer to the suburban transportation fund provided pursuant to this subdivision results in an operating deficit, as certified by the director of the division of the budget, in consultation with the authority, that portion of the deficit attributable to such transfer shall be appropriated from the general fund to the authority for commuter railroad operating purposes, provided, however, that such appropriation shall not exceed twenty million dollars.

The remaining moneys in the commuter railroad account may be pledged to the Triborough bridge and tunnel authority to secure bonds and notes and, if so pledged, shall be paid to the Triborough bridge and tunnel authority in such amounts and at such times as necessary to pay or to reimburse that authority for its payment of debt service and reserve requirements on that portion of special Triborough bridge and tunnel authority bonds and notes issued by that authority pursuant to section five hundred fifty-three-d of this chapter for transportation facilities undertaken for the authority and its subsidiaries. Subject to the provisions of any such pledge, any excess monies, or in the event there is no such pledge, any moneys in such account shall, at the direction of the metropolitan transportation authority, be (a) deposited into one or more funds or accounts and used as contemplated by section twelve hundred seventy-d of this title or, (b) used for payment of operating and capital costs of the Long Island Rail Road company and the Metro-North commuter railroad company.

4. (a) Moneys in the corporate transportation account shall first be used for payments to the metropolitan transportation authority Dutchess,

Orange and Rockland fund established by section twelve hundred seventy-b of this title. The remaining moneys in the corporate transportation account may be pledged by the authority, or pledged to the Triborough bridge and tunnel authority, to secure bonds, notes or other obligations of the authority or the Triborough bridge and tunnel authority, as the case may be, and, if so pledged to the Triborough bridge and tunnel authority, shall be paid to the Triborough bridge and tunnel authority in such amounts and at such times as necessary to pay or to reimburse that authority for its payment of debt service and reserve requirements, if any, on that portion of special Triborough bridge and tunnel authority bonds and notes issued by that authority pursuant to section five hundred fifty-three-d of this chapter. Subject to the provisions of any such pledge, or in the event there is no such pledge, any excess moneys in the corporate transportation account may be used by the authority for payment of operating costs of, and capital costs, including debt service and reserve requirements, if any, of or for the authority, the New York city transit authority and their subsidiaries as the authority shall determine.

(b) Commencing in calendar year nineteen hundred eighty-nine, and in each subsequent year thereafter, the authority shall transfer in four equal quarterly amounts from the corporate transportation account to the metropolitan transportation authority Dutchess, Orange and Rockland fund created by section twelve hundred seventy-b of this title the following amounts: to the Dutchess account of such fund the sum of one million five hundred thousand dollars; to the Orange account of such fund the sum of one million five hundred thousand dollars; and to the Rockland account of such fund the sum of two million dollars.

(c) Commencing in calendar year nineteen hundred ninety, and each year thereafter, the authority shall transfer from the corporate transportation account to the Dutchess account, the Orange account and the Rockland account, respectively, an amount equal to the percent by which such county's payments to the authority in the preceding calendar year pursuant to the provisions of subdivisions one and two of section two hundred sixty-one of the tax law increased over such payments in nineteen hundred eighty-nine times one million five hundred thousand dollars for Dutchess county, one million five hundred thousand dollars for Orange county and two million dollars for Rockland county; provided, however, that in no event shall such amount reduce the amount that each county would receive pursuant to paragraph (b) of this subdivision be reduced by operation of this paragraph, and provided further, however, for purposes of calculating the percent by which such county's payments to the authority in the preceding calendar year pursuant to the provisions of subdivisions one and two of section two hundred sixty-one of the tax law increased over such payments in nineteen hundred eighty-nine, there shall be excluded the amount by which the payments in each such year increased as a result of the recording tax imposed pursuant to the provisions of subdivision one of section two hundred sixty-one of the tax law being in excess of twenty-five cents for each one hundred dollars.

(d) (1) In the event the county of Dutchess, the county of Orange or the county of Rockland withdraws from the metropolitan transportation district, the authority shall not transfer from the corporate transportation account to the metropolitan transportation authority Dutchess, Orange and Rockland fund that portion of the moneys that would otherwise be transferred from such account to such fund to the credit of such withdrawing county or counties.

(2) For purposes of this subdivision, a county is deemed to have withdrawn if a resolution is adopted and filed by the county legislature of such county providing a public transportation plan pursuant to section twelve hundred seventy-nine-b of this title.

(e) Notwithstanding the foregoing provisions of this subdivision, any moneys in the corporate transportation account that are received by the authority: (i) without appropriation pursuant to subdivision one of this section, or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be pledged by the authority, or pledged to the Triborough bridge and tunnel authority, to secure bonds, notes or other obligations of the authority or the Triborough bridge and tunnel authority, as the case may be, and, if so pledged to the Triborough bridge and tunnel authority, shall be paid to the Triborough bridge and tunnel authority in such amounts and at such times as necessary to pay or to reimburse that authority for its payment of debt service and reserve requirements, if any, on that portion of special Triborough bridge and tunnel authority bonds and notes issued by that authority pursuant to section five hundred fifty-three-d of this chapter. Subject to the provisions of any such pledge, or in the event there is no such pledge, any moneys in the corporate transportation account received by the authority: (i) without appropriation pursuant to subdivision one of this section, or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be used by the authority for payment of operating costs of, and capital costs, including debt service and reserve requirements, if any, of or for the authority, the New York city transit authority and their subsidiaries as the authority shall determine. No moneys in the corporate transportation account that are reserved by the authority: (i) without appropriation pursuant to subdivision one of this section; or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be used for making any payment to the Dutchess, Orange and Rockland fund created by section twelve hundred seventy-b of this title or considered in calculating the amounts required to be paid into such fund.

§ 1270-b. Metropolitan transportation authority Dutchess, Orange and Rockland fund. 1. The authority shall create and establish a fund to be known as the "metropolitan transportation authority Dutchess, Orange and Rockland fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority. The Dutchess, Orange and Rockland fund shall consist of three separate accounts: (i) the "Dutchess account"; (ii) the "Orange account"; and (iii) the "Rockland account".

2. The metropolitan transportation authority Dutchess, Orange and Rockland fund shall consist of moneys transferred by the authority pursuant to subdivision four of section twelve hundred seventy-a of this title.

3. Moneys in the Dutchess account, the Orange account, and the Rockland account shall on a quarterly basis be (i) paid to the counties of Dutchess, Orange and Rockland, respectively, for the purposes of providing mass transportation operating assistance, including debt service on bonds or notes issued for such purposes, or for providing the following types of capital projects within such county: capacity and

infrastructure improvements to state, county, town, city, village roads, highways, parkways or bridges; or state, county, town, city, village mass transportation projects; or (ii) transferred to the suburban transportation fund pursuant to a resolution, which is irrevocable during the term of any outstanding bonds or notes issued, adopted by the county legislature of Dutchess county, the county legislature of Orange county or the county legislature of Rockland county directing the authority to make all such future transfers of funds from its respective account to the suburban transportation fund. The first quarterly payment or transfer shall occur during the quarter beginning January first, nineteen hundred eighty-nine.

§ 1270-c. Metropolitan transportation authority dedicated tax fund. 1. The authority shall establish a fund to be known as the "metropolitan transportation authority dedicated tax fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority. The fund shall consist of a "pledged amounts account" and an "operating and capital costs account" and such other accounts and subaccounts as the authority may determine.

2. There shall be deposited, pursuant to appropriation, into the fund the moneys deposited in the dedicated mass transportation trust fund for payment to the metropolitan transportation authority dedicated tax fund pursuant to the provisions of subdivision (d) of section three hundred one-j of the tax law, paragraph two of subdivision (d) of section eleven hundred nine of the tax law, and any other moneys collected for or transferred to such fund pursuant to section eighty-eight-a of the state finance law and any other provision of law directing or permitting the deposit of moneys in such fund.

3. Moneys in the fund may be (a) pledged by the authority to secure and be applied to the payment of its bonds, notes or other obligations specified by the authority and issued to finance (i) transit projects undertaken for the New York city transit authority and its subsidiaries and (ii) transportation facilities undertaken for the authority and its subsidiaries and (b) used for payment of operating costs, and capital

costs, including debt service, reserve requirements, if any, the payment of amounts required under bond and note facilities or agreements related thereto, the payment of federal government loans, security or credit arrangements or other agreements related thereto, and the payment of all costs related to such obligations, of or for the authority, the New York city transit authority and their subsidiaries as the authority shall determine. To the extent moneys in the fund have been pledged by the authority to secure and pay its bonds, notes or other obligations as herein provided, moneys deposited into the fund shall first be deposited into the pledged amounts account to the extent necessary to satisfy the requirements of any debt service or reserve requirements, if any, of the resolution authorizing such bonds, notes or other obligations. After satisfaction of such requirements of the resolution, or if the authority has not so pledged the moneys in the fund, moneys deposited in the fund shall be directly deposited into the operating and capital costs account and, subject to the provisions of any resolutions of the authority not secured by the pledged amounts account, transferred forthwith to or for the benefit of the New York city transit authority and its subsidiaries and the Staten Island rapid transit operating authority (the "TA") and to and for the benefit of the Long Island Rail Road company and the Metro-North commuter rail road company (the "CRR") as provided in this section.

Moneys in the operating and capital costs account which were deposited in the fund pursuant to appropriation from moneys deposited in the dedicated mass transportation trust fund for payment to the metropolitan transportation authority dedicated tax fund pursuant to subdivision (d) of section three hundred one-j of the tax law or paragraph two of subdivision (d) of section eleven hundred nine of the tax law (the "remaining PBT amount") shall be distributed by the authority as follows: an amount equal to the debt service incurred in such calendar year as a result of obligations issued and secured by moneys in the fund, to the extent such debt service is to be paid from money deposited in the fund pursuant to appropriation from moneys deposited in the dedicated mass transportation trust fund for payment to the metropolitan transportation authority dedicated tax fund pursuant to subdivision (d) of section three hundred one-j of the tax law or paragraph two of subdivision (d) of section eleven hundred nine of the tax law ("PBT debt service"), shall be added to the remaining PBT amount. The sum of these figures shall then be allocated as follows: eighty-five per centum of such sum shall be allocated to the TA and fifteen per centum of such sum shall be allocated to the CRR. The amounts so allocated shall then be reduced respectively by the proportional amount of PBT debt service attributable to the payments for transit projects undertaken for the TA and transportation facility projects undertaken for the CRR. The remaining amounts shall constitute the respective distributable shares of the remaining PBT amount and shall be distributed to or for the benefit of the TA and the CRR.

Moneys in the operating and capital costs account which were deposited in the fund pursuant to section eighty-eight-a of the state finance law (the "remaining MMTOA amount") shall be distributed by the authority as follows: an amount equal to the debt service incurred in such calendar year as a result of obligations issued and secured by money in the fund, to the extent such debt service is to be paid from money deposited in the fund pursuant to section eighty-eight-a of the state finance law ("MMTOA debt service"), shall be added to the remaining MMTOA amount. The sum of these figures shall then be allocated as follows: there shall be allocated (i) to the TA an amount of such sum which bears the same proportion to such sum as the amount appropriated and paid during such calendar year from the metropolitan mass transportation operating assistance account to the authority for the operating expenses of the TA bears to the total amounts so appropriated and paid from such operating assistance account during such calendar year to the TA and CRR combined and (ii) to the CRR an amount of such sum which bears the same proportion to such sum as the amount appropriated and paid during such calendar year from the metropolitan mass transportation operating assistance account to the CRR bears to the total amounts so appropriated and paid from such operating assistance account during such calendar year to the TA and CRR combined. The amounts so allocated shall then be reduced respectively by the proportional amount of MMTOA debt service attributable to the payments for transit projects undertaken for the TA and transportation facility projects undertaken for the CRR. The remaining amounts shall constitute the respective distributable shares of the remaining MMTOA amount and shall be distributed to or for the benefit of the TA and the CRR. In no event shall the authority utilize any measure or calculation for determining such distributable shares other than the formula prescribed herein nor shall the authority take any action which would result in the use of such money which is different from or inconsistent with the use prescribed in this section.

To the extent that amounts described in the preceding two paragraphs are distributed more frequently than annually, each such distribution shall be made as nearly as may be practicable in accordance with the allocations described above to the TA and the CRR. Within thirty days after the end of each calendar year, the authority shall certify to the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, the amount of money deposited in the fund pursuant to appropriation from moneys deposited in the dedicated mass transportation trust fund for payment to the metropolitan transportation authority dedicated tax fund pursuant to subdivision (d) of section three hundred one-j of the tax law, paragraph two of subdivision (d) of section eleven hundred nine of the tax law, and section eighty-eight-a of the state finance law, the amounts expended from the pledged amounts account for the benefit of the TA and the CRR, and the amounts of the remaining PBT amount and the remaining MMTOA amount distributed during the prior calendar year to the TA and the CRR and specifying in each case the appropriation or appropriations which was the source of such amounts.

4. Any money deposited in the fund shall be held in the fund free and clear of any claim by any person arising out of or in connection with article thirteen-A and article twenty-eight of the tax law. Without limiting the generality of the foregoing and without limiting the rights and duties of the commissioner of taxation and finance under article thirteen-A of the tax law, no petroleum business, as defined in section three hundred of the tax law, or any other person, including the state, shall have any right or claim against the authority, any of its bondholders, the TA or the CRR to any moneys in or distributed from the fund or in respect of a refund, rebate, credit or reimbursement of taxes paid under article thirteen-A and article twenty-eight of the tax law.

§ 1270-d. Consolidated financings. 1. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, the authority may issue its notes, bonds and other obligations to finance transportation facilities, including transit projects and Triborough bridge and tunnel authority projects, utilizing a consolidated pledge of all or any portion of the revenues and other monies and assets of the authority and its subsidiaries, New York city transit authority and its subsidiaries, and Triborough bridge and tunnel authority, together with those other sources of payment described in this section. In connection therewith, at its discretion, the authority, subject to the rights of the holders of notes, bonds or other obligations of the authority, New York city transit authority or Triborough bridge and tunnel authority, may (a) agree with the New York city transit authority or Triborough bridge and tunnel authority that any such entity will deposit all or any portion of the revenues, other monies and assets received by it or its subsidiaries into one or more funds or accounts, and (b) deposit or cause to be deposited into one or more funds and accounts (i) all or any portion of the revenues, other monies and assets received by the authority and its subsidiaries, (ii) all or any portion of the annual operating surplus of Triborough bridge and tunnel authority as certified pursuant to paragraph (b) of subdivision two of section twelve hundred nineteen-a of this article, (iii) all or any portion of the amounts from the operating and capital costs account of the metropolitan transportation authority dedicated tax fund required to be distributed to New York city transit authority and the commuter railroad subsidiaries of the authority under the provisions of section twelve hundred seventy-c of this title, (iv) all or any portion of the available monies in the transit account of the metropolitan transportation authority special assistance fund established under the provisions of section twelve hundred seventy-a of this title available for payment of operating and capital costs of New York city transit authority and its subsidiaries and Staten Island rapid transit operating authority as provided in subdivision two of section twelve hundred seventy-a of this title, (v) all or any portion of the available monies in the commuter railroad account of the metropolitan transportation authority special assistance fund established under the provisions of section twelve hundred seventy-a of this title available for payment of operating and capital costs of Long Island Rail Road company and Metro-North commuter railroad company as provided in subdivision three of section twelve hundred seventy-a of this title, (vi) all or any portion of the available monies in the corporate transportation account of the metropolitan transportation authority special assistance fund established under the provisions of section twelve hundred seventy-a of this title available for use by the authority for payment of operating costs of, and capital costs, including debt service and reserve requirements, if any, of or for the authority, the New York city transit authority and their subsidiaries as provided in paragraph (a) of subdivision four of section twelve hundred seventy-a of this title, and (vii) any other monies of the authority, its subsidiaries, the New York city transit authority and its subsidiaries, and the Triborough bridge and tunnel authority from any source whatsoever.

2. Amounts so deposited in such funds or accounts may be (a) pledged by the authority to secure, and be applied to, the payment of its bonds, notes or other obligations issued to finance transportation facilities undertaken for the authority and its subsidiaries, transportation facilities, including transit projects, undertaken for New York city transit authority and its subsidiaries, and Triborough bridge and tunnel authority projects undertaken for Triborough bridge and tunnel authority, and (b) used for payment of operating costs, and capital costs, including debt service, reserve requirements, if any, the payment of amounts required under bond, note or other financing facilities or agreements, and the payment of all costs related to such obligations, of or for the authority and its subsidiaries, and the New York city transit authority and its subsidiaries as the authority in its full discretion shall determine. To the extent moneys so deposited have been pledged by the authority to secure and pay its bonds, notes or other obligations as herein provided, such moneys shall first be applied to satisfy the requirements of any debt service or reserve requirements of the resolution or resolutions or other contractual arrangements authorizing such bonds, notes or other obligations. After satisfaction of such requirements of any such resolution, resolutions, or other contractual

arrangements or if the authority has not so pledged such moneys, such moneys so deposited, subject to the provisions of any other resolutions or contractual arrangements of the authority and the New York city transit authority and applicable provisions of law, may be transferred to or for the benefit of the authority and its subsidiaries and New York city transit authority and its subsidiaries. Revenues and other monies of the authority and its subsidiaries and New York city transit authority and its subsidiaries, respectively, which are deposited in the funds or accounts authorized by this section, as reduced by any application of such revenues or monies to the payment of debt service, reserve requirements, if any, and other costs attributable to the funding of the capital costs of such entity, shall be allocated, credited and distributed to such source entity. Any other revenues or monies which are deposited in the funds or accounts authorized by this section which are required by law to be allocated or paid to the authority or its subsidiaries or New York city transit authority or its subsidiaries, shall be allocated or paid to the entity to which it is required to be allocated or paid by law after reduction by an amount equal to the portion thereof applied to the payment of debt service, reserve requirements, if any, and other costs attributable to the funding of the capital costs of such entity. In determining the amount of debt service, reserve requirements, if any, and other costs attributable to the authority and its subsidiaries and the New York city transit authority and its subsidiaries, the authority shall make such calculation based upon the percentage of the proceeds of the bonds, notes and other obligations expended for the capital costs attributable to each such entity. The authority may utilize any interim allocation of such distributions, provided that within ninety days after the end of each calendar year, the authority shall certify to the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, that the aggregate amount of monies transferred to each of the authority and its subsidiaries, and New York city transit authority and its subsidiaries in respect of such calendar year, taking into account any interagency repayments or reimbursements anticipated to be made in the next succeeding calendar year, is not less than the amounts required to be paid or transferred to such entities.

3. For the purpose of appropriately aligning and allocating the ultimate responsibility for debt service among and between the authority and its subsidiaries, New York city transit authority and its subsidiaries, or Triborough bridge and tunnel authority (each, an "affiliated group"), and except as otherwise authorized or required by law, in connection with the application of revenues, subsidies or other monies or securities of an affiliated group to pay the debt service attributable to bonds, notes or other obligations which provide funding of the capital costs of another affiliated group or to refund or redeem bonds, notes or other obligations the proceeds of which were used to fund the capital costs of another affiliated group, the affiliated group for whose benefit debt service is paid or obligations refunded or redeemed, shall repay, through payments, adjustments or other form of reconciliation, such amounts to the affiliated group that made such payments not later than the end of the next succeeding fiscal year, provided, however, that in connection with any refunding or redemption of bonds, notes or other obligations, such repayment, adjustments or other form of reconciliation shall be completed within the period of the applicable capital program plan.

*** § 1270-e. Implementation of the Transportation Infrastructure Bond Act of 2000.** 1. In accordance with the provisions of the Transportation Infrastructure Bond Act of 2000 authorizing the creation of general obligation debt in the amount of three billion eight hundred million dollars ($3,800,000,000), the moneys received by the state from the sale of the bonds and/or notes shall be expended for uses eligible pursuant to the Transportation Infrastructure Bond Act of 2000 pursuant to annual appropriations as follows:

(a) One billion nine hundred million dollars ($1,900,000,000) as authorized by paragraph (a) of subdivision two of section four hundred seventy of the transportation law;

(b) Three hundred million dollars ($300,000,000) as authorized by paragraph (b) of subdivision two of section four hundred seventy of the transportation law; and

(c) One billion six hundred million dollars ($1,600,000,000) as authorized by subdivision two of this section.

2. One billion six hundred million dollars of moneys received by the state from the sale of bonds and/or notes sold pursuant to the Transportation Infrastructure Bond Act of 2000 for uses eligible pursuant to subdivision c of section four of the Transportation Infrastructure Bond Act of 2000 shall be expended pursuant to annual appropriations for the construction, reconstruction, replacement, improvement, reconditioning, rehabilitation and preservation including engineering, construction management, the preparation of designs, plans, specifications, estimates, environmental impact statements, appraisals and surveys, and the acquisition of real property and interests therein and site preparation and clearances, required or expected to be required in connection therewith, of urban and commuter passenger and freight rail, omnibus, mass transit and rapid transit systems, facilities and equipment, including acquisition, and including the full-length Second Avenue subway and the Long Island Rail Road East-Side access project, all of which are capital elements described in the two thousand--two thousand four capital program plans approved by the metropolitan transportation authority capital program review board.

3. All actions taken by the authority in connection with the receipt and expenditure of moneys received from the state from the sale of bonds pursuant to the Transportation Infrastructure Bond Act of 2000 shall be reviewed for consistency with provisions of the federal internal revenue code and regulations thereunder, in accordance with procedures established in connection with the issuance of any such tax exempt bonds, to preserve the tax exempt status of such bonds.

* NB Not effective due to defeat of the Transportation Bond Act of 2000

§ 1270-f. Implementation of the rebuild and renew New York transportation bond act of two thousand five. 1. In accordance with the provisions of the rebuild and renew New York transportation bond act of two thousand five authorizing the creation of general obligation debt in the amount of two billion nine hundred million dollars ($2,900,000,000), the moneys received by the state from the sale of the bonds and/or notes shall be expended for uses eligible pursuant to the rebuild and renew New York transportation bond act of two thousand five pursuant to annual appropriations as follows:

(a) One billion four hundred fifty million dollars ($1,450,000,000) as authorized by subdivision two of section four hundred eighty of the transportation law;

(b) One billion four hundred fifty million dollars ($1,450,000,000) as authorized by subdivision two of this section.

2. One billion four hundred fifty million dollars ($1,450,000,000) of moneys received by the state from the sale of bonds and/or notes sold pursuant to the rebuild and renew New York transportation bond act of two thousand five for uses eligible pursuant to subdivision b of section four of the rebuild and renew New York transportation bond act of two thousand five shall be expended pursuant to annual appropriations for the construction, reconstruction, replacement, improvement, reconditioning, rehabilitation and preservation including engineering, construction, management, the preparation of designs, plans, specifications, estimates, environmental impact statements, appraisals and surveys, and the acquisition of real property and interests therein and site preparation and clearances, required or expected to be required in connection therewith, of urban and commuter passenger and freight rail, omnibus, mass transit and rapid transit systems, facilities and equipment, including acquisition, all of which are capital elements described in the two thousand five -- two thousand nine capital program plans as submitted to and approved by the metropolitan transportation authority capital program review board, whether before, on, or after the effective date of the chapter of the laws of two thousand five which added this section.

3. All actions taken by the authority in connection with the receipt and expenditure of moneys received from the state from the sale of bonds pursuant to the rebuild and renew New York transportation bond act of two thousand five shall be reviewed for consistency with provisions of the federal internal revenue code and regulations thereunder, in accordance with procedures established in connection with the issuance

of any such tax exempt bonds, to preserve the tax exempt status of such bonds.

§ 1270-g. Regulation of certain authority expenditures. The authority shall implement policies as appropriate to minimize unwarranted expenses and to protect against abuses in connection with (i) the granting of any privileges or benefits having financial value, other than wage payments or expense reimbursements, to members or staff of the authority, or any subsidiary or other authority created by the authority; and (ii) the full-time and part-time assignment and use of automobiles owned or leased by the authority, or any subsidiary or other authority created by the authority, and the use by authority employees and board members of livery vehicles, as defined in section one hundred twenty-one-e of the vehicle and traffic law.

§ 1270-h. Metropolitan transportation authority finance fund. 1. The authority shall establish a fund to be known as the "metropolitan transportation authority finance fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority.

2. The comptroller shall deposit into the metropolitan transportation authority finance fund (a) monthly, pursuant to appropriation, the moneys deposited in the mobility tax trust account of the metropolitan transportation authority financial assistance fund pursuant to any provision of law directing or permitting the deposit of moneys in such fund, and (b) without appropriation, the revenue including taxes, interest and penalties collected in accordance with article twenty-three of the tax law.

3. Moneys in the fund may be (a) pledged by the authority to secure and be applied to the payment of the bonds, notes or other obligations of the authority issued on or after the effective date of this section to finance capital projects of the authority and its subsidiaries and the New York city transit authority and any subsidiaries; or (b) used for payment of capital costs, including debt service, reserve

requirements, if any, the payment of amounts required under bond and note facilities or agreements related thereto, the payment of federal government loans, security or credit arrangements or other agreements related thereto, and the payment of all costs related to such obligations, of or for the authority, the New York city transit authority and their subsidiaries as the authority shall determine. Subject to the provisions of any such pledge, or in the event there is no such pledge, any excess moneys in this fund may be used by the authority for payment of operating costs of, and capital costs, including debt service and reserve requirements, if any, of or for the authority, the New York city transit authority and their subsidiaries as the authority shall determine. To the extent moneys in the fund have been pledged by the authority to secure and pay the bonds, notes or other obligations of the authority issued to finance capital projects of the authority and its subsidiaries and the New York city transit authority and any subsidiaries as herein provided, monies deposited into the fund shall be deposited to the extent necessary to satisfy the requirements of any debt service or reserve requirements, if any, of the resolution authorizing such bonds, notes or other obligations.

4. Commencing September first, two thousand twenty-five, no later than the last business day of each month, after satisfying the requirements of any debt service or reserve requirements, if any, of any resolution authorizing bonds, notes or other obligations, the authority shall transfer twenty-eight and five-tenths percent of the revenue, including taxes, interest and penalties collected in accordance with article twenty-three of the tax law to the 2025 to 2029 capital program account in the metropolitan transportation authority capital lockbox fund established pursuant to section five hundred fifty-three-j of this chapter.

5. Any monies deposited in the fund shall be held in the fund free and clear of any claim by any person arising out of or in connection with article twenty-three of the tax law. Without limiting the generality of the foregoing and without limiting the rights and duties of the commissioner of taxation and finance under article twenty-three of the tax law, no entity paying a mobility tax under article twenty-three of

the tax law shall have any right or claim against the authority, any of their bondholders, any of the authority's other subsidiaries or the New York city transit authority or any subsidiary to any moneys in or distributed from the fund or in respect of a refund, rebate, credit or reimbursement of taxes paid under article twenty-three of the tax law.

§ 1270-i. New York city transportation assistance fund. 1. The authority shall create and establish a fund to be known as the "New York city transportation assistance fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority. The New York city transportation assistance fund shall consist of three separate accounts: (i) the "subway action plan account"; (ii) the "outer borough transportation account"; and (iii) the "general transportation account". The authority shall make deposits in the subway action plan account of the moneys received by it pursuant to the provisions of subdivision (c) of section twelve hundred ninety-nine-H of the tax law in accordance with the provisions thereof, shall make deposits in the outer borough transportation account of the moneys received by it pursuant to the provisions of subdivision (d) of section twelve hundred ninety-nine-H of the tax law in accordance with the provisions thereof, and shall make deposits in the general transportation account of the moneys received by it pursuant to the provisions of subdivision (e) of section twelve hundred ninety-nine-H of the tax law in accordance with the provisions thereof, and pursuant to the provisions of section eleven hundred eleven-C of vehicle and traffic law.

2. Moneys in the subway action plan account shall be used for the exclusive purpose of funding the operating and capital costs of the metropolitan transportation authority's New York city subway action plan. Such funds may be used for infrastructure including construction, reconstruction, reconditioning and preservation of transportation systems, facilities and equipment, acquisition of property, and for operating costs including personal services, non-personal services, fringe benefits, and contractual services. Funds may also be used to pay or to reimburse the authority for its payment of debt service and reserve requirements on that portion of authority bonds and notes issued

by the authority for capital costs of the metropolitan transportation authority's New York city subway action plan.

3. Moneys in the outer borough transportation account shall be used for the exclusive purpose of funding the operating and capital costs of metropolitan transportation authority facilities, equipment and services in the counties of Bronx, Kings, Queens and Richmond, and any projects improving transportation connections from such counties to New York County. Such funds may be used for infrastructure including construction, reconstruction, reconditioning and preservation of transportation systems, facilities and equipment, acquisition of property, and for operating costs including personal services, non-personal services, fringe benefits, and contractual services. Funds may also be used to fund a toll reduction program for any crossings under the jurisdiction of the metropolitan transportation authority or its subsidiaries or affiliates. Funds may also be used to pay or to reimburse the authority for its payment of debt service and reserve requirements on that portion of authority bonds and notes that have been issued by the authority specifically for the authorized purpose of this account. Notwithstanding any law to the contrary, final approval of the use of any funds paid into the outer borough transportation account shall be unanimously approved by three members of the Metropolitan Transportation Authority Capital Program Review Board, established pursuant to section twelve hundred sixty-nine-a of this title so designated pursuant to this subdivision. For purposes of such final approvals the three voting members are: the member appointed upon recommendation by the temporary president of the senate; the member appointed upon recommendation of speaker of the assembly; and the member appointed by the governor.

4. Moneys in the general transportation account shall be used for funding the operating and capital costs of the metropolitan transportation authority. Such funds may be used for infrastructure including construction, reconstruction, reconditioning and preservation of transportation systems, facilities and equipment, acquisition of property, and for operating costs including personal services, non-personal services, fringe benefits, and contractual services. Funds

may also be used to pay or to reimburse the authority for its payment of debt service and reserve requirements on that portion of authority bonds and notes that have been issued by the authority specifically for the purposes of this account.

5. Any revenues deposited in the subway action plan account, the outer borough transportation account, or the general transportation account pursuant to subdivision one of this section shall be used exclusively for the purposes described, respectively, in subdivisions two, three, and four of this section. Such revenues shall only supplement and shall not supplant any federal, state, or local funds expended by the metropolitan transportation authority, such authority's affiliates or subsidiaries for such respective purposes.

6. Any revenues deposited into the New York city transportation assistance fund pursuant to subdivision one of this section shall not be diverted into the general fund of the state, any other fund established by the chapter of the laws of two thousand eighteen which added this subdivision, any other fund maintained for the support of any other governmental purpose, or for any other purpose not authorized by subdivisions two, three and four of this section.

7. The authority shall report on the receipt and uses of all funds received by the New York city transportation assistance fund, and in each of its accounts, to the director of the budget, the temporary president of the senate, and the speaker of the assembly, on an annual basis no later than the first day of February.

§ 1270-j. Metropolitan transportation authority commercial gaming revenue fund. 1. The authority shall establish a fund to be known as the "metropolitan transportation authority commercial gaming revenue fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority.

2. The gaming commission shall deposit into the metropolitan transportation authority commercial gaming revenue fund, without

appropriation, the revenue including taxes collected in accordance with the relevant provisions of paragraphs (b), (c), (d) and (e) of subdivision one of section thirteen hundred fifty-two of the racing, pari-mutuel wagering and breeding law and licensing fees collected in accordance with the relevant provisions of subdivision three of section thirteen hundred twenty-one-e of the racing, pari-mutuel wagering and breeding law.

3. Moneys in the fund may be used by the authority for payment of operating costs of or for the authority, the New York city transit authority and their subsidiaries as the authority shall determine, including debt service. Monies in the fund shall not be pledged to secure bonds, notes or other obligations of the authority, the New York city transit authority and their subsidiaries.

4. Nothing contained in this section shall be deemed to restrict the right of the State to amend, repeal, modify or otherwise alter statutes imposing or relating to the taxes, interest and penalties, fees and charges producing revenues for deposit in the metropolitan transportation authority commercial gaming revenue fund or, if applicable, any appropriations relating thereto.

§ 1271. Agreement of the state. The state does hereby pledge to and agree with the authority and its subsidiaries, New York city transit authority and its subsidiaries, and Triborough bridge and tunnel authority, and the holders of any notes, bonds or other obligations, including lease obligations, issued or incurred under this title, that the state will not limit or alter the denial of authority under subdivision nine of section twelve hundred sixty-nine of this title, or the rights and powers vested in the authority and its subsidiaries, New York city transit authority and its subsidiaries, and Triborough bridge and tunnel authority by this title to fulfill the terms of any agreements made by any of them with the holders thereof, or in any way impair the rights and remedies of such holders until such notes, bonds or other obligations, including lease obligations, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the authority or its subsidiaries, New York city transit authority and its subsidiaries, and Triborough bridge and tunnel authority is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority and its subsidiaries, New York city transit authority and its subsidiaries, and Triborough bridge and tunnel authority are each authorized to include this pledge and agreement of the state in any agreement with the holders of such notes, bonds or other obligations, including lease obligations.

§ 1272. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers publishing and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption.

§ 1273. Remedies of noteholders and bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue than outstanding, by instrument or instruments filed in the office of the clerk of any county in which the authority operates and has an office and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fares, tolls, rentals, rates, charges and other fees adequate to carry out any agreement as to, or pledge of, such fares, tolls, rentals, rates, charges and other fees and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

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

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

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the instrument or instruments are filed in accordance with subdivision one of this section.

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the authority, to the comptroller and to the attorney general of the state.

§ 1274. Notes and bonds as legal investment. The notes and bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1275. Exemption from taxation. It is hereby found, determined and declared that the creation of the authority and the carrying out of its purposes is in all respects for the benefit of the people of the state of New York and for the improvement of their health, welfare and prosperity and is a public purpose, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. Without limiting the generality of the following provisions of this section, property owned by the authority, property leased by the authority and used for transportation purposes, and property used for transportation purposes by or for the benefit of the authority exclusively pursuant to the provisions of a joint service arrangement or of a joint facilities agreement or trackage rights agreement shall all be exempt from taxation and special ad valorem levies. The authority shall be required to pay no fees, taxes or assessments, whether state or local, including but not limited to fees, taxes or assessments on real estate, franchise taxes, sales taxes or other excise taxes, upon any of its property, or upon the use thereof, or upon it activities in the operation and maintenance of its facilities or on any fares, tolls, rentals, rates, charges or other fees, revenues or other income received by the authority and the bonds of the authority and the income therefrom shall at all times be exempt from taxation, except for gift and estate taxes and taxes on transfers. This section shall constitute a covenant and agreement with the holders of all bonds issued by the authority. The terms "taxation" and "special ad valorem levy" shall have the same meanings as defined in section one hundred two of the real property tax law and the term "transportation purposes" shall have the same meaning as used in titles two-a and two-b of article four of such law.

§ 1276. Actions against the authority. 1. As a condition to the consent of the state to such suits against the authority, in every action against the authority for damages, for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority or other officer designated for such purpose and that the authority has neglected or refused to make an adjustment or payment thereof.

2. An action against the authority founded on tort, except an action for wrongful death, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of

this chapter.

3. The authority shall be liable, and shall assume the liability to the extent that it shall save harmless any duly appointed officer or employee of the authority, for the negligence of such officer or employee, in the operation of a vehicle or other facility of transportation owned or otherwise under the jurisdiction and control of the authority in the discharge of a duty imposed upon such officer or employee at the time of the accident, injury or damages complained of, while otherwise acting in the performance of his duties and within the scope of his employment.

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

5. The rate of interest to be paid by the authority upon any judgment for which it is liable shall not exceed four per centum per annum.

6. The provisions of this section which relate to the requirement for service of a notice of claim shall not apply to a subsidiary corporation of the authority. In all other respects, each subsidiary corporation of the authority shall be subject to the provisions of this section as if such subsidiary corporation were separately named herein, provided, however, that a subsidiary corporation of the authority which is a stock corporation shall not be subject to the provisions of this section except with respect to those causes of action arising on and after the first day of the twelfth calendar month following that calendar month in which such stock corporation becomes a subsidiary corporation of the authority.

§ 1276-a. Annual audit of authority. The comptroller shall conduct an annual audit of the books and records of the authority and its subsidiary corporations. Such audit shall include a complete and thorough examination of such authority's receipts, disbursements, revenues and expenses during the prior fiscal year in accordance with the categories or classifications established by such authority for its own operating and capital outlay purposes; assets and liabilities at the end of its last fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds; schedule of bonds and notes outstanding at the end of its fiscal year and their redemption dates, together with a statement of the amounts redeemed and incurred during such fiscal year; operations, debt service and capital construction during the prior fiscal year.

The comptroller, upon completion of such audit, shall within sixty days thereafter, report to the governor and the legislature his findings, conclusions and recommendations thereof.

§ 1276-b. Authority budget and financial plan. 1. In addition to the requirements of section twenty-eight hundred two of this chapter, each authority budget and plan shall be posted on its website and shall: (a) present information relating to the authority and each of its agencies in a clear and consistent manner and format; (b) be prepared in accordance with generally accepted accounting principles, except as otherwise consented to by the comptroller upon good cause shown; (c) be based on reasonable assumptions and methods of estimation; (d) include estimates of projected operating revenues and expenses; (e) identify any planned transaction that would shift resources, from any source, from one fiscal year to another, and the amount of any reserves; and (f) contain a summary in plain English of the principal information in the budget and conclusions to be drawn from it.

2. Supporting documentation. The authority shall prepare and make available for public inspection on its website information that details the sources of data and the assumptions and methods of estimation used to calculate all operating and capital budget projections, consistent

with generally accepted budgetary practices.

3. The authority shall establish at least annually the quarterly revenue and expense targets for the authority, and for each subsidiary or other authority created by the authority itself and for which it reports financial data.

4. Monitoring the budget and financial plan. The authority shall prepare and make available for public inspection on its website: (a) within sixty days of the release of the adopted budget and any updates to the budget (except updates released within ninety days of the close of the fiscal year), monthly projections for the current fiscal year of all revenues and expenses, staffing for the authority and each of its agencies, and utilization for each of the authority's agencies that operate transportation systems, including bridges and tunnels; (b) within sixty days after the close of each quarter, a comparison of actual revenues and expenses, actual staffing and actual utilization to planned or projected levels for each of the authority's agencies that operate transportation systems, including bridges and tunnels, with an explanation of each material variance and its budgetary impact; and (c) within ninety days after the close of each quarter, the status of each gap-closing initiative with a projected value greater than one million dollars in any given fiscal year; the status of capital projects by capital element, including but not limited to commitments, expenditures and completions; and an explanation of material variances from the plan, cost overruns and delays.

5. Strategic operation plan. Financial information required to be submitted by the authority pursuant to paragraphs d and e of subdivision one of section twelve hundred sixty-nine-c of this title shall be presented in a format consistent with the budget and plan, in downloadable, searchable format.

6. The authority shall publish all data pertaining to each authority's budget and financial plans as required by this section in a common, machine readable format on the authority's website as defined by executive order number ninety-five of two thousand thirteen, "Using

Technology to Promote Transparency, Improve Government Performance and Enhance Citizen Engagement" or any successor order. Such data shall include, but not be limited to:

(a) estimates of projected operating revenues and expenses, including monthly projections for the current fiscal year of all revenues and expenses;

(b) quarterly revenue and expense targets;

(c) staffing for the authority and each of its agencies;

(d) a comparison of actual revenues and expenses, actual staffing and actual utilization to planned or projected levels for each of the authority's agencies that operate transportation systems;

(e) the status of each gap-closing initiative with a projected value greater than one million dollars in any given fiscal year; and

(f) the status of capital projects by capital element, including but not limited to commitments, expenditures and completions; and material variances from the plan, cost overruns and delays.

7. The data required to be published pursuant to this section shall be made in a single tabular data file in a common, machine readable format and shall be accessible on the authority's website and the website data.ny.gov or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under executive order number ninety-five of two thousand thirteen, or any successor agency or order.

§ 1276-c. Independent audit of authority. The independent auditor retained by the authority shall not provide to the authority, contemporaneously with the audit unless it shall have previously received written approval by the audit committee any non-audit service, including:

1. routine bookkeeping or other services;

2. financial information systems design and implementation;

3. appraisal or valuation services, fairness opinions, or

contribution-in-kind reports;

4. actuarial services;

5. outsourcing services;

6. authority management functions or human resources;

7. broker or dealer, investment advisor or investment banking services;

8. legal services and expert services unrelated to the audit.

§ 1276-d. Independent audit by the legislature. After the submission of the annual independent audit report to the legislature pursuant to section two thousand eight hundred two of this chapter, and after review of such report, the temporary president of the senate and the speaker of the assembly may commission an auditing firm, every two years, after the year two thousand nine, to conduct an independent audit of the authority, including its subsidiaries. The temporary president of the senate and the speaker of the assembly shall set the scope of such audit, and determine the terms of the request for proposal for such audit. Such audit shall be performed for the year two thousand nine. The authority shall fully cooperate with and assist in such an audit.

§ 1276-e. Reporting. The authority shall post on its website on or before the first of May, the law firms retained by the authority which in the past year received payment for services in such year.

§ 1276-f. Metropolitan transportation authority transit performance metrics. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "additional platform time" means for the subways the average added time that customers spend waiting on the platform for a train, compared with their scheduled wait time.

(b) "additional train time" means for the subways the average additional time customers spend onboard the train, compared with their scheduled on-train time.

(c) "customer journey time performance" means for the subways the percentage of customer trips with an estimated total travel time within five minutes of the scheduled total travel time.

(d) "elevator availability" means percentage of facilities that require the use of stairs and have an operational elevator.

(e) "escalator availability" means percentage of facilities that require the use of stairs and have an operational escalator.

(f) "additional journey time" means for the subways comparison of measured or estimated actual journey time compared to schedule.

(g) "journey time" means for the subways time on platform and the time on train. Journey time is calculated as either actual journey times that customers experience, or as scheduled journey times. Journey time and its components may be based on a manual or an automatically generated sample.

(h) "major incidents" mean (1) for the subway incidents that delay fifty or more trains where a train is considered delayed if it is more than five minutes late or skips planned stops, and (2) for the commuter railroads incidents that delay ten or more trains greater than five minutes and fifty-nine seconds.

(i) "lost time accidents" means a job related incident that results in the inability of an employee to perform full job duties for at least one working day beyond the day of the incident. Rates are based on lost time accidents per one hundred employees.

(j) "employees' lost time days" means for the commuter railroads the total number of calendar days employees' treating medical professionals have determined that they cannot work due to an occupation injury or illness.

(k) "employee lost time rate" means for the commuter railroads the number of occupational injuries or illnesses per two hundred thousand employee hours worked.

(l) "terminal on-time performance" means (1) for the subways the percentage of trains arriving at their destination terminals as scheduled with a train counted as on-time if it arrives at its destination early, on time, or no more than five minutes late, and has not skipped any planned stops, and (2) for the commuter railroads the percentage of trains arriving at their final destination terminals as scheduled with a train counted as on-time if it arrives at its destination early, on-time or no more than five minutes and fifty-nine seconds late. Provided that the percentage of trains not arriving at their final destinations shall include unscheduled cancellations.

(m) "additional data" means (1) for the subways the percentage of trains arriving at their scheduled terminals between four and five minutes after their scheduled arrival time; (2) for the commuter railroads the percentage of trains arriving at their scheduled terminals between four and five minutes and fifty-nine seconds after their scheduled arrival time; and (3) for commuter rails the percentage of cancelled trains.

2. Reporting. The authority shall take all practicable measures to collect, compile and publish meaningful and informative performance metrics for all customer trips provided by the New York city transit authority subways, Long Island rail road and Metro-North commuter railroad on a monthly basis including all applicable performance metrics as defined in subdivision one of this section. If the authority cannot practicably collect and compile any such performance metric for a customer trip type, it may, subject to the approval by the chairman of the metropolitan transportation authority, substitute an equivalent performance metric based on international public transport benchmarking and best practices that comparably measures system performance and service delivery.

3. International benchmarking. (a) The authority shall publish an annual report presenting the authority's performance in comparison with other national and international peer agencies. This report shall include, but not be limited to, the following metrics:

(i) total operating cost per car per mile;

(ii) maintenance cost per car per mile;

(iii) passenger journeys per total staff and contractor hours; and

(iv) staff hours lost to accidents.

(b) The authority shall also provide an annual implementation report to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the assembly and senate, and the chairs and ranking members of the transportation and corporations, authorities and commissions committees on or before January thirty-first every year, and publish such report on its website.

§ 1277. Station operation and maintenance. 1. The operation, maintenance and use of passenger stations shall be public purposes of the city of New York and the counties within the district. The total cost to the authority and each of its subsidiary corporations of operation, maintenance and use of each passenger station within the district serviced by one or more railroad facilities of the authority or of such subsidiary corporation, including the buildings, appurtenances, platforms, lands and approaches incidental or adjacent thereto, shall be borne by the city of New York if such station is located in such city or, if not located in such city, by such county within the district in which such station is located. On or before June first of each year, the authority shall, in accordance with the method specified herein, determine and certify to the city of New York and to each county within the district the respective allocation of costs related to the operation, maintenance and use of passenger stations within such city and each such other county, for the twelve month period ending the preceding March thirty-first.

a. For the year commencing April first, nineteen hundred ninety-nine, the total payment amount to be billed by the authority for the operation, maintenance and use of each passenger station within the city of New York and the counties of Nassau, Suffolk, Westchester, Dutchess, Putnam, Orange, and Rockland shall be calculated by summing the total amount listed in the base amount table plus an adjustment to such base year amount equal to the base amount times the increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers for the New York, Northeastern-New Jersey Standard Metropolitan Statistical Area for the twelve-month period being billed.

BASE AMOUNT TABLE

County	Base Amount

Nassau	$19,200,000
Suffolk	$11,834,091
Westchester	$13,269,310
Dutchess	$ 1,581,880
Putnam	$ 618,619
Orange	$ 327,247
Rockland	$ 34,791
City of New York	$61,435,330

b. For each year thereafter, such total payment for each such county shall be the same amount as the total payment during the immediately prior year, plus an adjustment equal to the prior year amount times the increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers for the New York, Northeastern-New Jersey Standard Metropolitan Statistical Area for the twelve-month period being billed.

2. On or before the following September first, of each year, such city and each such county shall pay to the authority such cost or amount so certified to it on or before the preceding June first. Such city and each such county shall have power to finance such costs to it by the issuance of budget notes pursuant to section 29.00 of the local finance law. For the year beginning April first, two thousand four, the authority, the city of New York and the counties of Nassau, Suffolk, Westchester, Dutchess, Putnam, Orange, and Rockland may, after having reached an agreement, recommend to the legislature modifications to the amounts set forth above based upon changes made to commuter services including but not limited to changes in the number of passenger stations within such counties or the level of commuter rail service provided to any such passenger stations. Failure between the authority and between the counties to reach agreement will be referred to the state comptroller for mediation. If the mediation is unsuccessful, each party and the state comptroller may submit a recommendation to the governor and the legislature for legislative action.

3. In the event that a city or county shall fail to make payment to the authority for station maintenance as required pursuant to this section, or any part thereof, the chief executive officer of the

authority or such other person as the chairman shall designate shall certify to the state comptroller the amount due and owing the authority at the end of the state fiscal year and the state comptroller shall withhold an equivalent amount from the next succeeding state aid allocated to such county or city from the motor fuel tax and the motor vehicle registration fee distributed pursuant to former section one hundred twelve of the highway law, or amounts distributed pursuant to section ten-c of the highway law, or per capita local assistance pursuant to section fifty-four of the state finance law subject to the following limitations: prior to withholding amounts due the authority from such county or city, the comptroller shall pay in full any amount due the state of New York municipal bond bank agency, on account of any such county's or city's obligation to such agency; the city university construction fund pursuant to the provisions of the city university construction fund act; the New York city housing development corporation, pursuant to the provisions of the New York city housing development corporation act (article twelve of the private housing finance law); and the transit construction fund pursuant to the provisions of title nine-A of article five of this chapter. The comptroller shall give the director of the budget notification of any such payment. Such amount or amounts so withheld by the comptroller shall be paid to the authority and the authority shall use such amount for the repayment of the state advances hereby authorized. When such amount or amounts are received by the authority, it shall credit such amounts against any amounts due and owing by the city or county on whose account such amount was withheld and paid.

§ 1277-a. Transfer and receipt of surplus funds. Notwithstanding any provision of this title or any other provision of law, general, special or local, the authority may from time to time transfer and pay over to New York city transit authority or triborough bridge and tunnel authority all or any part of its surplus funds; and may accept and use any moneys transferred and paid over to it by New York city transit authority or triborough bridge and tunnel authority.

§ 1278. Title not affected if in part unconstitutional or ineffective. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.

§ 1279. Metropolitan transportation authority inspector general. 1. There is hereby created in the metropolitan transportation authority an office of metropolitan transportation authority inspector general. The inspector general shall be appointed by the governor with the advice and consent of the senate. The inspector general shall, prior to his appointment, have had at least ten years experience in the management of transportation services, in auditing and investigation of governmental operations, or in services related to management and productivity improvement. The term of office of the inspector general shall be five years from the effective date of appointment, and he shall serve at the pleasure of the governor. The salary of the inspector general shall be determined by the authority board.

2. The inspector general shall annually submit to the board of the metropolitan transportation authority a budget request for the operation of the office. If the board disapproves any portion of such request and the commissioner of transportation determines such disapproval to be unreasonable, such commissioner shall withhold from payments due such authority, the amount so determined to be unreasonable and transfer such amount to the office of the metropolitan transportation authority inspector general.

3. The inspector general shall have full and unrestricted access to all records, information, data, reports, plans, projections, matters, contracts, memoranda, correspondence and any other materials of the authority and its subsidiaries, the Long Island railroad, metro-north

railroad, metropolitan suburban bus authority and Staten Island rapid transit operating authority, of the Triborough bridge and tunnel authority, and of the New York city transit authority and its subsidiary, the Manhattan and Bronx surface transit operating authority, or any other agency that may come under the control of the authority, or within their custody or control.

4. The inspector general, notwithstanding the provisions of title nine of this article and this title, and of title three of article three, shall have the following functions, powers and duties:

(a) to receive and investigate complaints from any source or upon his own initiative concerning alleged abuses, frauds and service deficiencies, including deficiencies in the maintenance and operation of facilities, relating to the authority and its subsidiaries as listed in subdivision two above, the Triborough bridge and tunnel authority and the New York city transit authority and its subsidiary;

(a-1) to receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse by any police officer under the jurisdiction of the office of the metropolitan transportation authority and promptly inform the division of criminal justice services, in the form and manner as prescribed by the division, of such allegations and the progress of investigations related thereto unless special circumstances require confidentiality. Nothing in this paragraph shall require the division of criminal justice services to participate in the investigation of such allegations or take action or prevent the division of criminal justice services from taking action authorized pursuant to subdivision three of section eight hundred forty-five of the executive law in the time and manner determined by the commissioner of the division of criminal justice services.

(b) to initiate such reviews as he may deem appropriate of the operations of the authority and its subsidiaries as listed in subdivision two above, the Triborough bridge and tunnel authority, or the New York city transit authority and its subsidiary, in order to identify areas in which performance might be improved and available funds used more effectively;

(c) to recommend remedial actions to be taken by the authority and its subsidiaries as listed in subdivision two of this section, the Triborough bridge and tunnel authority, and the New York city transit authority and its subsidiary, to overcome or correct operating or maintenance deficiencies and inefficiencies that he determines to exist;

(d) to make available to appropriate law enforcement officials information and evidence which relate to criminal acts that he may obtain in carrying out his duties;

(e) to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and documents as he may deem to be relevant to any inquiry or investigation undertaken pursuant to this section and to delegate such powers to a duly authorized deputy inspector general;

(f) to monitor the implementation by the authority and its subsidiaries, the Triborugh bridge and tunnel authority and the New York city transit authority and its subsidiary of recommendations made by the inspector general or other audit agencies; and

(g) to do all things necessary to carry out the functions, powers and duties set forth in this section.

5. The inspector general shall cooperate, consult and coordinate with the state public transportation safety board with regard to any activity concerning the operations of the metropolitan transportation authority. With respect to any accident on the facilities of the metropolitan transportation authority, the primary responsibility for investigation shall be that of the board which shall share its findings with the metropolitan transportation authority inspector general.

6. The inspector general shall make annual public reports on his findings and recommendations. Such a report shall be filed in the office of the governor and with the legislature on or before the first day of February for the preceding year. The metropolitan transportation authority and its applicable constituent agencies shall prepare a response to the annual report and to any and all other final reports made by the inspector general within thirty days of receipt, which time may be extended by the inspector general in his discretion, indicating whether such authority intends to implement the recommendations in such reports, and, if not, why not. In addition, the metropolitan

transportation authority and its applicable constituent agencies shall give quarterly reports to the inspector general outlining the status of each of the recommendations made by the inspector general in his final reports. Copies of all of these reports shall be sent to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate transportation committee, the chairman of the senate finance committee, the chairman of the assembly corporations, authorities and commissions committee and the chairman of the assembly ways and means committee.

7. To effectuate the purposes of this section, the inspector general may request from any department, board, bureau, commission, office or other agency of the state, or of any of its political subdivisions, such cooperation, assistance, services and data as will enable him to carry out his functions, powers and duties hereunder, and they are authorized and directed to provide said cooperation, assistance, services and data.

§ 1279-a. Management advisory board. 1. There is hereby created in the office of the metropolitan transportation authority inspector general a management advisory board, consisting of thirteen members appointed by the governor, of whom two shall be appointed upon nomination by the temporary president of the senate, two upon nomination by the speaker of the assembly, one upon nomination by the minority leader of the senate and one upon nomination by the minority leader of the assembly. All members shall serve for a term of three years, except that, of the two members first appointed upon nomination by the temporary president of the senate, one shall serve for a term of two years and one shall serve for a term of one year; of the two members first appointed upon nomination by the speaker of the assembly, one shall serve for a term of two years and one shall serve for a term of one year; and, of two of the members first appointed by the governor without nomination by any other person, two shall each serve for a term of two years and two shall each serve for a term of one year. One of the members appointed to the management advisory board directly by the governor shall be designated by the governor to serve as its chairman.

2. All members of the management advisory board shall be residents of the metropolitan transportation district, and shall be persons with substantial experience in the management of private enterprise, in the delivery of public services, or in labor or labor-management relations.

3. The management advisory board shall assist the metropolitan transportation authority inspector general in identifying ways to improve services, reduce costs and increase the efficiency of the authority and its subsidiaries, the Triborough bridge and tunnel authority or the New York city transit authority and its subsidiary.

4. No later than April first, nineteen hundred eighty-four, and annually thereafter, the management advisory board shall submit to the governor and the legislature a report on its activities during the previous year.

5. The office of the metropolitan transportation authority inspector general shall provide the management advisory board with such staff support as may be required for the performance of its duties.

6. Members of the management advisory board shall serve without compensation, but shall be reimbursed for expenses reasonably incurred in the performance of their duties.

§ 1279-b. Transition--election to withdraw from the metropolitan commuter transportation district. 1. The counties of Dutchess, Orange and Rockland shall have an option to withdraw from the metropolitan commuter transportation district and have such withdrawal take effect on either: (a) January first, nineteen hundred eighty-seven. If any such county plans to withdraw from the district on January first, nineteen hundred eighty-seven, it shall (i) no later than seventy-five days after the effective date of this section, furnish the commissioner of transportation, and chairman of the authority and the other counties which have an option to withdraw, a resolution adopted by the county legislature providing notice of intent to withdraw, (ii) on or before October first, nineteen hundred eighty-six, furnish to the commissioner of transportation, the chairman of the authority and other counties which have an option to withdraw, a resolution adopted by the county legislature providing for a public transportation plan. For the purposes of this section, a "public transportation plan" shall mean a plan that maintains adequate and continuous public transportation services from the withdrawing county to the city of New York or any terminus previously served, provides a reasonable level of rail passenger service, provides a schedule for implementing such service, protects the public investment in the rail transportation system and any other criteria deemed necessary by the commissioner of transportation. Prior to withdrawal pursuant to this paragraph or paragraph (b) of this subdivision, a county must receive approval of its public transportation plan pursuant to paragraph (c) of this subdivision, (iii) on or before December fifteenth, nineteen hundred eighty-six, furnish the commissioner of transportation, a copy of an agreement with the authority or an operator of rail passenger service for the provision of rail passenger service to and from such county and the city of New York or any terminus previously served.

If a county planning to withdraw on January first, nineteen hundred eighty-seven is unable to withdraw because it could not meet the requirements of this paragraph, it may elect to withdraw pursuant to paragraph (b) of this subdivision hereafter.

(b) January first, nineteen hundred eighty-eight or January first, nineteen hundred eighty-nine. If any such county plans to withdraw on either January first, nineteen hundred eighty-eight or January first, nineteen hundred eighty-nine, it shall (i) no later than ninety days after the first of January of the year immediately preceding the year in which such county plans to withdraw from the district, furnish the commissioner of transportation, the chairman of the authority and the other counties which have an option to withdraw, a resolution adopted by the county legislature providing notice of intent to withdraw from the district, (ii) no later than one hundred twenty days after the first of January of the year immediately preceding the year in which such county plans to withdraw from the district furnish to the commissioner of transportation, the chairman of the authority and the counties which have an option to withdraw a resolution adopted by the county legislature providing a public transportation plan as described in this section, (iii) on or before October first of the year immediately preceding the year in which such county plans to withdraw from the district, furnish to the commissioner a copy of an agreement with the authority or an operator of rail passenger service for the provision of rail passenger service to and from such county and the city of New York or any terminus previously served.

(c) No later than thirty days after receipt of the public transportation plan the commissioner of transportation shall, in writing, either approve such plan as conforming with the requirements heretofore described or disapprove such plan as failing to meet such requirements and the reasons therefor. Disapproval of a plan shall not prohibit a county from resubmitting a public transportation plan and such resubmitted plan shall be approved or disapproved no later than fifteen days after receipt by the commissioner of transportation. The public transportation plan shall be subject to any state or federal public hearing requirements which the authority would be subject to if the authority made the changes proposed by such plan.

(d) Any such county which plans to withdraw from the district must meet the requirements of this section prior to the effective date of withdrawal, and no withdrawal for the purposes of this section shall take effect unless such county furnishes the resolutions and agreement prior to the effective date of withdrawal.

2. The authority and any subsidiary corporation of the authority shall enter into an agreement or agreements with a county that plans to withdraw from the district to transfer and assign to such county all authority and subsidiary railroad facilities and operations, rights and obligations, and contract rights and obligations, including operating contract rights and obligations, which are owned, operated, maintained or used directly or by contract or which are otherwise involved in the provision of railroad services to such counties. Such agreement shall provide, in the event a facility, operation, right or obligation is necessary and material to the provision of rail passenger service in the district or is not assignable under applicable bond covenants or contracts or the parties agree that it should not be assigned, that the authority or subsidiary thereof shall continue to hold and be

responsible for such facility, operation, right or obligation and that such county shall reimburse to the authority that portion of the cost to the authority or subsidiary of its retention of such facility, operation, right or obligation that is allocable to such county. If the parties agree that the authority or subsidiary thereof shall operate the railroad facilities in a county after the effective date of such county's withdrawal, the agreement also shall provide for the terms and conditions of the operation of such service.

3. Within forty-five days of the effective date of this section, the authority and any subsidiary corporation of the authority shall provide to the counties of Dutchess, Orange and Rockland a written statement, including cost estimates and the useful life, if any, of all of its facilities, operations, rights and obligations relating to the provision of rail service in such counties.

4. The authority and any subsidiary corporation of the authority is authorized to enter into an agreement or agreements with a county that plans to withdraw from the district, pursuant to which the authority or subsidiary thereof will provide technical assistance to such county prior to, during and after the withdrawal, with respect to the transfer of ownership, operation, maintenance and use of railroad facilities within such county. Such agreement may provide that the county reimburse the authority or its subsidiary for the cost to the authority and its subsidiary for the provision of such technical assistance.

5. The authority shall have no obligation to undertake or continue any project or part thereof in a current or future capital program plan which pertains to railroad facilities within or services to a county that withdraws from the district on or after such date of withdrawal nor shall the authority enter into any contract for a project or part thereof which would increase liabilities pursuant to subdivision six of this section in a county after such county notifies the authority of its intent to withdraw as provided in subdivision one of this section, provided, however, that if the authority has executed a contract for the effectuation of a project or part thereof in a capital program plan in such county, it shall be assigned to such county in accordance with

subdivision two of this section, unless the parties agree that it shall not be assigned and that the authority or its subsidiary shall continue to be responsible therefor, in which event the county shall reimburse the authority or its subsidiary in accordance with the provisions of subdivision two of this section.

6. Any county which withdraws from the district shall reimburse to the authority or its subsidiary, within the time period agreed to by the parties, any capital expenditures heretofore undertaken by the authority or its subsidiary for railroad facilities only within such county which were financed by commuter railroad revenue bonds issued by the metropolitan transportation authority pursuant to section twelve hundred sixty-nine of this article and are assigned to such county in accordance with the provisions of subdivision two of this section.

7. The obligations of a county that withdraws from the district to reimburse the authority and any subsidiary corporation of the authority for the costs of operation, maintenance and use of passenger stations pursuant to section twelve hundred seventy-seven of this article, shall continue for any such costs incurred up to the effective date of the county's withdrawal from the district and for costs incurred thereafter that result from acts preceding such withdrawal, and the applicability of the payment provisions and procedures of such section twelve hundred seventy-seven to such county shall continue thereafter with respect to the aforesaid costs.

8. In the event of a county's failure to make payment of any monies determined by the authority to be owed and due it or any subsidiary corporation of the authority pursuant to the terms of any agreement entered into pursuant to this section, the authority is authorized to recover such payments in the same manner as in section twelve hundred seventy-seven of this article and the state comptroller shall withhold and pay monies to the authority in accordance with the procedures set forth in that section.

9. The term of office of any resident of a county that withdraws from the district under this section, as a member of the board of the

authority, the Metro-North rail commuter council or the management advisory board, which is based upon residence in such county, shall terminate upon the county's withdrawal and the office shall be deemed vacant and filled in the manner provided by law.

10. The provisions of this section and all agreements undertaken in accordance herewith shall be subject to the rights of the holders of any outstanding bonds or notes issued by the authority.

§ 1279-c. The office of legislative and community input. 1. The chairperson of the authority shall establish the office of legislative and community input for the purpose of communicating information to, and receiving comments, concerns and recommendations from, members of the legislature, and members of the permanent citizens advisory committee to the authority, as defined in section twelve hundred sixty-six-i of this chapter, on the following:

(a) the operations of the rapid transit, omnibus and commuter rail line facilities of the authority including, but not limited to:

(i) the quality of service provided on any rapid transit, omnibus, and commuter rail line or route;

(ii) the frequency of operating service on the authority's mass transit facilities;

(iii) the maintenance and condition of the authority's mass transit facilities including, but not limited to, rapid transit and commuter rail stations, railcars, buses, rail lines, fare collection systems and sound systems; and

(iv) proposed service changes, including any reductions or expansion of services, as it relates to the authority's mass transit facilities; and

(b) any proposed, submitted and/or approved capital program plan, its components, elements and projects, and associated expenditures. Any such comments, concerns and recommendations relating to the capital program plan, its components, elements and projects, and associated expenditures shall be taken into consideration in the development of the current and each successive capital program plan and/or any amendment to such plan.

2. The office shall establish a process to ensure timely notification of the receipt of, and response to, comments, concerns, and recommendations by members of the legislature or members of the permanent citizens advisory committee to the authority.

3. The chair and office shall prepare a report containing the following information:

(a) a compilation of the comments, concerns, and recommendations received by the office;

(b) how these comments, concerns or recommendations were or will be addressed, such as the authority's response by the incorporation or initiation of system and operational adjustments, improvements or expansions if applicable; and

(c) how these comments, concerns or recommendations were or will be addressed, such as the authority's response by changing or amending the capital plan, as well as providing status updates on the progress of such plan.

4. Such report shall on a biannual basis, commencing September first, two thousand nine, be submitted to the governor, the temporary president of the senate and the speaker of the assembly, be posted on the authority's website and also be made readily available to the public.

§ 1279-d. Supplemental revenue reporting program. 1. On or before January first, two thousand nineteen, the authority shall develop a supplemental revenue reporting program. Such program shall provide a detailed accounting of the amount spent from supplemental revenues on actions, measures or projects undertaken to reduce major incidents that have been found to cause delays to the New York city subway system, including but not limited to: track incidents; signal failure; persons on the track; police and medical activity; structural and electrical problems; and broken traincar equipment. The information described in this subdivision, including the spending details and the associated category of major incident, shall be updated quarterly and be prominently posted together on the authority's website.

2. Definitions. For purposes of this section, "supplemental revenues" shall include any funds appropriated by the state or the city of New York to support the NYC subway action plan approved by the board of the authority and any revenues received pursuant to section twelve hundred ninety-nine-H of the tax law.

§ 1279-e. Assignment, transfer, sharing or consolidating powers, functions or activities. 1. (a) Notwithstanding any provision of this title or any other provision of law, general, special or local, the authority shall develop and complete a personnel and reorganization plan no later than June thirtieth, two thousand nineteen which shall, in whole or in part, assign, transfer, share, or consolidate any one or more of its powers, duties, functions or activities or any department, division or office established therewith, or any of those of its subsidiaries, or affiliates or their subsidiaries, within or between itself, its subsidiaries or affiliates or their subsidiaries, including, but not limited to the New York City Transit Authority, the Long Island Rail Road, the Metro North Commuter Railroad Company, MTA Capital Construction, MTA New York City Bus, Triborough bridge and tunnel authority, and the MTA Staten Island Railway, in a manner consistent with the provisions of this section. Such plan shall identify common functions and assign, transfer, share or consolidate, in whole or in part, such functions between the authority and its subsidiaries, affiliates and subsidiaries of affiliates and shall be accompanied by an independent evaluation of existing personnel within or between itself, its subsidiaries, or affiliates or their subsidiaries in coordination with the authority's senior management. This plan shall be approved by the board of the authority by July thirtieth, two thousand nineteen. Upon such approval, the board shall also appoint a director of MTA transformation whose responsibilities shall include implementing the personnel and reorganization plan and reporting directly to the board regarding the director's activities.

(b) Upon receipt of the review pursuant to section twelve hundred seventy-nine-f of this title the authority shall revise the personnel and reorganization plan to consider and incorporate the findings of such review within ninety days of receipt. Such revised personnel and reorganization plan shall be approved by the board of the authority.

2. Such assignment, transfer, sharing, or consolidation pursuant to this section shall occur only if approved by resolution of the board of the authority, serving on behalf of the authority and any affected subsidiary or affiliate or their subsidiary, adopted by not less than a majority vote of the whole number of members of the authority then in office, with the chairman having one additional vote in the event of a tie vote.

3. Pursuant to this section, any such assigning, transferring, sharing, or consolidating of powers, duties, functions or activities shall not be authorized where it would impair any rights and remedies of any holders of notes, bonds or other obligations issued by the authority, its subsidiaries, or affiliates or their subsidiaries. Nothing set forth in this section shall be construed to impede, infringe or diminish the rights and benefits that accrue to employees and employers through collective bargaining agreements, or impact or change an employee's membership in a bargaining unit.

4. No consolidation shall result in the complete dissolution or merger within or between the authority or its subsidiaries, affiliates or their subsidiaries.

§ 1279-f. Independent forensic audit. 1. The authority shall contract with a certified public accounting firm for the provision of an independent, comprehensive, forensic audit of the authority. Such audit shall be performed in accordance with generally accepted government auditing standards. Such audit shall include, but is not limited to a complete and thorough examination and detailed accounting of the authority's capital elements, broken down by agency, including but not limited to: rolling stock and omnibuses, passenger stations, track, line equipment, line structures, signals and communications, power equipment, emergency power equipment and substations, shops, yards, maintenance facilities, depots and terminals, service vehicles, security systems, electrification extensions, and unspecified, miscellaneous and emergency.

The authority shall also contract with a financial advisory firm with a national practice for the provisions of a review of: (a) any fraud, waste, abuse, or conflicts or interest occurring within any department, division, or office of the authority, its subsidiaries, affiliates, and subsidiaries of affiliates; (b) any duplication of functions or duties between the departments, divisions or office of the authority, its subsidiaries, affiliates, and subsidiaries of affiliates; (c) options for potential cost efficiencies and savings that could be achieved through changes in internal controls and management reforms, functional and process streamlining, internal procurement process reforms; (d) the two thousand fifteen to two thousand nineteen capital plan for cost overages and duplication; (e) the development of standardized performance metrics for planning, design, approvals, change orders, project management and delivery; and (f) cash flow and accounting of expenditures of the authority, its subsidiaries, affiliates, and subsidiaries of affiliates for the preceding three fiscal years.

2. Such audit shall be completed and submitted to the board no later than January first, two thousand twenty and posted publicly on the authority's website within thirty days of submission to the board. Such reviews shall be completed and submitted to the board no later than July thirty-first, two thousand nineteen and posted publicly on the authority's website within thirty days of submission to the board.

3. The certified independent public accounting firm providing the authority's independent, comprehensive, forensic audit shall adhere to the requirements in paragraphs (a), (b) and (c) of this subdivision; provided, however, the authority may contract with an accounting firm notwithstanding paragraphs (a), (b) and (c) of this subdivision and notwithstanding section twelve hundred seventy-six-c of this title upon a written determination by the board of the authority which shall detail that such accounting firm was awarded such contract on the basis that no accounting firm meets the requirements set forth in paragraphs (a), (b) and (c) of this subdivision.

(a) Such certified independent public accounting firm shall be prohibited from providing audit services to the authority if the audit partner having primary responsibility for the audit or the audit partner responsible for reviewing the audit has performed audit services for the authority in any of the five previous fiscal years of the authority.

(b) Such certified independent public accounting firm shall be prohibited from performing any non-audit services to the authority contemporaneously with the audit, including: (1) bookkeeping or other services related to the accounting records or financial statements of such authority; (2) financial information systems design and implementation; (3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (4) actuarial services; (5) internal audit outsourcing services; (6) management functions or human services; (7) broker or dealer, investment advisor, or investment banking services; and (8) legal services and expert services unrelated to the audit.

(c) Such certified independent public accounting firm shall be prohibited from providing audit services to the authority if an employee assigned to the audit has performed audit services for the authority or has been employed by the authority in any of the three previous fiscal years of the authority.

4. Within one year of the effective date of this subdivision, the authority shall publish a report detailing the steps it has taken to implement the recommendations of the audit and the reviews, and provide estimates of the recurring and non-recurring cost savings and efficiencies that have been realized or are anticipated from implementing such recommendations. The authority shall also review its two thousand twenty to two thousand twenty-four capital plan for cost overages and duplication and include its findings in the report. The authority shall publish an additional updated report no later than July first, two thousand twenty-five.

5. To the extent practicable, the findings and recommendations made pursuant to this section and to section twelve hundred seventy-nine-g of this title shall be incorporated into any twenty-year capital needs assessment submitted prior to January first, two thousand twenty-five to the metropolitan transportation authority capital program review board

pursuant to subdivision c of section twelve hundred sixty-nine-c of this title.

§ 1279-g. Major construction review unit. The authority shall establish the major construction review unit within the authority that shall consist of a panel of internal and external experts appointed by the board. Panel members shall have extensive background or executive experience in at least one of the following areas: engineering; design; construction; or, project management. The major construction review unit shall review all large scale projects of the authority, its subsidiaries, affiliates and the subsidiaries of its affiliates before award and shall also review any plans involving signal system upgrades, including, but not limited to the use of communications based train control and ultra-wideband technology for use within the New York City subway system before they shall be implemented. The review of any project or system upgrade referred to the review unit shall be completed within thirty days from the submission of such project or system to the review unit.

§ 1279-h. Debarment. The authority shall establish, pursuant to regulation, a debarment process for contractors of the authority that prohibits such contractors from bidding on future contracts, after a debarment determination by such authority, for a period of five years from such determination. Such regulations must ensure notice and an opportunity to be heard before such debarment determination and provide as a defense acts such as force majeure. Such regulations shall only provide for a debarment in situations involving a contractor's failure to substantially complete the work within the time frame set forth in the contract, or in any subsequent change order, by more than ten percent of the contract term; or where a contractor's disputed work exceeds ten percent or more of the total contract cost where claimed costs are deemed to be invalid pursuant by the contractual dispute resolution process.

§ 1279-i. Open data reporting. 1. The metropolitan transportation authority and its subsidiaries and affiliates, including the New York city transit authority and the Triborough bridge and tunnel authority, shall fully comply with the provisions of Executive Order 95 of 2013, "Using Technology to Promote Transparency, Improve Government Performance and Enhance Citizen Engagement," and shall provide the New York state office of information technology services and legislature all data as defined in this section.

2. For the purposes of this section, the following terms shall have the following meanings:

(a) "open data website" shall mean the website data.ny.gov or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under Executive Order 95 of 2013, or any successor agency or order;

(b) "data" shall mean final versions of statistical or factual information that (i) are in alphanumeric form reflected in a list, table, graph, chart or other non-narrative form, that can be digitally transmitted or processed; (ii) are regularly created or maintained by or on behalf of the metropolitan transportation authority, its subsidiaries and affiliates and are controlled by such entities; and (iii) record a measurement, transaction or determination related to the mission of the metropolitan transportation authority, its subsidiaries and affiliates. The term "data" shall not include image files, such as designs, drawings, photos or scanned copies of original documents; provided, however, that the term "data" shall include statistical or factual information about image files and geographic information system data;

(c) "data set" shall mean a named collection of related records maintained on a storage device, with the collection containing data organized or formatted in a specific or prescribed way, often in tabular form; and

(d) "publishable MTA data" shall mean data that is collected by the metropolitan transportation authority, its subsidiaries and affiliates where the authority, subsidiary or affiliate is permitted, required or able to make the data available to the public, consistent with any and all applicable laws, rules, regulations, ordinances, resolutions, policies or other restrictions, requirements or rights associated with the publishable MTA data, including but not limited to contractual or other legal orders, restrictions or requirements. Data shall not be publishable MTA data if making such data available on the open data website would violate statute or regulation, including, but not limited to, disclosures that would constitute an unwarranted invasion of personal privacy, endanger the public health, safety or welfare, hinder the operation of government, including criminal and civil investigations, or impose an undue financial, operational or administrative burden on the authority or its subsidiaries or affiliates.

3. As required by Executive Order 95 of 2013, the metropolitan transportation authority shall designate a data coordinator, who shall:

(a) have authority equivalent to that of a deputy commissioner or the head of a division or department;

(b) have knowledge of data and resources in use by the entity; and

(c) be responsible for the compliance of the authority, its subsidiaries and affiliates with the order.

4. The authority and its subsidiaries and affiliates shall make their publishable MTA data available on its website and the open data website as follows:

(a) The authority shall create a catalogue of publishable MTA data within one hundred eighty days of the effective date of this section;

(b) The metropolitan transportation authority shall within one hundred eighty days of the effective date of this section, submit to the legislature and publish on its shared internet website a schedule for making its publishable MTA data publicly available. Such schedule shall provide for updating the data catalogue as appropriate; and

(c) The metropolitan transportation authority shall create schedules for publishing all publishable MTA data within three years of the effective date of this section.

5. The metropolitan transportation authority, its subsidiaries and affiliates shall not be prevented from publishing data in advance of the dates set in their schedules.

§ 1279-l. Right to share employees. 1. It is hereby found and declared to be necessary and proper to authorize the authority, its subsidiaries, affiliates, and subsidiaries of affiliates, powers to effectuate and ensure such entities continued financial viability, which is at issue given sizable operating deficits and significant capital needs. Allowing wholesale internal management reforms will create savings, combat entrenched bureaucracies, create streamlined, uniform, and efficient services, ensure public accountability and reestablish public trust. In order to facilitate these necessary goals it is both reasonable and a legitimate public purpose to provide systematic authority for the sharing of employees within and between the respective entities.

2. Notwithstanding any provision of law to the contrary, the authority, its subsidiaries, affiliates, and subsidiaries of affiliates shall each have the right to share employees within and between such entities and to assign such employees to perform any operation or function subject only to a determination that they are substantially similar to any operation or function currently performed. Substantially similar operation or function shall be determined exclusively by the authority.

3. Nothing set forth in this subdivision shall be construed to impede, infringe or diminish the rights and benefits that accrue to employees and employers through collective bargaining agreements, or impact or change an employee's membership in a bargaining unit.

TITLE 12

NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION

§ 1280. Short title. This title may be cited as the "New York State Environmental Facilities Corporation Act."

§ 1281. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Corporation" shall mean the corporation continued by section twelve hundred eighty-two of this title.

2. "Construction" shall mean the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension of sewage treatment works, sewage collecting systems, solid waste disposal facilities, air pollution control facilities, water management facilities, storm water collecting systems, state park infrastructure projects, or all or any portion of Riverbank Park as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

3. "Governing body" shall mean

a. In the case of a county, city, town, village, county or town improvement district, the board of supervisors, board of aldermen, common council, commission, town board, board of trustees or other elective board or body now or hereafter vested by state statute, charter or other law with jurisdiction to initiate and adopt local laws or ordinances, whether or not such local laws or ordinances require the approval of the chief executive officer or other official or body to become effective;

b. In the case of a district corporation, the board vested with the management and control of the corporation; and

c. In the case of a sewer authority now existing in a city, the members of such authority.

4. "Municipal bonds and notes" shall mean the bonds and notes authorized and issued pursuant to the local finance law or other act of the legislature by any municipality for the purposes of financing the construction of a sewage treatment works, sewage collecting system, storm water collecting system, water management facility, air pollution control facility, or solid waste disposal facility.

5. "Municipality" shall mean any county, city, town, village, district corporation, county or town improvement district, sewer authority now existing in a city, or any two or more of the foregoing which are acting jointly in connection with a sewage treatment works, sewage collecting system, solid waste disposal facility, air pollution control facility, water management facility, or storm water collecting system. For purposes of sections twelve hundred eighty-five-j and twelve hundred eighty-five-m of this title only, a municipality may, in addition to the foregoing, include an Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York state, any public benefit corporation or public authority established pursuant to the laws of New York or any agency of New York state which is empowered to construct and operate a municipal water pollution control project or water management facility, or any two or more of the foregoing which are acting jointly in connection with a municipal water pollution control project or water management facility. For purposes of section twelve hundred eighty-five-m of this title only,

a municipality may, in addition to the foregoing, include a school district.

6. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

7. "Sewage collecting systems" shall mean systems of underground conduits designed to pick up sewage from commercial, residential and industrial properties and deliver it by gravity with or without intermediate pumping to a sewage treatment or disposal plant.

8. "Sewage treatment works" shall mean a facility for the purpose of treating, neutralizing or stabilizing sewage, industrial waste or a combination thereof, including but not limited to treatment or disposal plants, the necessary intercepting, outfall, force mains and outlet sewers, pumping stations integral to such plants or sewers, and other property used for treating, utilizing, storing, processing, or finally disposing of sewage or industrial waste, equipment and furnishings thereof and their appurtenances.

9. "Solid waste" shall mean all putrescible and non-putrescible solid wastes, including but not limited to garbage, refuse, sludge, rubbish, ashes, incinerator residue, street cleanings, dead animals, demolition and construction debris, automobile bodies, offal and other discarded and solid materials, including but not limited to that resulting from commercial, industrial, construction, demolition, agricultural, governmental, residential or community processes or activities.

10. "Solid waste disposal facility" shall mean a facility or site for the purpose of treating, compacting, recycling, or disposing of solid waste materials, including treatment, compacting, resource recovery or

disposal plants, equipment and furnishings thereof used for the storage, treatment, compacting, composting, shredding, converting, utilization, processing, or final disposal of solid waste, including but not limited to resource recovery facilities, mechanical, chemical or thermal processing systems, incinerators, sanitary landfills, other facilities for the storage, reduction or conversion of solid waste, used singly or in combination, and appurtenances, furnishings, equipment and machinery deemed necessary thereto, whether said facility or site serves one or more purposes in addition to the primary purpose of disposing of solid waste materials, and a facility or site for the collection and conveyance of solid wastes, including but not limited to transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings, equipment and machinery deemed necessary thereto, but not including services necessary for the collection of solid wastes.

11. "State agency" shall mean any officer, authority, corporation, department, board, commission, bureau, division, public benefit corporation, council, agency or instrumentality of the state.

12. "State" shall mean the state of New York.

13. "Cost" as applied to any project shall include, but not be limited to, cost of construction of the project, the cost of acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the costs of all systems, facilities, machinery and equipment, financing charges, interest prior to and during construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary or incident to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the corporation providing for the issuance of bonds to be paid into any special fund from the proceeds of such bonds and the

financing of the placing of any project in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures, made with the prior approval of the corporation, that would be costs of the project hereunder had they been made directly by the corporation.

14. "Person" shall mean any person, including individuals, firms, partnerships, associations, public utilities or corporations organized or existing under the laws of the state or any other state, exclusive of a municipal corporation or state agency.

15. "Project" shall mean any sewage treatment works, sewage collecting systems, solid waste disposal facilities, air pollution control facility, water management facility, industrial hazardous waste treatment, storage, exchange and disposal facility, inactive hazardous waste disposal site remedial program, storm water collecting system, and waste oil recovery, reprocessing and rerefining facilities or any other works or facilities which the corporation is authorized to plan, finance, construct, operate or maintain under the provisions of this title including all buildings, systems, facilities, appurtenances, machinery and equipment which the corporation deems necessary for the operation of the project, including the site therefor, together with all property, rights, easements and interests, either on or off such site, which may be required for the operation of the project.

16. "Sewage" shall mean the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. The admixture with sewage of industrial waste or other waste shall also be considered "sewage" within the meaning of this title.

17. "Air pollution control facility" shall mean a facility, for the purpose of abating or controlling atmospheric pollutants, contaminants, waste or heat, by recovery methods or otherwise, whether said facility serves one or more purposes in addition to the primary purpose of abating or controlling such pollutants, contaminants, waste, or heat, including treatment, neutralizing or stabilizing plants, site equipment

and necessary furnishings thereof, their appurtenances, and any property, real or personal, functionally related and subordinate to said facility.

18. "Industrial waste" shall mean any liquid, gaseous, or solid waste substance or a combination thereof resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource which pollutes the water or air of the state.

19. "Water management facility" shall mean a water supply facility or a facility or site for the supply, control, treatment and distribution of water, including but not limited to water transmission lines, pumping stations, reservoirs, dams and other impoundments, and all of the necessary appurtenances incidental thereto for the purpose of providing a public water supply. It shall also mean a facility for the purpose of abating or controlling water pollutants, contaminants, waste or heat, by recovery methods or otherwise, whether said facility serves one or more purposes in addition to the primary purpose of abating or controlling such pollutants, contaminants, waste or heat, including but not limited to treatment, neutralizing or stabilizing plants, site equipment and necessary furnishings thereof, their appurtenances, and any other property, real or personal, functionally related and subordinate to said facility.

20. "Storm water collecting system" shall mean systems of conduits and all other constructions, devices, and appliances appurtenant thereto, designed and used to collect and carry storm water and surface water, street wash and other wash or drainage waters.

21. "Resource recovery facilities" shall mean facilities, structures, machinery, or devices, singly or in combination, designed, constructed and required to separate, process, modify, convert, treat, or prepare collected solid waste so that component materials or substances or recoverable resources may be used as a raw material or for their productive purposes, which are required for the process of obtaining materials, substances, or heat, oil, gas or other sources or forms of

energy from solid waste for use or reuse, including but not be limited to, singly or in combination, structures, mechanical, chemical or thermal processing systems, furnaces, steam generating equipment, electric generating equipment, pyrolization facilities and other appurtenances, furnishings, equipment and machinery deemed necessary thereto.

22. "Industrial hazardous waste" shall mean an industrial waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

(a) cause, or significantly contribute to an increase in serious irreversible, or incapacitating reversible illness; and/or

(b) pose a substantial present or potential hazard to human health or the environment and, therefore, must be segregated and excluded from the general municipal waste system and sewage collection and treatment process.

23. "Industrial hazardous waste treatment, storage and disposal facility" shall mean a specialized facility or site other than a sewage treatment for the purpose of treating, storing, compacting, recycling, exchanging, or disposing of industrial hazardous waste materials, including treatment, compacting, resource recovery or disposal plants, equipment and furnishings thereof used for the storage, treatment, compacting, composting, shredding, converting, utilization, processing, or final disposal of hazardous waste, including but not limited to mechanical, chemical or thermal processing systems, incinerators, sanitary landfills, other facilities for the storage, reduction or conversion of hazardous waste, including but not limited to transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings, equipment and machinery deemed necessary thereto.

24. "Hazardous waste" shall have the same meaning as set forth in section 27-1301 of the environmental conservation law.

25. "Inactive hazardous waste disposal site" shall have the same meaning as set forth in section 27-1301 of the environmental

conservation law.

26. "Inactive hazardous waste disposal site remedial program" shall have the same meaning as set forth in section 27-1301 of the environmental conservation law.

27. "Municipal water pollution control project" shall mean a sewage facility or related facility which is an "eligible project" within the meaning of section 17-1909 of the environmental conservation law.

* 28. "Riverbank Park" shall mean a park or parks to be located on a site of approximately twenty-eight acres, on the roof of and adjacent to the North River sewage treatment plant, located at the Hudson River between 137th and 145th Streets in the borough of Manhattan, city of New York, including all buildings, systems, bridges and other means of pedestrian or vehicular access, recreational, cultural and athletic facilities, appurtenances, machinery and equipment which the corporation deems necessary for the operation of such park or parks, including the site therefor, together with all property, rights, easements and interests, either on or off such site, which may be required for the operation of such park or parks. Such recreational, cultural and athletic facilities may include, without limitation, swimming pools, gymnasia, athletic fields, skating rinks, tennis courts, theaters or amphitheaters and centers for the performing arts.

* NB There are 2 sub 28's

* 28. "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, whether or not such material may eventually be used for some other purpose, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations or from community activities, and source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended, except as may be provided by existing agreements between the state of New York and the government of the United States, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under article seventeen of the environmental

conservation law.
* NB There are 2 sub 28's

29. "State park infrastructure" shall mean state park resources, recreational facilities and historic sites and any other property, real or personal, under the jurisdiction of the New York state office of parks, recreation and historic preservation, together with machinery, equipment, furnishings and fixtures relating thereto or used in connection therewith.

30. "State park infrastructure project" shall mean all costs incurred or to be incurred by or on behalf of the office of parks, recreation and historic preservation for the purpose of preserving, improving or rehabilitating state park infrastructure.

31. "Waste oil" shall mean used engine lubricating oil and any other oil, including but not limited to, fuel oil, motor oil, gear oil, cutting oil, transmission fluid, hydraulic fluid, dielectric fluid, oil storage tank residue, animal oil, and vegetable oil, which has been contaminated by physical or chemical impurities, through use or accident, and has not subsequently been rerefined.

32. "Waste oil recovery, reprocessing and rerefining facilities" shall mean facilities, structures, machinery, or devices, singly or in combination, for purposes of separating, processing, modifying, converting, treating or otherwise preparing waste oil so that it, or its components or substances, may be beneficially reused, including reuse as raw materials, as lubricants, or as an energy source. Such facilities, structures, machinery or devices may include, but shall not be limited to, mechanical, chemical or thermal processing systems, furnaces, laboratories, storage and blending tanks, pumping stations, transfer stations, railroad and maritime facilities, motor trucks or vehicles and other appurtenances, furnishings, machinery and equipment deemed necessary thereto.

33. "Water supply facility" or "water supply project" shall mean a water supply facility which is an "eligible project" within the meaning

of subdivision four of section eleven hundred sixty of the public health law.

34. "Recipient" shall mean any municipality, public utility, or person, including any individual, firm, partnership, association, not-for-profit corporation or other corporation organized and existing under the laws of the state or any other state which is empowered to construct and operate an eligible project, or any two or more of the foregoing which are acting jointly in connection with an eligible project.

§ 1282. New York state environmental facilities corporation. 1. The "New York state pure waters authority" is hereby reconstituted and continued as the "New York state environmental facilities corporation". Reference in any provision of law, general, special or local, or in any rule, regulation or public document to the New York state pure waters authority shall be deemed to be and construed as a reference to the corporation continued by this section. The corporation shall be a body corporate and politic constituting a public benefit corporation. Its membership shall consist of seven directors: the commissioner of environmental conservation who shall be chair, the commissioner of health, the secretary of state, and four directors appointed by the governor by and with the advice and consent of the senate. The directors appointed by the governor who are not state officers, shall serve for terms of six years each, provided, however, that of the directors first appointed, two shall serve for terms of two years, the remaining two for terms of four and six years, respectively, from January first next succeeding their appointment. The appointed members of the New York state pure waters authority in office on the effective date of this title shall be deemed to be directors first appointed in accordance with the foregoing and shall hold office for the balance of the terms for which they were severally appointed. Any vacancy occurring otherwise than by expiration of term shall be filled in the same manner as the original appointment for the balance of the unexpired term. The board of directors of the corporation shall appoint, by resolution, the president of the corporation. The president shall be the chief executive officer of the corporation and shall serve at the pleasure of the board of directors of the corporation.

2. Each director shall not receive a salary or other compensation, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

3. Such directors other than the commissioner of environmental conservation, the commissioner of health and the secretary of state may engage in private employment, or in a profession or business, subject to the limitation contained in sections seventy-three and seventy-four of the public officers law. The corporation shall, for the purposes of sections seventy-three and seventy-four of the public officers law, be a "state agency," and such directors shall be "officers" of the corporation for the purposes of said sections.

4. Four directors of the corporation shall constitute a quorum for the transaction of any business or the exercise of any power of the corporation. For the transaction of any business or the exercise of any power of the corporation, the corporation shall have power to act by a majority of the directors present at any meeting at which a quorum is in attendance. Videoconferencing may be used for attendance and participation by the directors. Any director attending and participating by the use of videoconferencing in compliance with article seven of the public officers law shall be considered to be present at the meeting. The corporation may delegate to one or more of its directors, or its officers, agents and employees, such powers and duties as it may deem proper. The commissioner of environmental conservation, the commissioner of health and the secretary of state may, by official proxy, filed with and approved by the corporation, designate an officer in their respective department, to perform, in their absence, their respective duties under this article. The term "director" as used in this subdivision shall include such persons so designated as provided herein. The designation of such persons shall be deemed temporary only and shall not affect the civil service or retirement rights of any persons so designated.

5. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law by reason of his acceptance of membership on the corporation, provided, however, a director who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

6. The governor may remove any director for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any director shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such director, and his findings thereon, together with a complete record of the proceedings.

7. The corporation shall continue so long as it shall have bonds or other obligations outstanding and until its existence shall be terminated by law. Upon the termination of the existence of the corporation, all its rights and properties shall pass to and be vested in the state.

§ 1283. Purposes of the corporation. 1. The purposes of the corporation shall be the planning, financing, construction, maintenance and operation of sewage treatment works, sewage collecting systems, air pollution control facilities, water management facilities, storm water collecting systems, solid waste disposal facilities and state park infrastructure projects, the construction on behalf of municipalities and state agencies of sewage treatment works, sewage collecting systems, air pollution control facilities, water management facilities, storm water collecting systems and solid waste disposal facilities, the financing, for or on behalf of persons, of sewage treatment works, air pollution control facilities, water management facilities, and solid waste disposal facilities and the making of loans which may, but need not, be secured by mortgage, contracts and other instruments to persons for the planning and construction of sewage treatment works, air pollution control facilities, water management facilities and solid waste disposal facilities and the assistance of municipalities, state agencies and the state in the planning, financing, construction, maintenance and operation of sewage treatment works, sewage collecting systems, air pollution control facilities, water management facilities, storm water collecting systems and solid waste disposal facilities, in accordance with the provisions of this title. In addition, the purposes of the corporation shall include financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the corporation shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

§ 1284. General powers of the corporation. Except as otherwise limited by this title, the corporation shall have power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable or non-negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement, at the discretion of the corporation (i) in obligations of the state or the United States of America; (ii) in obligations the principal and interest of which are

guaranteed by the state or the United States of America; (iii) in obligations issued by the United States of America, an agency thereof or a United States government sponsored corporation or obligations fully insured or guaranteed as to the payment of principal and interest by the United States of America, an agency thereof or a United States government sponsored corporation; or in deposits with such banks or trust companies as may be designated by the corporation. Each such bank or trust company deposit shall be continuously and fully secured by direct obligations of the state or the United States of America, or by obligations the principal and interest of which are guaranteed by the state or the United States of America, and additionally, any funds managed by the corporation for any municipality may be continuously and fully secured by obligations of any municipality, school district or district corporation of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are hereby authorized to give such security;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

6. To enter into contracts and leases and to execute all instruments necessary or convenient or desirable for the purposes of the corporation or to carry out any powers expressly given it in this title;

7. To acquire, purchase, hold, lease as lessee, dispose of and use any real or personal property or any interest therein necessary, convenient or desirable to carry out the purpose of this title and to sell, lease as lessor, transfer and dispose of any property or interest therein at any time required by it in the exercise of its power including but not limited to the sale, transfer or disposal of any materials, substances or sources or forms of energy derived from any corporate activity.

8. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties and compensation and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or

otherwise for rendering professional or technical services and advice;

9. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the corporation and to prepare recommendations in regard thereto, provided that such plans, surveys, studies and recommendations shall be in conformity with any comprehensive studies and reports on the collection, treatment and disposal of sewage conducted and approved pursuant to the provisions of section twelve hundred sixty-three-a of the public health law, on the collection, treatment and disposal of refuse conducted and approved pursuant to the provisions of title IX of the public health law, and on public water supply systems conducted and approved pursuant to the provisions of part V-A of article V of the conservation law and on the control and abatement of air pollution conducted and approved pursuant to the provisions of title II, article twelve-A of the public health law;

10. To enter upon such lands, waters, or premises as in the judgment of the corporation may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the corporation being liable for actual damage done;

11. To conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof to have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the corporation shall fail or refuse to aid or assist the corporation in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the corporation is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

12. To acquire municipal bonds and notes and bonds and notes of certain state agencies, and to make loan commitments and loans to municipalities and certain state agencies, and to enter into option arrangements with municipalities for the purchase of municipal bonds and

notes;

13. To sell any municipal bonds or notes, other securities, or other personal property acquired by the corporation whenever it is determined by the corporation that the sale of such property is desirable; municipal bonds and notes acquired by the corporation shall be sold by the corporation only at public sale at such price or prices as it shall determine, and a notice of such sale shall be published at least once at least five days prior to the date of such sale in a financial newspaper or journal published in the City of New York; the proceeds of the sale by the corporation of any municipal bonds or notes shall be required to be held for the benefit of the bonds and notes and interest thereon entitled to be paid therefrom, or shall be used to purchase, or applied towards the redemption of bonds or notes, at not more than the redemption price then applicable, plus accrued interest to the next payment date thereon, or, if not then redeemable, at a premium of not more than the redemption price applicable on the first date after such purchase upon which the bonds or notes become subject to redemption, plus accrued interest to said date, all subject to such agreements with bondholders or noteholders as may then exist;

14. To accept any gifts or grants or loans of funds or property from the federal government or from the state or from any other federal or state public body or political subdivision or any other person and to comply, subject to the provisions of this title, with the terms and conditions thereof;

15. To appoint such advisory committees as may be necessary, convenient or desirable to the effectuation of the purposes and powers of the corporation; and

16. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1285. Special powers of the corporation. In order to effectuate the purposes of this title, the corporation shall have the following special powers:

1. Construction, operation and maintenance of sewage treatment works, sewage collecting systems and solid waste disposal facilities on behalf of a municipality. (a) The corporation and any municipality having power to construct sewage treatment works, sewage collecting systems or solid waste disposal facilities by resolution of its governing body may enter into a contract for the construction of sewage treatment works, sewage collecting systems or solid waste disposal facilities by the corporation for such municipality upon such terms and conditions as the corporation shall determine to be reasonable, including but not limited to the reimbursement of all costs of such construction and claims arising therefrom.

(b) The corporation and any municipality having power to operate and maintain sewage treatment works or solid waste disposal facilities by resolution of its governing body may enter into a contract for the operation and maintenance of sewage treatment works or solid waste disposal facilities by the corporation for such municipality upon such terms and conditions as the corporation shall determine to be reasonable, including but not limited to the reimbursement of all costs of such operation and maintenance and claims arising therefrom.

(c) No such contract shall be deemed to be a contract for public work or purchase within the meaning of the general municipal law.

(d) The corporation and any state agency having the power may enter into a contract for the planning, construction, operation and maintenance of sewage treatment works, sewage collecting systems, solid waste disposal facilities, and for the removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof, as the case may be, for and on behalf of such state agency; the corporation and any such state agency may enter into a contract pursuant to which the corporation may provide for the collection, conveyance, treatment and disposal of sewage, storage, separating, treatment, recycling, reconstituting, compacting, composting, shredding, converting, utilization, processing, pyrolization or final disposal of solid waste by means of sewage collecting systems, sewage treatment works, or solid waste disposal facilities, as the case may be, owned, constructed, operated and maintained by the corporation. Any such contract entered into by any such state agency and the corporation for the purposes of removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof, may provide for ownership, construction, operation and maintenance of such projects by the corporation or by any such state agency and any such contract shall be subject to the approval of the director of the budget. Any such contract or contracts shall be upon such terms and conditions as the corporation and such state agency shall determine to be reasonable, including but not limited to the reimbursement of all costs of planning, financing, construction and operation and maintenance, and any claims arising therefrom. No such contract shall be deemed to be a contract for public work or purchase within the meaning of the state finance law.

2. Loans to municipalities and certain state agencies. The corporation may make loans to any municipality, or any state agency authorized to issue bonds or notes not constituting a debt or liability within the meaning of section eleven of article seven of the state constitution, for the construction of any sewage treatment works, sewage collecting system or solid waste disposal facility. Any loan by the corporation to any such state agency shall be subject to the approval of the director of the budget. The corporation may accept as evidence of the indebtedness of any such municipality or any state agency authorized to issue bonds or notes not constituting a debt or liability of the state within the meaning of section eleven of article seven of the state constitution, only the municipal bonds or notes of such municipality or bonds or notes of such state agency. Any such loan shall be in an amount or amounts not to exceed the cost of construction of any such sewage treatment works, sewage collecting system or solid waste disposal facility required to be financed by the municipality or such state agency. In connection with the making of any such loans, the corporation may fix and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the corporation, as the corporation shall determine to be reasonable.

3. Construction, operation and maintenance of sewage collecting systems, sewage treatment works and solid waste disposal facilities. (a) The corporation and a municipality having power to construct, operate

and maintain sewage treatment works, sewage collecting systems or solid waste disposal facilities, by resolution of its governing body may enter into a contract pursuant to which the corporation may provide for the collection, conveyance, treatment and disposal of sewage or the storage, separating, treatment, recycling, reconstituting, compacting, composting, shredding, converting, utilizing, processing, pyrolization or final disposal of solid wastes by means of sewage treatment works or solid waste disposal facilities, as the case may be, owned and constructed by the corporation and operated and maintained by the corporation or, for and on behalf of the corporation, by such municipality or by any person, as may be approved by the corporation and such municipality, and by means of sewage collecting systems owned and constructed by the corporation for and on behalf of such municipality pursuant to a contract whereby title to such sewage collecting systems shall vest in such municipality in accordance with the provisions of paragraph (c) of this subdivision, and operated and maintained by such municipality upon such terms and conditions as the corporation shall determine to be reasonable. Such contract or contracts shall, except in the case of a sewer corporation now existing in a city, contain provisions in accordance with the requirements of paragraph (b) or (c) of this subdivision, and, in addition thereto and consistent therewith, may provide for the payment to the corporation by such municipality, annually or otherwise, of such sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters or in any other manner, as said contract or contracts may provide, and the sum or sums so payable may include provision for all or any part or a share of the amounts necessary (i) to pay or provide for the expense of operation and maintenance of any such project including, without limitation, insurance, extensions, betterments and replacements and the principal of and interest on any bonds or notes of the corporation, and (ii) to provide for any deficits resulting from failure to secure sums payable to the corporation by such municipality, any other municipality or from any other cause, and (iii) to maintain such reserves or sinking funds for any of the foregoing as may be required by the terms of any contract of the corporation or as may be deemed necessary or desirable by the corporation. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the corporation and determined by it to be necessary for its purposes prior to the placing in operation of any such project, and may provide for the payment by such municipality to the corporation for application to such expenses or indebtedness therefor such sum or sums of money, not in the aggregate exceeding an amount stated or otherwise limited in said contract or contracts, plus interest thereon, as said contract or contracts may provide and as the governing body of said municipality shall, by virtue of its authorization of and entry into said contract or contracts, determine to be necessary for the purposes of the corporation. Except as otherwise provided in this subdivision, any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by such municipality and which may be agreed to by the corporation in conformity with its contracts with the holders of any of its bonds or notes, and shall be valid whether or not an appropriation with respect thereto is made by such municipality prior to authorization or execution thereof. The corporation may sell, transfer or dispose of, in any manner it deems desirable any materials, substances or sources or forms of energy derived from any corporate activity, including but not limited to sludge, raw materials, by-products; heat, oil, steam or electric energy in accordance with any contract pursuant to this paragraph or pursuant to paragraphs (b) and (d) of subdivision one of section twelve hundred eighty-five of this title. Such municipality is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such municipality. Subject to any such contracts with the holders of its bonds or notes, the corporation is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and, in accordance with any such contract to waive, modify, suspend or reduce charges which would otherwise be charged and collected by the corporation within the municipality.

A municipality shall not be liable for any act or omission of the corporation, its officers, agents, servants or contractors in the performance of any such contract by the corporation.

(b) Except as provided in paragraph (c) of this subdivision, any contract entered into by the corporation and any municipality, other than a sewer corporation now existing in a city, pursuant to this subdivision shall provide that the municipality shall not acquire any vested rights in any such works or facility by reason of such contract, and, in the case of a county, city, or village, that all or any portion of the annual payments, as the case may be, made by such municipality, shall be deemed to be current operating expenses of such municipality within the meaning of section ten of article eight of the state constitution where all or any portion of such payments are or may be required to be raised by tax on real estate in any fiscal year of such municipality.

(c) Any contract entered into by the corporation and any municipality pursuant to this subdivision may provide that at the termination thereof the title to the works or facility shall vest in the municipality or its successor in interest, if any, free and clear of any indebtedness contracted by the corporation. Any such contract entered into by the corporation and any municipality which provides that title shall so vest in the municipality or its successor in interest, other than a sewer authority now existing in a city, shall be subject to the following provisions:

(1) The term of any such contract shall not exceed the period of probable usefulness of the works or facility as provided in section 11.00 of the local finance law, computed from the date of the first indebtedness contracted by the corporation for such works or facility.

(2) The annual payments to be made by the municipality to the corporation to enable the corporation to pay the principal of any such indebtedness contracted by it to finance the cost of such works or facility shall commence within two years after any such indebtedness or portion thereof shall have been contracted and no such annual payment shall be more than fifty percentum in excess of the smallest prior annual payment for such purpose.

(3) The municipality shall pledge its full faith and credit for the payment of such annual payments described in subparagraph two of this paragraph (c) and also for the payments required to be made to the corporation to enable it to pay the interest on any such indebtedness.

(4) The total amount of any unpaid annual payments in relation to the

principal of any such indebtedness shall be deemed to be indebtedness of the county, city, town or village for a capital improvement within the meaning of subparagraph (b) of subdivision three of paragraph a of section 135.00 of the local finance law or indebtedness contracted by a district corporation pursuant to subdivision seven of paragraph a of such section 135.00, as the case may be.

(5) The total amount of any unpaid annual payments in relation to the construction or reconstruction of facilities for the conveyance, treatment and disposal of sewage shall be deemed to be indebtedness of the county, city, town or village within the meaning of subdivision four-a of section 136.00 of the local finance law.

(6) The annual payments by a county, city or village in relation to such indebtedness and interest shall be deemed to be "indebtedness" and "interest" within the meaning of section ten of article eight of the state constitution.

(7) The contract shall not be renegotiated, or amended, in such manner as to constitute a refunding within the meaning of section two of article eight of the state constitution.

(8) The contract shall not be applicable to any works or facility constructed or reconstructed to effectuate the purposes of article eighteen of the state constitution.

(9) The municipality shall not be liable for a default on the obligations of the corporation. If the expenditure of money, or the issuance of obligations, for a project would be subject to the adoption of a proposition pursuant to paragraph b of section 38.00 of the local finance law, a contract between a district corporation and the corporation pursuant to the provisions of this paragraph (c) shall be subject to approval at an election or meeting in the same manner as provided in such section 38.00.

In the case of a district corporation subject to the provisions of section 102.00 of the local finance law, the annual payments to be made to the corporation to enable it to pay the principal of any indebtedness contracted by it to finance the cost of the project shall be deemed to be indebtedness within the meaning of such section and section 120.00 of such law and any contract entered into between the district corporation and the corporation pursuant to the provisions of this paragraph (c) shall be subject to the consent of the city, town or village affected as provided in such section 102.00.

A contract pursuant to the provisions of this paragraph (c) shall be deemed to be an issuance of bonds, bond anticipation notes or capital notes for the purposes of subdivisions three, four, five, and seven of section 104.10 of the local finance law insofar as the contract shall provide for annual payments to the corporation to enable it to pay the principal of indebtedness contracted by it to finance the cost of any project.

(d) Where a county, city, town or village is prevented from utilizing the provisions of this subdivision, by the provision of any general or special law, county, city or village charter which (i) requires that any project must be constructed, operated and maintained by the municipality, (ii) limits the period of time for which a municipality may contract, (iii) requires that the cost shall be paid for by taxes levied for the fiscal year in which the expenditure is to be made, (iv) requires that the cost shall be financed pursuant to the local finance law or (v) only permits any such project to be constructed subject to either mandatory or permissive referendum, such county, city, town or village may adopt a local law superseding the provisions of any such general or special law, county, city or village charter. Any such local law shall be subject to mandatory referendum, or referendum on petition in the manner provided in sections twenty-three or twenty-four, as the case may be, of the municipal home rule law, if the issuance, or the resolution authorizing the issuance, of serial bonds having a maturity of more than ten years to finance any such project would be required, under or pursuant to the provisions of sections 33.10, 34.00, 35.00 or 36.00 of the local finance law or any other law, to be subject to mandatory or permissive referendum.

4. The corporation is empowered to lease or rent a project constructed and owned by the corporation pursuant to any contract with a municipality or state agency as herein provided for, to any person, as may be approved by the municipality or state agency. The corporation may make available the use or services of any such project, with the approval of such municipality or state agency, to one or more persons,

or any combination thereof, upon such terms and conditions as the corporation may determine reasonable.

5. When requested by the governing body of a municipality, or when requested by a person or state agency, the corporation may advise such municipality, person or state agency on matters relating to the planning, construction, operation and maintenance of sewage treatment works, sewage collecting systems, solid waste disposal facilities, and any other projects which the corporation is authorized to construct pursuant to any provisions of this title, on matters relating to the identification, collection, handling, separation and disposal of waste, and on matters relating to the prevention and control of air emissions and water discharges subject to regulation pursuant to the environmental conservation law, and pursuant to a contract with a municipality, person or state agency, may render technical assistance and may undertake research, planning and testing with respect to any such matter, and the corporation may make a reasonable charge to such municipality, person or state agency for the performance of any such functions authorized by this subdivision.

6. In selecting a location for any projects constructed pursuant to subdivision one or subdivision three of this section, the corporation shall take into consideration the character of the area of any proposed location and the zoning regulations, if any, applicable to such area.

7. When requested by the governing body of a municipality or by a state agency, any contract pursuant to either subdivision one or subdivision three of this section, except a contract pursuant to which the municipality shall not acquire a vested interest in the project, may provide as part of a project and upon the site of such project, for the construction and financing, pursuant to the provisions of this title, by the authority of such other facilities, betterments, improvements and appurtenances for which such municipality or state agency has the power to provide. Such construction and financing shall be permitted when necessary to develop or restore such site to a beneficial municipal or public use, and in accordance with the plans or design of the project prepared and approved by such municipality or state agency, or as may be

prepared by the corporation on behalf of such municipality or state agency.

8. The corporation is empowered to enter into one or more contracts with any person designated by the corporation to be a responsible agent for the planning, design, construction and operation of one or more solid waste processing pilot projects. The corporation shall require such person to supply it with such plans, estimates of costs, time schedules, designs, and other data as the corporation shall determine to be reasonable to enable proper identification of costs. Such pilot projects are to determine which methods of recycling solid wastes, including, but not limited to shredding, compression, high-temperature incineration, pyrolization, separation or any other new technology for resource recovery in solid waste management are most feasible for large-scale implementation by the corporation and by municipalities in this state, having due regard for the resources to be recovered, net costs, amount of land required, and environmental considerations. The corporation shall issue annual reports as to the results of these projects, containing recommendations not inconsistent with those findings, and shall make copies of the report, findings and supporting data available to any municipality in this state. For this purpose the corporation is authorized to apply to the United States Public Health Service, Environmental Protection Agency, United States Department of Agriculture, or any other appropriate authority for grants of such federal funds as may be available toward the financing of or contracting for such projects.

The corporation shall transmit a copy of its report to the commissioner of environmental conservation, who shall hold public hearings on its recommendations, pursuant to section 3-0301 of the environmental conservation law, at which hearings testimony shall be taken from all interested parties. Following the termination of said hearings, the department of environmental conservation may make additional findings, if any, and shall have the power to promulgate rules and regulations and/or propose legislation, consistent with its findings, to implement the report.

§ 1285-a. Construction, operation and maintenance of air pollution control facilities, water management facilities and storm water collecting systems. 1. The corporation and any municipality having power to construct air pollution control facilities, water management facilities or storm water collecting systems, by resolution of its governing body may enter into a contract for the construction of air pollution control facilities, water management facilities or storm water collecting systems by the corporation for such municipality upon such terms and conditions as the corporation shall determine to be reasonable, including but not limited to reimbursement of all costs of such construction and claims arising therefrom.

2. The corporation and any state agency having power to construct air pollution control facilities, water management facilities, or storm water collecting systems may enter into a contract for the construction of air pollution control facilities, water management facilities or storm water collecting systems by the corporation for such state agency upon such terms and conditions as the authority and such state agency shall determine to be reasonable, including but not limited to reimbursement of all costs of such construction and claims arising therefrom.

3. The corporation and any municipality having power to construct, operate and maintain air pollution control facilities or storm water collecting systems, by resolution of its governing body may enter into a contract pursuant to which the corporation may provide for the treatment, neutralization and disposal of gaseous wastes and other air pollutants, by means of air pollution control facilities owned and constructed by the corporation and operated and maintained by the corporation or, for and on behalf of the corporation, by such municipality or by any person as may be approved by the corporation and such municipality, or for the collection and conveyance of storm waters by means of storm water collecting systems owned and constructed by the corporation for and on behalf of such municipality. Such contract or contracts shall be in accordance with the provisions of, and shall contain the same terms, conditions and requirements as are set forth in

subdivision three of section twelve hundred eighty-five of this title, provided, however, any such contract providing for the collection and conveyance of storm waters by means of storm water collecting systems owned and constructed by the corporation shall expressly provide for the vesting of title to such storm water collecting system in such municipality in accordance with the provisions of paragraph (c) of said subdivision three of section twelve hundred eighty-five of this title, and that such storm water collecting system shall be operated and maintained by such municipality upon such terms and conditions as the corporation shall determine to be reasonable.

4. The corporation and any state agency having power to operate and maintain air pollution control facilities, water management facilities or storm water collecting systems may enter into a contract with the corporation for the operation and maintenance of air pollution control facilities, water management facilities or storm water collecting systems by the corporation for and on behalf of such state agency; or the corporation and any such state agency may enter into a contract pursuant to which the corporation may provide for the treatment, neutralization and disposal of gaseous wastes and other air pollutants, the furnishing of a public water supply, the collection and conveyance of storm waters by means of air pollution control facilities, water management facilities or storm water collecting systems, as the case may be, owned and constructed by the corporation and operated and maintained by the corporation or for and on behalf of the corporation, by such state agency or by any person as may be approved by the corporation and such state agency. Any such contract or contracts shall be upon such terms and conditions as the corporation and such state agency shall determine to be reasonable, including but not limited to the reimbursement of all costs of planning, financing, construction and operation and maintenance and any claims arising therefrom. No such contract shall be deemed to be a contract for public works or purchase within the meaning of the state finance law.

5. The corporation may make loans to any municipality for the construction of any air pollution control facility, water management facility or storm water collecting system or to any state agency

authorized to issue bonds or notes not constituting a debt or liability of the state within the meaning of section eleven of article seven of the state constitution, for the construction of any air pollution control facility, water management facility, or storm water collecting system. The corporation may accept as evidence of the indebtedness of any such municipality or any state agency authorized to issue bonds or notes not constituting a debt or liability of the state within the meaning of section eleven of article seven of the state constitution, only the municipal bonds or notes of such municipality or bonds or notes of such state agency. Any such loans shall be in an amount or amounts not to exceed the cost of construction of any such project required to be financed by the municipality or such state agency. In connection with the making of any such loans, the corporation may fix and collect fees and charges, including but not limited to reimbursement of all costs of financing by the corporation, as the corporation shall determine to be reasonable. Any such loan by the corporation to a state agency as herein provided, shall be subject to the approval of the director of the budget.

§ 1285-b. Additional special powers of the corporation with respect to projects and persons. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers; (1) to extend credit and make loans to a person or persons for the construction or acquisition of a project or for the reimbursement to a person or persons for costs incurred in connection with a project completed or not completed at the time of such credit or loan, which credits or loans may, but need not, be secured by mortgages, contracts or other instruments, upon such terms and conditions as the corporation shall determine reasonable in connection with such credits or loans, and (2) in the exercise of powers granted in this section in connection with a project for a person or persons, to require the inclusion in any contract, loan agreement or other instrument, of such provisions for the financing of such project and such other financial and other covenants applying to such person or persons, as the corporation may deem necessary or desirable and to do all things and to execute all instruments necessary and desirable in connection therewith. In connection with the extension of any such credit or loan, the corporation may fix and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the corporation as the corporation shall determine to be reasonable. In connection with such extension of credit or loan to such person or persons for the construction or acquisition of a project as provided above, such person or persons shall submit to the corporation an application for the extension of credit or loan as set forth in the application. The corporation may deny such application for any reason it deems appropriate in the public interest. The extension of any such credit or loan is subject to the ability of the corporation to secure the necessary financing and subject to the obtaining by such person or persons of certification by the commissioner of environmental conservation that the project for which such credit or loan is extended is intended to meet or exceed applicable state environmental standards as set forth in law, rules and regulations.

§ 1285-c. Construction, operation and maintenance of industrial hazardous waste treatment, storage and disposal facilities. In addition to its existing powers, the corporation is hereby empowered to construct, operate and maintain industrial hazardous waste treatment, storage and disposal facilities, including plants, works, instrumentalities, or parts thereof, and appurtenances thereto for the collection, conveyance, treatment, exchange and disposal of hazardous wastes provided such a facility receives a certificate of environmental safety and public necessity as provided in title eleven of article twenty-seven of the environmental conservation law and is located on lands in a municipality where such industrial uses are permitted. The corporation may subcontract for the construction or operation of such facility.

§ 1285-d. Studies regarding design, construction and operation of industrial waste treatment, storage and disposal facilities. 1. The purposes of the corporation shall include research and development of technologies for treatment, storage and disposal of industrial hazardous wastes consistent with economic, social and environmental objectives. In carrying out such purposes the corporation shall prepare studies regarding the best technology or systems possible for the design, construction and operation of industrial hazardous waste treatment, storage and disposal facilities including methods to recover materials or energy and to detoxify or neutralize wastes. Studies shall also be made of methods to guarantee long-term maintenance, ownership, monitoring, and environmental soundness of long-term hazardous waste storage and disposal sites. With respect to matters of operation and long-term maintenance, consideration shall be given to the various options for locating such storage and disposal sites and for public or private ownership and for public or private operation consistent with the maximum protection of public health, safety and welfare and the natural environment.

2. Not later than one year from the effective date of this section, the corporation shall submit a report to the governor and the legislature of its studies conducted pursuant to subdivision one of this section.

3. In exercising its responsibilities, the corporation shall also cooperate and act in conjunction with industrial, commercial, medical, scientific, public interest and educational organizations within the state, and with agencies of the federal government, of the state and its political subdivisions, of other states, and joint agencies thereof.

§ 1285-e. Inactive hazardous waste disposal site remedial programs. In addition to its existing powers, the corporation is hereby empowered to carry out inactive hazardous waste disposal site remedial programs. The corporation may subcontract for the work included in carrying out such programs.

§ 1285-f. Program for ultimate disposal of hazardous wastes. 1. The corporation shall immediately begin preparation of a comprehensive program for the ultimate disposal of hazardous wastes which shall include, but not be limited to, technology, siting and marketing and financing of such a program through the use of revenue bonds or other means. Such program shall be in addition to the study mandated by section twelve hundred eighty-five-d of this article.

2. The corporation shall provide to the governor and the legislature a marketing and feasibility study no later than March first, nineteen hundred eighty. Such study shall include findings and recommendations as to available technology, the desirability of regional disposal sites and the feasibility of generating sufficient revenue to amortize bonds which may be issued in connection with the program. To the extent necessary, the study shall be prepared in consultation with experts in the field of public finance.

3. A hazardous waste disposal advisory committee shall be established to advise the corporation on a comprehensive program for the ultimate disposal of hazardous waste. Such advice shall be rendered in connection with the study required by subdivision one of this section.

(a) The committee shall consist of the commissioners, or their designees, of the departments of health, environmental conservation, commerce, the director of the division of the budget, or his designee, and a maximum of five individuals with recognized expertise in the fields of hazardous waste management and technology or public finance. These five individuals shall be appointed by the governor, one of whom the governor shall designate as chairman.

(b) Each member of the hazardous waste disposal advisory committee shall not receive a salary or other compensation, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her committee duties.

§ 1285-g. Industrial materials recycling program. 1. Applicability. It is the purpose of this section to establish a program within the corporation to encourage the reduction, recovery and recycling of industrial materials otherwise requiring disposal.

2. Definitions. When used in this section, unless another meaning

clearly appears from its context:

a. "Hazardous waste" means a waste which appears on the list or satisfied the criteria promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law and until, but not after, the promulgation of such list and criteria means a waste or combination of wastes, which because of its quality, concentration, or physical, chemical or infectious characteristics may:

(i) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed.

b. "Industrial solid waste" means any garbage, refuse, sludge from a waste treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, mining and agricultural operations as a result of a commercial or industrial process but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under article seventeen of the environmental conservation law, or source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended except as may be provided by existing agreements between the state of New York and the government of the United States.

c. "Industrial material" means hazardous waste and industrial solid waste.

d. "Recovery and recycling" means any method or technique utilized to separate, process, modify, convert, treat, or otherwise prepare industrial materials so that component materials or substances may be used as raw materials or energy sources.

e. "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

f. "Generator" means a person whose industrial activities produce industrial material.

3. Industrial materials recycling program. a. The corporation shall undertake and be responsible for a program to encourage industrial materials reduction, recovery and recycling as hereinafter provided. The corporation shall give first priority in such program to hazardous wastes in order to reduce risks to public health and the environment.

b. Such program shall include but not be limited to the following activities:

i. Planning including compilation of, research and development information on industrial methods, technologies and practices that will result in the reduction, recovery or recycling of industrial materials.

ii. Investigation and research into market potential and feasibility for increased utilization of recovered or recycled industrial materials.

iii. Collection, development and maintenance of data on existing and projected production of industrial materials.

iv. Review and analysis of existing industrial methods, technologies and practices relating to the generation, use and disposal of industrial materials.

v. Development and maintenance of a technical reference capability on industrial materials reduction, recovery and recycling methods, technologies and practices including appropriate information available for public and private use.

vi. Encouragement and assistance, within the resources available, to generators and users of industrial materials and to municipalities to reduce, recover or recycle industrial materials, as is feasible and appropriate.

vii. Establishment and maintenance of an information clearing house which shall consist of an ongoing record of industrial materials which may be recycled or recovered. Such record shall include, but is not limited to, the information that is provided in manifest reports required pursuant to section 27-0905 of the environmental conservation law, except that no information including the identities or other identifying information of the individual generators shall be disclosed without the express written consent of the applicable generators. The corporation shall make this information available to persons who desire to recycle or recover industrial materials. The information shall be made available in such a manner as to protect the trade secrets of the generators. Information submitted to the clearing house shall not be subject to disclosure under the freedom of information law as set forth in article six of the public officers law.

viii. Preparation and the continuous update when appropriate of a list of industrial materials which the corporation finds are economically and technically feasible to recycle or recover. Each material shall be categorized according to the degree of difficulty and the kind of difficulty encountered in recycling or recovery of that material.

ix. Preparation, in conjunction with industry, of a handbook on recovery and recycling to be made available to all industries upon request.

x. Coordinate with existing regional entities, public or private, to encourage participation in all elements of the program.

c. The corporation shall coordinate its activities under this section with the department of environmental conservation with such department's responsibilities pursuant to title four of article twenty-seven of the environmental conservation law.

d. The corporation may enter into contracts with private entities for the purpose of having such entities undertake activities called for under this section.

4. Trade secrets; confidentiality. a. The corporation shall ensure that any trade secrets or other proprietary or confidential data or information of a personal nature, required to be utilized pursuant to this section, shall be utilized by the corporation in connection with its respective responsibilities pursuant to this section, and that such trade secrets and other proprietary or confidential data or information are not otherwise disseminated without the express consent of the generator furnishing such information.

b. For the purposes of this section, trade secrets and other proprietary or confidential data or information may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, customer lists, production data, or compilation of information within a commercial concern which is using it to fabricate, produce or compound an article of trade or service having commercial value, and which gives its owner or authorized user an opportunity to obtain a business advantage over competitors who do not know, use or have access to such data and information.

c. For the purposes of this section, due to the unique nature of the program, any generator who claims that specified data or information to be utilized pursuant to any requirement of this section contains trade secrets or other proprietary or confidential data or information of a personal nature may set forth such claims in writing to the corporation for the protection of trade secrets afforded pursuant to this subdivision. Such information shall not be subject to disclosure under the freedom of information law as set forth in article six of the public officers law.

d. The corporation shall have rules of conduct for employees and contractors of the corporation involved in the design, development, operation and maintenance of any trade secret record-keeping and instruct each such employee or contractor with respect to such rules and the requirements of this subdivision including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance.

e. The corporation shall have appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of trade secret information and records and to protect against any anticipated threats to their security or integrity which could result in their unauthorized disclosure.

5. Improper disclosure of trade secrets or other proprietary or confidential data or information of a personal nature. No officer, employee or contractor of the corporation shall intentionally publish, divulge, disclose or make known in a manner not authorized under the provisions of this section any trade secret or other proprietary or confidential data or information of a personal nature available to him in the course of his employment. Any such official, employee or contractor who violates the provisions of this subdivision shall be liable for a civil penalty not to exceed five thousand dollars. In addition, any official or employee who violates the provisions of this subdivision may be dismissed from his office or employment.

6. Report to the legislature. The chairman of the corporation shall, not later than twelve months after the enactment date of this section and annually thereafter, prepare and submit a report on the status of the reduction, recycling and recovery of industrial materials as facilitated by the provisions of this section to the governor and the legislature. In addition, such report shall include, but not be limited to the quantities, composition and disposition of hazardous waste generated by region in the preceding year and the listing of such wastes feasible to recycle and recover developed pursuant to this section. The chairman of the corporation shall also report on the scope, status and efficacy of the program, including the small quantity generator hazardous waste audit program, and specific recommendations for continuation of the program; provided, however, such chairman shall withhold information on the source or nature of particular industrial materials in such a manner as to protect trade secrets or confidential information of the generators.

7. Small quantity generator hazardous waste audit program. a. The corporation shall establish and be responsible for a small quantity generator hazardous waste audit program. To carry out such program, the corporation is authorized to obtain the services, as necessary, of waste management specialists to conduct waste audits at the facilities of hazardous waste generators that have produced less then one thousand kilograms of hazardous waste in each of the past twelve calendar months. The purpose of such audits shall be to provide on-site technical assistance to aid such generators in complying with New York state's hazardous waste regulations and to identify and evaluate the potential for reducing the amount and/or toxicity of hazardous waste generated at such facilities.

b. Waste audits conducted pursuant to this subdivision may include, but need not be limited to:

(i) identification of all hazardous wastes generated at the facility;

(ii) identification of the regulatory requirements associated with the storage, treatment, or disposal of all hazardous wastes generated at the facility;

(iii) identification of any methodologies, processes, equipment, or production changes which could be utilized by the facility to reduce the amount or toxicity of hazardous wastes generated at the facility;

(iv) identification of any on-site recycling or waste treatment technologies which could be utilized to reduce the amount or toxicity of hazardous wastes disposed of by the facility; and

(v) identification of any potential markets for hazardous waste generated by the facility, including the use of waste exchange markets.

c. The corporation shall establish by rule and regulation, upon consultation with the director of the budget, a sliding fee schedule to offset the costs of conducting on-site audits. The fee schedule established pursuant to this section shall be intended to provide revenues sufficient to meet solely the costs incurred by the corporation in performing such audits, provided that the corporation may use technical assistance grants it receives from the federal government, private foundations, or other institutions to reduce or eliminate fees charged generators for performing such audits, and further provided that monies appropriated to the corporation to carry out the purposes of this subdivision shall not be used to provide financial assistance to waste generators for the purchase of manufacturing plants or equipment, property, real or otherwise, engineering or legal services, or any other cost incident to the actual implementation of a waste reduction or management project. The chairman of the corporation is authorized and directed to deposit all monies received in payment of fees under this subdivision in an account within the miscellaneous special revenue fund.

d. Any person receiving audit services pursuant to this subdivision shall, within ninety days of the completion of such audit, submit to the corporation a description of the steps it will take, if any, to implement any recommended waste reduction, recycling, or treatment strategies identified in such audit.

e. In implementing the small quantity generator hazardous waste audit program, the corporation is authorized to:

(i) hire or contract with an appropriate number of hazardous waste management specialists to conduct on-site waste audits;

(ii) employ such public information methods as are appropriate to identify and inform eligible hazardous waste generators of the existence of the waste audit program;

(iii) establish a small quantity generator hazardous waste audit program application consistent with the policies and goals of this section; and

(iv) establish by rule and regulation a small quantity generator hazardous waste audit program application evaluation procedure consistent with the policies and goals of this section.

§ 1285-h. Inactive hazardous waste disposal site remedial programs.
1. The corporation and any owner of an inactive hazardous waste disposal site, or any state agency or any person or municipality identified by the commissioner of the department of environmental conservation pursuant to section 27-1313 of the environmental conservation law as responsible for developing and implementing an inactive hazardous waste

disposal site remedial program pursuant to section 27-1313 of the environmental conservation law or section thirteen hundred eighty-nine-b of the public health law may enter into a contract for the development and/or implementation of such a program upon such terms and conditions as the corporation shall determine to be reasonable. Such contract shall include payment to the corporation pursuant to the contract. The corporation may subcontract for the development or implementation of such a program.

2. When requested by the owner of an inactive hazardous waste disposal site, or by any state agency or by any person or municipality identified by the commissioner of the department of environmental conservation pursuant to section 27-1313 of the environmental conservation law as responsible for the disposal of hazardous waste at such site, the corporation may advise such owner, state agency, person or municipality on matters relating to the development and implementation of an inactive hazardous waste remedial program and pursuant to a contract with such an owner, state agency, person or municipality may render technical assistance and may undertake research, planning and testing with respect to any such program. The corporation may make a reasonable charge to any such owner, state agency, person or municipality for the performance of any of the functions authorized by this subdivision.

3. The corporation shall have the authority to contract with the department of environmental conservation to perform necessary work in connection with inactive hazardous waste disposal site remedial programs pursuant to section 27-1313 of the environmental conservation law. Such contract shall include payment to the corporation pursuant to the contract. The corporation may subcontract for the development or implementation of such a program.

§ 1285-i. Commercial and industrial waste audits. a. The corporation shall establish and be responsible for administration of a commercial and industrial waste audit program to help businesses identify and evaluate the potential at their New York facilities for reducing the amount of solid waste generated, increasing new materials recovery programs and otherwise reducing the amount of waste ultimately requiring disposal. The corporation shall in implementing said waste audit program coordinate activities with and actively foster the waste exchange program of the corporation and other waste reduction programs as is appropriate, and is further authorized to obtain the services, as necessary, of waste management specialists to conduct such waste audits.

b. In implementing the commercial and industrial waste audit program, the corporation shall:

(i) establish an application process consistent with the rules and regulations of the program;

(ii) establish by rule and regulation a commercial and industrial solid waste audit program application evaluation procedure consistent with the requirements of this section; and

(iii) establish by rule and regulation, upon consultation with the director of the budget, a sliding fee schedule to offset the costs of the audit. The fee schedule established pursuant to this section shall be intended to provide revenues sufficient to meet solely the costs incurred by the corporation in performing such audits. The chairman is authorized and directed to deposit all money received in payment of fees under this section in an account within the miscellaneous special revenue fund.

c. Waste audits conducted pursuant to this section may include but need not be limited to identification of:

(i) all waste generated within the facility;

(ii) the regulatory requirements associated with the recovery, reuse or disposal of such waste, and the implications of such requirements for various reduction and reuse options;

(iii) any methodologies, processes, equipment, or production changes that could be utilized to reduce the amount of waste generated and consumer waste resulting from the product, process or service manufactured, distributed or sold;

(iv) on site recycling or waste treatment technologies that could be utilized to reduce the need for waste disposal capacity;

(v) potential markets for waste generated by the facility, including local materials recycling programs, and the ability of such markets to

readily absorb the wastes generated by such facility; and
(vi) economic practicality of alternative waste reduction strategies.

d. Any person for whom a waste audit is prepared shall within one hundred eighty days submit to the corporation findings with respect to the report and the status of steps to implement any recommended strategies identified in such audit.

e. Beginning January first, nineteen hundred eighty-nine, the chairman shall make an annual report concerning the activities undertaken pursuant to this section which shall include, at a minimum (i) the number of businesses which received assistance, (ii) the nature of assistance provided through the programs, (iii) needs and problems confronted by such businesses in establishing and implementing programs, and (iv) the number of businesses which applied for assistance. The chairman shall submit to the director of the division of the budget, the chairman and the ranking minority member of the senate finance committee and the chairman and the ranking minority member of the assembly ways and means committee an evaluation of the program prepared by an entity independent of the authority. Such evaluation shall be submitted by September first, nineteen hundred ninety and by September first every two years thereafter.

§ 1285-j. Water pollution control revolving fund. 1. (a) The corporation shall undertake and provide assistance in support of the program to make financial assistance available to municipalities to encourage and support the planning, development and construction of municipal water pollution control projects in accordance with the provisions of this section, section 17-1909 of the environmental conservation law, and to make financial assistance available to eligible borrowers through linked deposits made in accordance with article sixteen of the state finance law.
(b) There is hereby established in the custody of the corporation a special fund to be known as the water pollution control revolving fund. Moneys in the water pollution control revolving fund shall be segregated from all other funds of or in the custody of the corporation subject to

any rights of holders of corporation bonds or notes issued for the purposes of this section. Moneys in the water pollution control revolving fund shall only be used in accordance with the provisions of this section and section 17-1909 of the environmental conservation law. The moneys in such fund shall be applied to or paid out for authorized purposes of such fund on the direction of the chairman of the corporation in accordance with subdivision four of this section and section 17-1909 of the environmental conservation law, or such other person as the corporation shall authorize to make such direction. In consultation with the director of the division of the budget, the corporation may, subject to subparagraph (ii) of paragraph a of subdivision seven of section 17-1909 of the environmental conservation law, and shall, at the direction of the commissioner of environmental conservation pursuant to such subdivision, establish within the water pollution control revolving fund additional accounts or subaccounts and specify any conditions applicable to the transfer of moneys between such accounts or subaccounts. With respect to each eligible project, the corporation shall establish and maintain a record of the allocation provided for the benefit of such project in accordance with the terms of the applicable project financing agreement or loan agreement.

2. As used in this section, the terms "allocation", "construction", "eligible project", "fund", and "project financing agreement" shall have the meanings set forth in section 17-1909 of the environmental conservation law.

3. Such fund shall consist of all of the following: (a) federal capitalization grants and awards or other federal assistance provided pursuant to Title II or Title VI of the Federal Water Pollution Control Act, exclusive of any such grants, awards or assistance available under Title II, except as may be necessary to avoid the loss to New York state of any unobligated Title II money which can not be made available as a grant or grant increase to a municipality, for purposes of deposit in the fund and appropriated by the state for deposit therein, (b) federal capitalization grants and awards or other federal assistance provided pursuant to, or for the purposes of, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet

weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), (c) moneys appropriated by the state legislature for the purpose of such fund or otherwise transferred by the state for deposit therein by the comptroller as required by law, (d) payments of principal and interest made by municipalities pursuant to loan or other agreements entered into pursuant to subdivisions eight and nine of this section: provided, however, if such loans were financed by the issuance of bonds or notes of the corporation, deposit of such payments into the fund shall be subject to the rights of the holders of such bonds or notes to receive such moneys, (e) investment earnings on amounts in such fund, (f) any other payments received from municipalities pursuant to a loan or other agreement made pursuant to subdivisions eight and nine of this section for costs of managing and administering the program, (g) the proceeds of bonds or notes issued by the corporation for purposes of providing financial assistance to municipalities, (h) the balance of any fees or penalties paid pursuant to the terms and conditions of a compliance or enforcement agreement for violations of the federal Marine Protection, Research and Sanctuaries Act, as amended (33 U.S.C. §§ 1401 et seq.), occurring prior to December thirty-first, nineteen hundred ninety-four, after payment has been made to the administrator of the United States environmental protection agency, a trust account, the ocean dumping alternatives account, and (i) the balance of any amount in a trust account or, if applicable, municipal trust accounts of the clean oceans fund upon a finding by the administrator of the United States environmental protection agency that fees or penalties were not paid into such trust account or municipal trust account as required by the Marine Protection, Research, and Sanctuaries Act, or an applicable compliance or enforcement agreement.

4. Moneys in the water pollution control revolving fund shall be applied by the corporation to provide financial assistance to municipalities for construction of eligible projects and, upon consultation with the director of the division of the budget and the commissioner, for such other purposes permitted by the Federal Water Pollution Control Act, as amended, and to provide for the administrative and management costs of the program. All moneys from federal capitalization grants and awards or other federal assistance made

available pursuant to, or for the purposes of, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), which are deposited into the water pollution control fund pursuant to subdivision three of this section, and any corresponding state match moneys, may be used by the corporation for the purposes permitted by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), and for no other purposes. As used in this section "financial assistance to municipalities" means any one or more of the following:

(a) making loans to municipalities for construction of eligible projects, provided such loans (i) are made at market or below market rates, (ii) do not have a final maturity of more than twenty years following scheduled completion of the eligible project, (iii) have principal and interest payments which commence not later than one year after scheduled completion of the eligible project, and (iv) require the municipality to establish a dedicated source of revenue (which may be a general obligation of the municipality); unless otherwise determined by the corporation or directed by the commissioner of environmental conservation pursuant to subdivision eight of section 17-1909 of the environmental conservation law, the corporation shall make such loans only from the proceeds of the corporation's bonds or notes issued for purposes of this section;

(b) buying or refinancing debt obligations of municipalities at market or below market rates, if work was commenced and debt was incurred for the eligible project after March seventh, nineteen hundred eighty-five;

(c) guarantying, or purchasing insurance or other credit enhancement for municipal obligations where such action would improve credit market access for or reduce interest rates on such municipal obligations;

(d) providing a source of revenue or security for payment of principal and interest on bonds or notes issued by the corporation if the proceeds of the sale of such bonds or notes will be deposited in the fund;

(e) providing interest rate subsidy allocations to subsidize loans to municipalities made from the proceeds of the corporation's bonds or notes;

(f) using investment earnings on moneys in the fund to pay, pursuant to subdivision seven of this section, the costs of the corporation and the department of environmental conservation of administering and managing the program described in this section and section 17-1909 of the environmental conservation law.

Subject to any applicable provisions of federal or state law, any financial assistance at an interest rate of zero percent provided to municipalities that meet the financial hardship criteria regulations established pursuant to section 17-1909 of the environmental conservation law, may have a final maturity up to forty years following scheduled completion of the eligible project.

5. The corporation may make payments to the sewage treatment program management and administration fund in accordance with subdivision seven of this section to reimburse such fund for expenditures made pursuant to appropriation to pay the cost of the corporation and the department of environmental conservation for administering and managing the water pollution control revolving fund program established in section ninety-seven-l of the state finance law, for such costs. Such reimbursement shall be made from (a) available investment earnings on all amounts in the water pollution control revolving fund excluding all amounts in the fund which are the subject of allocations or other financial assistance to a municipality; and (b) payments received from a municipality for such purpose pursuant to a project financing agreement or loan agreement; and (c) if the sources of revenue described in this paragraph and paragraphs (a) and (b) of this subdivision are or are anticipated to be insufficient, then from the proceeds of federal capitalization grants, awards or assistance appropriated to the fund for administration and management of such program.

Notwithstanding the foregoing, if the sources of revenues described in paragraphs (a), (b) and (c) of this subdivision are at any time insufficient to make a reimbursement to the state pursuant to this subdivision when due, the corporation shall make such reimbursement from any other available amounts in the water pollution control revolving fund, excluding all amounts that are the subject of allocations, provided, that the amounts paid from fund sources other than those described in paragraphs (a), (b) and (c) of this subdivision shall be reimbursed upon a determination by the director of the budget that future revenues obtained from sources described in paragraphs (a), (b) and (c) of this subdivision are in excess of the amounts reasonably needed to make future reimbursements pursuant to this subdivision.

* 6. Moneys in the water pollution control revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested (a) in investment agreements continuously secured by obligations with any insurance or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if, (i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law, (ii) such obligations are delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust relating to bonds or notes of the corporation, to the trustee under such indenture, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder, (iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, as applicable, and (iv) such obligations are free and clear of adverse third party claims, or (b) in obligations as set forth in section ten of the general municipal law that are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective until September 30, 2029

* 6. Moneys in the water pollution control revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested (a) in investment agreements continuously secured by obligations with any insurance or

reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if, (i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law, (ii) such obligations are delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust relating to bonds or notes of the corporation, to the trustee under such indenture, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder, (iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, as applicable, and (iv) such obligations are free and clear of adverse third party claims, or (b) in obligations the interest on which is excludable from gross income under section one hundred three of the internal revenue code, provided that such obligations are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective September 30, 2029

7. The corporation may transfer to the sewage treatment program management and administration fund established pursuant to section ninety-seven-l of the state finance law no less frequently than semi-monthly amounts from the fund sufficient to reimburse the sewage treatment program management and administration fund in accordance with the provisions of subdivision five of this section.

8. In addition to the powers of the corporation granted elsewhere in this chapter, the corporation shall have the power to enter into project financing agreements authorized by section 17-1909 of the environmental conservation law. Notwithstanding the powers granted to the corporation

elsewhere in this title, the corporation's power to finance eligible projects from the fund is limited to eligible projects for which project financing agreements have been executed pursuant to section 17-1909 of the environmental conservation law.

9. In addition to the powers granted to the corporation elsewhere in this chapter, the corporation may make loans to municipalities for purposes of financing eligible projects for which the fund may be used, subject to the limitations of subdivision eight of this section, may accept the obligations of any municipality as security for the repayment of a loan to such municipality, and may assign and pledge such municipal obligations and loan agreements for the benefit of the holder of obligations of the corporation from the proceeds of which such loans are made. Loan proceeds may be disbursed to a municipality in accordance with such restrictions as may be imposed by the corporation in connection with such loan or obligations of the corporation from the proceeds of which such loan is made.

10. The corporation is authorized to arrange for any audits required by law for the purpose of issuing its bonds or notes to provide financial assistance to municipalities, and provide for the implementation of any independently conducted reviews or audits arranged pursuant to subdivision seven of section 17-1909 of the environmental conservation law.

11. In the event a municipality shall fail to make any payment due the corporation pursuant to any loan agreement, financing agreement, or other obligation of the municipality sold to the corporation or issued as security for the undertaking of the municipality thereunder, the corporation shall certify to the comptroller, and notify the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the director of the division of the budget and the governing body of the municipality that such municipality has failed to make such payment. Such certificate shall be in such form as may be determined by the corporation provided such certificate shall specify the exact amount of debt service and surcharge, if applicable, required to satisfy such municipality's unpaid obligation. The comptroller, upon

receipt of such certificate from the corporation, is authorized to and shall, to the extent not otherwise prohibited by law and subject to any other provision of law providing for withholding of payments to the municipality which take precedence over this subdivision, withhold from such municipality the next succeeding payments of state aid or local assistance otherwise payable to it to the extent necessary to meet the certified amount of debt service and surcharge, if applicable, due the corporation and shall immediately pay over to the corporation as a debt service payment on behalf of such municipality the amount so withheld.

12. (a) Notwithstanding the provisions of any general or special law to the contrary, the commissioner of environmental conservation on behalf of the state and the corporation, subject to the approval of the director of the budget, are each hereby authorized to enter into a state revolving fund service contract or contracts providing for the administration of the water pollution control revolving fund and the financing by the corporation of the contributions made by the state to the water pollution control revolving fund. Any such contract or contracts shall be upon such terms and conditions as the corporation and the commissioner of environmental conservation shall determine to be reasonable, including, but not limited to, provisions relating to the respective obligations of the state and the corporation with respect to the administration of the water pollution control revolving fund and provisions providing for the payment of (i) all fees and other charges of, and expenses incurred by, the corporation in connection with the issuance and administration of special obligation bonds to provide funds to the state or reimburse the state for contributions to the water pollution control revolving fund and (ii) all debt service payments on such bonds.

(b) Any such contract entered into pursuant to paragraph (a) of this subdivision shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefore and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(c) Any such contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes issued for the purpose of financing the state contribution to the water pollution control revolving fund.

(d) The comptroller is hereby authorized to receive from the corporation any portion of special obligation bond proceeds paid to provide funds to or reimburse the state for its contribution to the water pollution control revolving fund and to credit such amounts to the capital projects fund or any other appropriate fund.

13. In addition to the powers granted to the corporation in this section, the corporation is authorized to exercise the powers, perform the responsibilities and take the actions assigned to it under section 17-1909 of the environmental conservation law.

§ 1285-k. Financing of the design, acquisition, construction, improvement and installation of Riverbank Park. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers:

1. Notwithstanding the provisions of any law to the contrary, the corporation and any state agency, subject to the approval of the director of the budget, may enter into a contract for financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park, for and on behalf of such state agency; and the corporation and any state agency may enter into a contract, lease, easement, license or other instrument pursuant to which the corporation shall make all or any portion of Riverbank Park available to such agency, for use as a park. Any such contract or contracts, lease, easement, license or other instrument shall be upon such terms and conditions as the corporation and the subject state agency shall determine to be reasonable, including, but not limited to, the payment of, or reimbursement to the corporation for, (a) all costs of the corporation in financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park, and any claims arising therefrom, (b) all fees and other charges of, and

all expenses incurred by, the corporation in connection with the issuance and administration of any bonds or notes issued by the corporation for such purpose, and (c) amounts sufficient to pay all principal, premium, if any, and interest on such bonds or notes. Such payment or reimbursement may be made annually or otherwise, may be in fixed amounts or based on any factors or other matters, or may be made in any other manner, as such contract or contracts shall provide.

2. Any contract, lease, easement, license or other instrument entered into by the corporation pursuant to subdivision one of this section may be assigned or pledged by the corporation as security for its bonds or notes issued for the purpose of financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park.

3. The corporation, any state agency, the city of New York or any agency or instrumentality thereof, may enter into any leases, easements, licenses, or other instruments, for the purpose of granting to the corporation any interest in real property which the corporation shall deem necessary for the purpose of financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park.

4. Notwithstanding the provisions of subdivision one of this section, any contract, lease, easement, license or other instrument entered into by the corporation with any state agency, pursuant to subdivision one of this section, shall (a) provide that the obligation of the state or such state agency to pay the amounts therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision, and (b) be deemed executory only to the extent moneys are available, and provide that the obligation of the state or such state agency to make payments thereunder is subject to annual appropriation by the legislature.

§ 1285-l. State park infrastructure projects. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers:

1. Notwithstanding the provisions of any general or special law to the contrary, the office of parks, recreation and historic preservation or the division of the budget, with the approval of the director of the budget, and the corporation are each hereby authorized to enter into a contract or contracts providing for the financing of the design, acquisition, construction, improvement and installation of all or any portion of any state park infrastructure project or reimbursement to the state for costs incurred in connection with a state park infrastructure project for and on behalf of the state; and the corporation and the office of parks, recreation and historic preservation or the division of the budget, with the approval of the director of the budget, may enter into a contract, lease, easement, license or other instrument pursuant to which the corporation shall make all or any portion of any state park infrastructure project available to such state agency. Any such contract or contracts, lease, easement, license or other instrument shall be upon such terms and conditions as the corporation and the state shall determine to be reasonable, including, but not limited to, the payment of or reimbursement to the corporation for (a) all costs of the corporation in financing all or any portion of any state park infrastructure project, and any claims arising therefrom, (b) all fees and other charges of, and all expenses incurred by, the corporation in connection with the issuance and administration of any bonds or notes issued by the corporation for such purpose, and (c) amounts sufficient to pay all principal, premium, if any, and interest on such bonds or notes. Such payment or reimbursement may be made annually or otherwise, may be in fixed amounts or based on any factors or other matters, or may be made in any other manner, as such contract or contracts, lease, easement, license or other instrument shall provide. Provided, however, that the net proceeds of any such bonds or notes issued shall not exceed sixteen million dollars, not including issuance costs, capitalized interest and debt service reserve funds.

2. Any such contract or contracts, lease, easement, license or other instrument entered into pursuant to subdivision one of this section shall provide that the obligation of the state to fund or to pay the

amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefor and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

3. Any such contract or contracts, lease, easement, license or other instrument or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes issued for the purpose of financing all or any part of any state park infrastructure project.

4. The corporation and the office of parks, recreation and historic preservation or the division of the budget, with the approval of the director of the budget, may enter into any leases, easements, licenses or other instruments for the purpose of granting to the corporation any interest in real property which the corporation shall deem necessary for the purpose of financing the design, acquisition, construction, improvement and installation of all or any portion of any state park infrastructure project. The corporation shall hold any such interest in real property in trust for the state, shall make and keep such properties accessible to the public, and shall not sell, lease, exchange or donate such properties except to the state.

5. The comptroller is hereby authorized to receive from the corporation any portion of special obligation bond proceeds paid to provide funds for or reimburse the state for its costs associated with any state park infrastructure project and to credit such amounts to the capital projects fund or any other appropriate fund.

§ 1285-m. Drinking water revolving fund. 1. (a) The corporation shall undertake and provide assistance in support of the program to make financial assistance available to recipients to encourage and support the planning, development and construction of water supply facilities in accordance with the provisions of this section and title four of article eleven of the public health law.

(b) There is hereby established in the custody of the corporation a special fund to be known as the drinking water revolving fund. Except as otherwise provided by this paragraph, moneys in the drinking water revolving fund shall be segregated from all other funds of or in the custody of the corporation subject to any rights of holders of corporation bonds or notes issued for the purposes of this section. Moneys in the drinking water revolving fund shall only be used in accordance with the provisions of this section and title four of article eleven of the public health law; provided that, in addition, to the extent permitted by federal or state law, moneys in the drinking water revolving fund may be transferred to and used for the purposes authorized for the water pollution control revolving fund, and moneys in the water pollution control revolving fund may be transferred to and used for the purposes authorized for the drinking water revolving fund. The moneys in the drinking water revolving fund shall be applied to or paid out for authorized purposes of such fund in accordance with subdivision four of this section and title four of article eleven of the public health law. To the extent approved by the commissioner of health and the commissioner of environmental conservation and notwithstanding the provisions of paragraph (a) of this subdivision, moneys in the drinking water revolving fund and in the water pollution control revolving fund may be held together; provided that all such moneys are segregated from all other funds of or in the custody of the corporation subject to any rights of holders of corporation bonds or notes issued for the purposes of this section; provided further, that the corporation shall establish and maintain or cause there to be established and maintained a system of tracking the application of such moneys to the purposes of this section. The corporation may establish within the drinking water revolving fund additional accounts or subaccounts and specify any conditions applicable to the transfer of moneys between such accounts or subaccounts. With respect to each eligible project, the corporation shall establish and maintain a record of the allocation provided for the benefit of such project in accordance with the terms of the applicable financing agreement.

2. As used in this section, the terms "allocation", "construction",

"eligible project", "fund" and "financing agreement" shall have the meanings set forth in section eleven hundred sixty of the public health law.

3. Such fund shall consist of all of the following:

(a) the proceeds of bonds or notes issued by the state pursuant to the Clean Water/Clean Air Bond Act of 1996; provided that up to two hundred sixty-five million dollars ($265,000,000) of such proceeds shall be available to finance state assistance payments in the manner set forth in paragraphs (a), (d), (e), (f) and (g) of subdivision four of this section, and up to ninety million dollars ($90,000,000) shall be available to finance state assistance payments in the manner set forth in paragraphs (d), (f) and (h) of subdivision four of this section;

(b) federal capitalization grants and awards or other federal assistance provided pursuant to the federal safe drinking water act for purposes of deposit in the fund and appropriated by the state for deposit therein;

(c) moneys appropriated by the state legislature for the purpose of such fund or otherwise transferred by the state for deposit therein by the comptroller as required by law;

(d) payments of principal and interest made by recipients pursuant to loan or other financing agreements entered into pursuant to subdivisions eight and nine of this section; provided, however, if financial assistance made pursuant to financing agreements were financed by the issuance of bonds or notes of the corporation, deposit of such payments into the fund shall be subject to the rights of the holders of such bonds or notes to receive such moneys;

(e) investment earnings on amounts in such fund; and

(f) the proceeds of bonds or notes issued by the corporation for purposes of providing financial assistance to recipients.

4. Moneys in the drinking water revolving fund shall be applied by the corporation in accordance with this section and title four of article eleven of the public health law to provide financial assistance to recipients for construction of eligible projects and, upon consultation with the director of the division of the budget, for such other purposes permitted by the federal safe drinking water act, as amended, and to

provide for the administrative and management costs of the program, provided however, that proceeds of bonds issued pursuant to the Clean Water/Clean Air Bond Act of 1996, other than proceeds of bonds used to finance the state match for federal capitalization grants for the drinking water revolving fund, shall not be used for administrative and management costs; and provided further, that proceeds of bonds issued pursuant to the Clean Water/Clean Air Bond Act of 1996, other than proceeds of bonds issued to finance the state match for federal capitalization grants for the drinking water revolving fund, shall not be used to finance costs with respect to the Croton filtration project. As used in this section "financial assistance to recipients" means any one or more of the following:

(a) making loans to recipients for construction of eligible projects on such terms as the corporation may determine, subject to any applicable provisions of federal or state law;

(b) buying or refinancing debt obligations of recipients at market or below market rates, subject to any applicable provisions of federal or state law;

(c) guarantying, or purchasing insurance or other credit enhancement for municipal obligations where such action would improve credit market access for or reduce interest rates on such municipal obligations;

(d) providing a source of revenue or security for payment of principal and interest on bonds or notes issued by the corporation if the proceeds of the sale of such bonds or notes will be deposited in the fund;

(e) providing interest rate subsidy allocations to subsidize loans to recipients made from the proceeds of the corporation's bonds or notes;

(f) paying, pursuant to subdivision seven of this section, the costs of the corporation and the department of health of administering and managing the program described in this section and title four of article eleven of the public health law and paying the costs of the corporation and the department of health of providing technical assistance with respect to such program; provided, however, that proceeds of bonds issued pursuant to the Clean Water/Clean Air Bond Act of 1996, other than proceeds of bonds used to finance the state match for federal capitalization grants for the drinking water revolving fund, shall not be used for such costs;

(g) paying up to seventy-five percent of the principal on loans made to recipients under financing agreements if the corporation determines that the recipient would be unable to carry out the eligible project financed with such loan without creating a financial hardship on system users and without the subsidy afforded by such payment of principal, provided that (i) the amounts applied to such purpose shall be paid from interest earned on funds deposited in the fund and from interest received on other loans made from the fund, (ii) the amounts so applied shall not exceed, in the aggregate, the interest earnings received by the fund on fifty percent of the amounts deposited to the fund, and (iii) in accordance with regulations to be promulgated by the corporation, preference shall be given to small and rural communities in providing such principal subsidies; or

(h) making state assistance payments for the state share of the cost of an eligible project from up to ninety million dollars ($90,000,000) of the proceeds of state bonds and notes issued pursuant to the Clean Water/Clean Air Bond Act of 1996; provided that, in accordance with regulations to be promulgated by the corporation, preference shall be given to recipients which would be unable to carry out such eligible projects in the absence of such state assistance payments without creating a financial hardship on system users.

Subject to any applicable provisions of federal or state law, any financial assistance at an interest rate of zero percent provided to recipients that meet the financial hardship criteria regulations established pursuant to title four of article eleven of the public health law, may have a final maturity up to forty years following scheduled completion of the eligible project.

5. The corporation may make payments to the state in accordance with subdivision seven of this section to reimburse the state for expenditures made pursuant to appropriation to pay the cost of the corporation and the department of health for administering and managing the drinking water revolving fund program, including provision of technical assistance. Such reimbursement may be made from:

(a) available investment earnings on all amounts in the drinking water revolving fund excluding all amounts in the fund which are the subject of allocations or other financial assistance to a recipient;

(b) payments received from a recipient for such purpose; and
(c) the proceeds of federal capitalization grants, awards or assistance available for administration and management of such program.

Notwithstanding the foregoing, if the sources of revenues described in paragraphs (a), (b) and (c) of this subdivision are at any time insufficient to make a reimbursement to the state pursuant to this subdivision when due, the corporation may make such reimbursement from any other available amounts in the drinking water revolving fund, excluding all amounts that are the subject of allocations, provided, that the amounts paid from fund sources other than those described in paragraphs (a), (b) and (c) of this subdivision shall be reimbursed upon a determination by the director of the budget that future revenues obtained from sources described in paragraphs (a), (b) and (c) of this subdivision are in excess of the amounts reasonably needed to make future reimbursements pursuant to this subdivision.

* 6. Moneys in the drinking water revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested:

(a) in investment agreements continuously secured by obligations with any insurance company or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if such investment agreement provides that:

(i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law;

(ii) such obligations are to be delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust or trust agreement relating to bonds or notes of the corporation, to the trustee under such indenture or trust agreement, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder;

(iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, such trustee or such depository as applicable; and

(iv) such obligations are free and clear of adverse third party claims; or

(b) in obligations as set forth in section ten of the general municipal law that are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective until September 30, 2029

* 6. Moneys in the drinking water revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested:

(a) in investment agreements continuously secured by obligations with any insurance company or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if such investment agreement provides that:

(i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law;

(ii) such obligations are to be delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust or trust agreement relating to bonds or notes of the corporation, to the trustee under such indenture or trust agreement, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder;

(iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, such trustee or such depository as applicable; and

(iv) such obligations are free and clear of adverse third party claims; or

(b) in obligations the interest on which is excludable from gross income under section one hundred three of the internal revenue code, provided that such obligations are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective September 30, 2029

7. The corporation may transfer to the state on such schedule as the corporation and the department of health shall agree amounts from the fund to reimburse the state in accordance with the provisions of subdivision five of this section.

8. In addition to the powers of the corporation granted elsewhere in this chapter, the corporation shall have the power to enter into loan and other financing agreements authorized by title four of article eleven of the public health law. Notwithstanding the powers granted to the corporation elsewhere in this title, the corporation's power to finance eligible projects from the fund is limited to eligible projects for which financing agreements have been executed pursuant to title four of article eleven of the public health law.

9. In addition to the powers granted to the corporation elsewhere in this chapter, the corporation may make loans or other financial assistance to recipients for purposes of financing eligible projects for which the fund may be used, subject to the limitations of subdivision eight of this section, may accept the obligations of any recipient as security for the repayment of a loan to such recipient, and may assign and pledge such recipient obligations and financing agreements for the benefit of the holders of obligations of the corporation. Loan proceeds or other financial assistance may be disbursed to a recipient only in connection with facilities that have been certified by the commissioner of health as constituting an eligible project and in accordance with other restrictions as may be imposed in connection with such loan or obligations of the corporation from the proceeds of which such loan is

made.

10. The corporation is authorized to arrange, in consultation with the department of health, for any audits required by law for the purpose of issuing its bonds or notes to provide financial assistance to recipients, and provide for the implementation of any independently conducted reviews or audits arranged pursuant to subdivision two of section eleven hundred sixty-six of the public health law.

11. In the event a municipality participating in the drinking water revolving fund program shall fail to make any payment due the corporation pursuant to any financing agreement or other obligation of the municipality sold to the corporation or issued as security for the undertaking of the municipality thereunder, the corporation shall certify to the comptroller, and notify the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the director of the division of the budget and the governing body of the municipality that such municipality has failed to make such payment. Such certificate shall be in such form as may be determined by the corporation provided such certificate shall specify the exact amount of debt service and surcharge, if applicable, required to satisfy such municipality's unpaid obligation. The comptroller, upon receipt of such certificate from the corporation, is authorized to and shall, to the extent not otherwise prohibited by law and subject to any other provision of law providing for withholding of payments to the municipality which takes precedence over this subdivision, withhold from such municipality the next succeeding payments of state aid or local assistance otherwise payable to it to the extent necessary to meet the certified amount of debt service and surcharge, if applicable, due the corporation and shall immediately pay over to the corporation as a debt service payment on behalf of such municipality the amount so withheld.

§ 1285-n. Issuance and sale of recipient bonds and notes. Notwithstanding subdivision two of section one thousand eighty of this article, or any by-law, rule or regulation requiring the recipient to issue bonds or notes at a public or competitive sale, any recipient of a financing from the corporation pursuant to section twelve hundred eighty-five-j, twelve hundred eighty-five-m or twelve hundred eighty-five-o of this title may validly issue its notes or bonds to the corporation, as evidence of its obligation to repay such financing.

§ 1285-o. Pipeline for jobs fund. The corporation shall undertake to provide financial assistance to recipients to encourage and support the planning, design and construction of eligible projects which provide an economic development benefit to the state.

1. There is hereby established in the custody of the corporation a "pipeline for jobs fund". The purpose of the pipeline for jobs fund shall be to provide financial assistance, as determined by the corporation in consultation with the department of economic development, to recipients for the planning, design and construction of eligible projects.

2. For purposes of this section, and notwithstanding any provision of law to the contrary, as used in this section:

(a) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension of an eligible project; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

(b) "Eligible municipality" means any county, city, town or village located within the state.

(c) "Eligible project" means a project intended to create, improve or extend water supply facilities, including, but not limited to, drinking water facilities and cold water supply facilities for economic development purposes on behalf of businesses, which may include projects that may be eligible for financing under or designed to comply with the requirements of the federal safe drinking water act or other applicable federal laws and state drinking water quality goals and standards.

(d) "Financial assistance" means state assistance payments for the state share of the cost of an eligible project, or any one or more of the following types of financial assistance:

(i) loans to recipients for construction of eligible projects on such terms as the corporation may determine, subject to any applicable provisions of federal or state law;

(ii) buying or refinancing debt obligations of recipients at market or below market rates, subject to any applicable provisions of federal or state law;

(iii) guarantying, or purchasing insurance or other credit enhancement for municipal obligations where such action would improve credit market access for or reduce interest rates on such municipal obligations;

(iv) providing a source of revenue or security for payment of principal and interest on bonds or notes issued by the corporation if the proceeds of the sale of such bonds or notes will be deposited in the fund; and

(v) providing interest rate subsidies from investment earnings on corpus allocations to subsidize loans to recipients made from the proceeds of the corporation's bonds or notes.

(e) "Fund" means the pipeline for jobs fund established by this section.

(f) "Recipient" means any eligible municipality, public utility, public benefit corporation, or person, including any individual, firm, partnership, association, not-for-profit corporation or other corporation organized and existing under the laws of the state or any other state which is empowered to construct and operate an eligible project, or any two or more of the foregoing which are acting jointly in connection with an eligible project.

3. Moneys in the fund shall be segregated from all other funds of or in the custody of the corporation. Moneys in the fund shall be used for any authorized purpose of the fund as provided and in accordance with the provisions of this section.

4. The fund shall consist of:

(a) moneys appropriated by the legislature pursuant to a chapter of the laws of nineteen hundred ninety-nine, or any reappropriation thereof, for the purpose of such fund or otherwise transferred by the state for deposit therein by the comptroller as required by law;

(b) payments of principal and interest made by recipients pursuant to loan or other financing agreements entered into pursuant to this section; provided, however, if financial assistance made pursuant to financing agreements is financed by the issuance of bonds or notes of the corporation, deposit of such payments into the fund shall be subject to the rights of the holders of such bonds or notes to receive such moneys;

(c) investment earnings on the amounts in such fund; and

(d) the proceeds of bonds or notes issued by the corporation for purposes of providing financial assistance to recipients.

5. Moneys in the fund may be invested by the corporation in accordance with this title and pursuant to guidelines from time to time issued by the corporation.

6. The corporation shall request applications from recipients to receive financial assistance from the fund for eligible projects. The corporation shall provide a list of the eligible projects and the amounts available for financial assistance to the department of economic development, which department shall recommend to the corporation projects to be financed from the moneys available. In making such recommendations, the department of economic development shall give consideration to eligible projects which have the potential to enhance the state's technology industry development efforts.

7. The corporation shall promulgate regulations, developed in consultation with the commissioner of economic development, the commissioner of environmental conservation and the commissioner of health for the purpose of carrying out its responsibilities under this section, including establishing the criteria and standards for evaluating the projects to be financed and determining the amount and kind of financial assistance to a recipient for an eligible project as well as the terms of any financing agreement evidencing such financial assistance.

8. The provisions of subdivision eleven of section twelve hundred eighty-five-m of this title shall be available to the corporation in the

event of a default under any financing agreement entered into by an eligible municipality pursuant to this section.

9. (a) Notwithstanding the provisions of any general or special law to the contrary, the corporation and the director of the budget are hereby authorized to enter into a pipeline for jobs fund service contract or contracts providing for the administration of the pipeline for jobs fund and the financing by such corporation of the contributions made by the state to the pipeline for jobs fund. Any such contract or contracts shall be upon such terms and conditions as the corporation and the director of the budget shall determine to be reasonable, including, but not limited to, provisions relating to the respective obligations of the state and the corporation with respect to providing for the payment of (i) all fees and other charges of, and expenses incurred by, the corporation in connection with the issuance and administration of bonds to provide funds to the state or reimburse the state for contributions to the pipeline for jobs fund and (ii) all debt service payments and related expenses on such bonds.

(b) Any such contract entered into pursuant to paragraph (a) of this subdivision shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefore and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(c) Any such contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes issued for the purpose of financing the state contribution to the pipeline for jobs fund.

(d) The comptroller is hereby authorized to receive from the corporation any portion of bond proceeds paid to provide funds to or reimburse the state for its contribution to the pipeline for jobs fund and to credit such amounts to the capital projects fund.

§ 1285-p. State environmental infrastructure projects. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers:

1. Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, in order to assist the corporation in undertaking the administration and the financing of the design, acquisition, construction, improvement, installation, and related work for all or any portion of any of the following environmental infrastructure projects and for the provision of funds to the state for any amounts disbursed therefor: (a) projects authorized under the environmental protection fund, or for which appropriations are made to the environmental protection fund including, but not limited to municipal parks and historic preservation, stewardship, farmland protection, non-point source, pollution control, Hudson River Park, land acquisition, and waterfront revitalization; (b) department of environmental conservation capital appropriations for Onondaga Lake for certain water quality improvement projects in the same manner as set forth in paragraph (d) of subdivision one of section 56-0303 of the environmental conservation law; (c) for the purpose of the administration, management, maintenance, and use of the real property at the western New York nuclear service center; (d) department of environmental conservation capital appropriations for the administration, design, acquisition, construction, improvement, installation, and related work on department of environmental conservation environmental infrastructure projects; (e) office of parks, recreation and historic preservation appropriations or reappropriations from the state parks infrastructure fund; (f) capital grants for the cleaner, greener communities program; (g) capital costs of water quality infrastructure projects and (h) capital costs of clean water infrastructure projects the director of the division of budget and the corporation are each authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, upon such terms and conditions as the director and the corporation may agree, so as to annually provide to the corporation in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any bonds and notes authorized pursuant to section twelve hundred ninety of this title. Any service contract entered into pursuant to this

section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes, as authorized pursuant to section twelve hundred ninety of this title.

2. The comptroller is hereby authorized to receive from the corporation any portion of bond proceeds paid to provide funds for or reimburse the state for its costs associated with any state environmental infrastructure projects and to credit such amounts to the capital projects fund or any other appropriate fund.

3. The maximum amount of bonds that may be issued for the purpose of financing environmental infrastructure projects authorized by this section shall be seventeen billion seven hundred fifty million one hundred sixty thousand dollars $17,750,160,000, exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 1285-q. Financing of hazardous waste site remediation projects. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers:

1. Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, in order to

assist the corporation in undertaking the administration and the financing of hazardous waste site remediation projects for payment of the state's share of the costs of the remediation of hazardous waste sites, in accordance with title thirteen of article twenty-seven of the environmental conservation law and section ninety-seven-b of the state finance law, and for payment of state costs associated with the remediation of offsite contamination at significant threat sites as provided in section 27-1411 of the environmental conservation law, and beginning in state fiscal year two thousand fifteen - two thousand sixteen for environmental restoration projects pursuant to title five of article fifty-six of the environmental conservation law provided that funding for such projects shall not exceed ten percent of the funding appropriated for the purposes of financing hazardous waste site remediation projects, pursuant to title thirteen of article twenty-seven of the environmental conservation law in any state fiscal year pursuant to capital appropriations made to the department of environmental conservation, the director of the division of budget and the corporation are each authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, upon such terms and conditions as the director and the corporation may agree, so as to annually provide to the corporation in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any bonds and notes authorized pursuant to section twelve hundred ninety of this title. Any service contract entered into pursuant to this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes, as authorized pursuant to section twelve hundred ninety of this title.

2. The comptroller is hereby authorized to receive from the corporation any portion of bond proceeds paid to provide funds for or reimburse the state for its costs associated with any hazardous waste

site remediation projects and to credit such amounts to the capital projects fund or any other appropriate fund.

3. The maximum amount of bonds that may be issued for the purpose of financing hazardous waste site remediation projects and environmental restoration projects authorized by this section shall not exceed three billion four hundred fifty million dollars, provided that the bonds not issued for such appropriations may be issued pursuant to reappropriation in subsequent fiscal years. No bonds shall be issued for the repayment of any new appropriation enacted after March thirty-first, two thousand thirty-six for hazardous waste site remediation projects authorized by this section. Amounts authorized to be issued by this section shall be exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by this state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 1285-r. State beginning farmer program. 1. Notwithstanding the provisions of any general or special law to the contrary, the corporation shall undertake to provide financial assistance to beginning farmers to purchase agricultural land, improvements and other agricultural property at or for any agricultural facility as set forth in this section.

2. For purposes of this section, and notwithstanding any provision of law to the contrary, as used in this section:

(a) "Agricultural facility" shall mean a facility used for the production for sale of crops, livestock and livestock products as those terms are defined in subdivision two of section three hundred one of the agriculture and markets law.

(b) "Beginning farmer" shall mean a person who engages in farming or desires to engage in farming and who qualifies as a first time farmer pursuant to 26 United States code section 147(c)(2).

(c) "Lender" shall mean any state or federally-chartered savings bank, savings and loan association, state or federally chartered savings banks and savings and loan associations, farm credit system institution, or state or federally chartered commercial banks or trust companies authorized to do business in this state.

(d) "Project" shall mean the purchase of agricultural land, improvements and other agricultural property at or for any agricultural facility to be owned and operated by a beginning farmer.

3. The corporation is hereby authorized to enter into any contract, financing or loan agreement, or other instrument in connection with a loan made by a lender to a beginning farmer for a project.

4. In order to effectuate the purposes of this section, the corporation may extend credit to or on behalf of a beginning farmer for the construction or acquisition of a project, or for the reimbursement for costs incurred by a beginning farmer in connection with a project, provided such beginning farmer has received a commitment to receive from a lender a loan or other financial assistance acceptable to the corporation. In the exercise of the powers granted in this section in connection with a project for a beginning farmer, the corporation may require the inclusion in any contract, loan agreement or other instrument of such provisions for the financing of such project and such other financial and other covenants as may apply to such beginning farmers as the corporation may deem desirable and/or appropriate and to do all things necessary to execute any instrument in connection and desirable with such financing.

5. In connection with the issuance of any bond or note issued in connection with or for the beginning farmer program, the corporation may fix and collect any fees and charges, including but not limited to reimbursement of all costs of financing incurred by the corporation, as the corporation shall determine to be reasonable.

6. In connection with the extension of credit and the issuance of a

bond or note for the construction or acquisition of a project as provided in this section, a beginning farmer shall submit to the corporation an application for the extension of credit or a loan. The corporation may deny such application for any reason it deems appropriate in the public interest.

7. Any bonds or notes issued to finance the provisions of this section shall be special limited obligations of the corporation payable solely out of the revenue derived from any loan or finance agreement, debt obligation or sales contract, collateral or other property received in connection with the beginning farmer program. All assets and liabilities created through the issuance of bonds or notes under this section shall be separate from all other assets and liabilities of the corporation. The corporation shall have no moral or legal obligation or liability to any beginning farmer or other person under this section except as expressly provided by written contract. No funds in the beginning farmer program may be commingled with any other funds of the corporation.

8. (a) The corporation shall promulgate regulations, developed in consultation with the commissioner of agriculture and markets, for the purpose of carrying out its responsibilities under this section, including establishing the criteria and standards for evaluating the project to be financed and the eligibility of the beginning farmer.

(b) The corporation shall consult with the commissioner of agriculture and markets regarding promotion of the program and agriculturally related questions regarding the program or applications.

§ 1285-s. New York state intermunicipal water infrastructure grants program. 1. For purposes of this section:

(a) "water quality infrastructure project" shall mean "sewage treatment works" as defined in section 17-1903 of the environmental conservation law or "eligible project" as defined in paragraphs (a), (b), (c) and (e) of subdivision four of section eleven hundred sixty of the public health law.

(b) "construction" shall mean:

(i) for sewage treatment works, the same meaning as defined in section

17-1903 of the environmental conservation law; and

(ii) for eligible projects, the same meaning as defined in section one thousand one hundred sixty of the public health law.

(c) "municipality" shall mean any county, city, town, village, district corporation, county or town improvement district, school district, Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York state, any public benefit corporation or public authority established pursuant to the laws of New York or any agency of New York state which is empowered to construct and operate an intermunicipal water quality infrastructure project, or any two or more of the foregoing which are acting jointly in connection with an intermunicipal water quality infrastructure project.

2. (a) The environmental facilities corporation shall undertake and provide state financial assistance payments, from funds appropriated for such purpose, to municipalities in support of intermunicipal water quality infrastructure projects provided, however, in any such year that funds are appropriated for such purpose, each project shall receive an award of up to ten million dollars of appropriated funds; provided that such monies shall not exceed sixty percent of the total project cost; and provided further that the total state financial assistance payment for the project does not represent a disproportionate share of the total amount of available funding in any given year.

(b) Intermunicipal water quality infrastructure projects shall serve multiple municipalities and may include a shared water quality infrastructure project or interconnection of multiple municipal water quality infrastructure projects and shall be awarded only to water quality infrastructure projects for:

(i) construction, replacement or repair of infrastructure provided, however, that such assistance shall not be awarded for construction to exclusively support residential or commercial development; or

(ii) compliance with environmental and public health laws and regulations related to water quality.

(c) Cooperating municipalities may make an application for an intermunicipal water infrastructure grant, in a manner, form and timeframe and containing such information as the environmental facilities corporation may require provided however, such requirements shall not include a requirement for prior listing on the intended use plan.

(d) Cooperating municipalities shall not be required to accept environmental facilities corporation loan financing in order to obtain a state financial assistance payment pursuant to this section if it can provide proof of having obtained similarly low cost financing or other funding from another source.

(e) In awarding financial assistance payments, the corporation shall be prohibited from requiring as a condition of receipt, or otherwise giving preference to, applicants who agree to participate in the design, creation, or implementation of a municipal consolidation plan.

3. Intermunicipal water quality infrastructure projects financed with state financial assistance made available pursuant to this section shall be subject to the requirements of article eight of the labor law, the requirements of article seventeen-B of the executive law and the requirements and provisions of all applicable minority- and women-owned business mandates including, but not limited to article fifteen-A of the executive law.

§ 1285-t. Water infrastructure emergency financial assistance. 1. For purposes of this section, "municipality" means any county, city, town, village, district corporation, county or town improvement district, school district, Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York state, any public benefit corporation or public authority established pursuant to the laws of New York or any agency of New York state which is empowered to construct and operate a wastewater or drinking water infrastructure project, or any two or more of the foregoing which are acting jointly in connection with such a project.

2. Upon a municipality's formal declaration of an emergency, the municipality shall provide the department of environmental conservation or the department of health, as appropriate, with information to assess any situation in which the state of the municipality's wastewater or

water infrastructure is causing or may cause an imminent hazard to the public health or welfare, or the environment. After its assessment, if either department determines the state of the infrastructure is resulting or may result in imminent hazard to the public health or welfare, or to the environment, the corporation shall provide temporary emergency assistance, within amounts appropriated, to the municipality in an amount not to exceed reasonable costs for infrastructure construction, replacement, or repair, and related engineering costs, that is immediately necessary to eliminate or substantially reduce such hazard.

3. The corporation and the municipality shall enter into an agreement signed by an officer duly authorized by the governing body of the municipality pursuant to which the corporation shall transmit emergency financial assistance in an amount determined by the department of environmental conservation or the department of health, as applicable, as necessary to address the imminent hazard, and shall provide the assistance payment to the municipality within two business days of receipt of such determination. The municipality shall submit an itemized cost estimate from the municipality's engineer or engineering consultant to the applicable department sufficient to make such determination.

4. No later than fourteen days after the cessation of the emergency, the municipality shall provide to the corporation documentation for all costs paid with the emergency assistance and refund to the corporation any portion of the financial assistance not used or committed to pay for the construction, replacement, or repair and related engineering costs determined to be necessary under subdivision one of this section.

5. Subject to appropriation or duly authorized indebtedness, the municipality shall repay the corporation within one year of its receipt of emergency financial assistance the full amount of such assistance provided to it under this section. The corporation may extend the time to repay for up to one additional year if the corporation determines in its sole discretion that such an extension is warranted under the circumstances.

6. Nothing in this section nullifies the eligibility of a municipality for other infrastructure funding, including grant, which may be provided by the state for water infrastructure directly related to the infrastructure for which emergency financial assistance is awarded under this section, including funding the municipality could use to repay the emergency financial assistance. If the municipality receives such other funding from the state or any financial assistance from a third party for the same infrastructure, the municipality shall within ten days first repay the corporation the outstanding balance of the emergency financial assistance before paying any remaining costs for the water infrastructure.

§ 1285-u. Septic system replacement fund. 1. Definitions. For purposes of this section:

(a) "Cesspool" means a drywell that receives untreated sanitary waste containing human excreta, which sometimes has an open bottom and/or perforated sides.

(b) "Fund" means the state septic system replacement fund created by this section.

(c) "Enhanced septic system project" means an onsite decentralized wastewater treatment system(s) that (i) at a minimum, is designed to reduce total nitrogen in treated effluent to 19 mg/l or (ii) significantly and quantifiably reduces environmental and/or public health impacts associated with phosphorous or per- and polyfluoroalkyl substances and associated compounds in effluent from a cesspool or septic system.

(d) "Participating county" means a county that notifies the corporation that it seeks authority to administer a septic system replacement program within its municipal boundaries and agrees to abide by the program's goals, guidelines, eligibility requirements and reimbursement procedures and provide information to property owners regarding program parameters including eligibility criteria.

(e) "Septic system" means a system that provides for the treatment and/or disposition of the combination of human and sanitary waste with water not exceeding one thousand gallons per day, serving a single parcel of land, including residences and small businesses.

(f) "Septic system project" means the replacement of a cesspool with a septic system, the installation, replacement or upgrade of a septic system or septic system components, or installation of enhanced treatment technologies, including an advanced nitrogen removal system, to significantly and quantifiably reduce environmental and/or public health impacts associated with effluent from a cesspool or septic system to groundwater used as drinking water, or a threatened or an impaired waterbody.

(g) "Small business" means any business which is resident in this state, independently owned and operated, not dominant in its field, and employing not more than one hundred individuals.

2. (a) There is hereby created the state septic system replacement fund, which shall be administered by the corporation to reimburse property owners or at the written request of a property owner, the septic system installer contracted by the property owner, for up to (i) fifty percent of the eligible costs incurred for eligible septic system projects, provided that no property owner shall be reimbursed more than ten thousand dollars and no septic system installer may be reimbursed more than ten thousand dollars per property for such projects; or (ii) seventy-five percent of the eligible costs incurred for enhanced septic system projects, provided that no property owner shall be reimbursed more than twenty-five thousand dollars and no enhanced septic system installer may be reimbursed more than twenty-five thousand dollars per property for such projects.

(b) Eligible costs include design and installation costs, and costs of the system, system components, or enhanced treatment technologies, but shall not include costs associated with routine maintenance such as a pump out of a septic tank.

(c) The department of environmental conservation, in consultation with the department of health and participating counties, shall from the list of participating counties establish priority geographic areas and, in the absence of county information, identify eligible septic system projects, based on an area's vulnerability to contamination, including the presence of a sole source aquifer, or known water quality impairment, population density, soils, hydrogeology, climate, and reasonable ability for septic system projects to mitigate water quality impacts. The department of environmental conservation may delegate to a participating county the identification of priority geographic areas. The department of environmental conservation, in consultation with participating counties in which priority areas have been identified, shall determine the amount of money from the fund to be provided to each participating county based on density, demand for reimbursement from the fund and the criteria used to establish the priority geographic areas. The corporation shall publish information, application forms, procedures and guidelines relating to the program on its website and in a manner that is accessible to the public.

(d) The corporation shall provide state financial assistance payments from the fund, from moneys appropriated by the legislature and available for that purpose, to participating counties to administer a septic system replacement program to support septic system projects within their municipal boundaries undertaken by property owners within their municipal boundaries. Where such project is located in a priority geographic area identified by the department of environmental conservation as threatened or impaired by nitrogen, including groundwater used as drinking water, such septic system project must reduce nitrogen levels by at least thirty percent.

(e) The corporation shall make payments monthly to a participating county upon the receipt by the corporation of a certification from the participating county of the total costs incurred by property owners within its municipal boundaries for septic system projects within its municipal boundaries that are eligible for reimbursement from the fund.

3. (a) A participating county shall notify property owners who may be eligible to participate in the program. Determinations of eligibility will be made by the participating county based on the published program criteria and consideration of a property's location in relation to a waterbody, impacts to groundwater used as drinking water, and the condition of the property owner's current septic system as determined by:

(i) the county health department official; or

(ii) other designated authority having jurisdiction, pursuant to septic inspections required by a municipal separate storm sewer system permit; or

(iii) a septic contractor pursuant to the applicable county sanitary code provided, however, in cases where a property owner has authorized in writing such contractor to receive reimbursement directly, additional verification shall be required.

(b) An owner of property served by a septic system or cesspool may apply to a participating county on an application substantially in the form provided by the corporation.

(c) Property owners in participating counties must have signed a property owner participation agreement with the county before the start of the design phase to be eligible for reimbursement from the fund. The agreement must be substantially in the form provided by the corporation and include, without limitation, the program's goals, guidelines, eligibility requirements and reimbursement procedures.

(d) A property owner may apply for reimbursement of eligible costs by submitting to the participating county a reimbursement application, which must include at least:

(i) a signed property owner participation agreement;

(ii) a completed reimbursement application form substantially in the form provided by the corporation;

(iii) any applicable design approval for the septic system project;

(iv) description of all work completed;

(v) cost documentation and invoice or invoices for eligible costs; and

(vi) any written authorization for a septic system installer to receive reimbursement directly.

(e) Participating counties will be responsible for reviewing their property owners' applications and approving, modifying or denying the reimbursement requests as appropriate and issuing reimbursement payments to property owners from financial assistance payments made to the county from the fund.

(f) Participation in this program and the receipt of payments shall not prevent participating counties from providing additional reimbursement to property owners.

(g) Subject to the limitations of paragraph (d) of this subdivision, the county may set graduated incentive reimbursement rates for septic system projects to maximize pollution reduction outcomes.

4. On or before March first, two thousand nineteen, and annually

thereafter, the corporation shall submit to the governor, the temporary president of the senate and the speaker of the assembly a report regarding the program. Such report shall include, but shall not be limited to, the number and amount of grants provided, the number and amount of any grants denied, geographic distribution of such projects and any other information the corporation determines useful in evaluating the benefits of the program.

§ 1286. Acquisition and disposition of real property. 1. The corporation may acquire, by purchase, gift, grant, transfer, contract or lease, or by condemnation pursuant to the condemnation law, any real property it may deem necessary, convenient or desirable to effectuate the purposes of this title, provided however, that any such condemnation proceedings shall be brought only in the supreme court and the compensation to be paid shall be ascertained and determined by the court without a jury.

2. Where a person entitled to an award in the proceedings to condemn any real property for any of the purposes of this title remains in possession of such property after the time of the vesting of title in the condemnor, the reasonable value of his use and occupancy of such property subsequent to such time as fixed by agreement or by the court in such proceedings or by any court of competent jurisdiction shall be a lien against such award subject only to the liens of record at the time of vesting of title in the condemnor.

3. Title to all property acquired under this act shall vest in the corporation.

4. Notwithstanding the provisions of any general, special or local law or charter, any municipality, by resolution of its governing body, is hereby empowered without referendum and without the consent of any board, officer or other agency of the state, to sell, lease, lend, grant or convey to the corporation, or to permit the corporation to use, maintain or operate as part of a sewage treatment works or solid waste disposal facility, any real or personal property owned by it, including

all or any part of any such facilities, which may be necessary or useful and convenient for the purposes of the corporation and which may be accepted by the corporation. Any such sale, lease, loan, grant, conveyance or permit may be made with or without consideration and for a specified or an unlimited period of time and under any agreement and on any terms and conditions which may be approved by such municipality and which may be agreed to by the corporation in conformity with its contracts with the holders of its bonds and notes, the corporation may enter into and perform any and all agreements with respect to property so accepted by it, including agreements for the operation and maintenance of such property as part of a sewage treatment works, or solid waste disposal facility.

5. The corporation may, whenever it determines that it is in the interest of the corporation, and subject to any existing agreement, dispose of any real property which it determines is not necessary, convenient or desirable for its purposes.

6. The corporation may, whenever it shall determine that it is in the interest of the corporation, rent, lease, or grant easements or other rights in any land or property of the corporation.

§ 1287. Construction contracts. 1. Construction contracts other than for resource recovery facilities let by the corporation shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law, but the corporation in its discretion may assign such contracts for supervision and coordination to the successful bidder for any subdivision of work for which the corporation receives bids. Contracts for resource recovery facilities may be awarded by the corporation in the same manner as by a municipality pursuant to section one hundred twenty-w of the general municipal law.

2. Except in the case of contracts for resource recovery facilities awarded consistent with subdivision one of this section, the corporation shall not award any construction contract involving an expenditure of

more than ten thousand dollars except to the lowest bidder who in its opinion is qualified to perform the work required and is responsible and reliable. The lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, including all items in the bid proposal. The lowest bid shall be determined by the corporation on the basis of the gross sum for which the entire work will be performed, arrived at by a correct computation of all items specified in the bid therefor at the unit prices contained in the bid. The corporation may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The corporation may reject any bid if in its judgment the business and technical organization, plant, resources, financial standing or experience of the bidder, compared with the work to be performed, justifies such rejection.

3. Any construction contract awarded by the corporation shall contain such other terms and conditions, and such provisions for penalties, as the corporation may deem desirable.

4. Notwithstanding the provisions of any other law to the contrary, all contracts for public work awarded by the New York state environmental facilities corporation pursuant to this section shall be in accordance with section one hundred thirty-nine-f of the state finance law.

§ 1288. Co-operation and assistance of other agencies. To avoid duplication of effort and in the interests of economy, the corporation may make use of existing studies, surveys, plans, data and other materials in the possession of any state agency or any municipality or political subdivision of the state. Each such agency, municipality and subdivision is hereby authorized to make the same available to the corporation and otherwise to assist it in the performance of its functions. The officers and personnel of such agencies, municipalities and subdivisions, and of any other government or agency whatever, may serve at the request of the corporation upon such advisory committees as the corporation shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

§ 1289. Transfer of officers and employees. Officers and employees of state departments and agencies may be transferred to the corporation and officers and employees of the corporation may be transferred to state departments and agencies without examination and without loss of any civil service status or rights. No such transfer may, however, be made except with the approval of the head of the state department or division involved, the director of the budget and the chief executive officer of the corporation, and in compliance with the rules and regulations of the civil service commission of the state.

§ 1290. Notes and bonds of the corporation. 1. (a) The corporation shall have power and is hereby authorized from time to time to issue its negotiable or non-negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount, as, in the opinion of the corporation, shall be necessary to provide sufficient funds for achieving its purposes, including the acquisition and construction, operation and maintenance of sewage treatment works, sewage collecting systems, solid waste disposal facilities, storm water collecting systems, water management facilities, air pollution control facilities, the removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof and any other project or projects authorized pursuant to the provisions of this title, and paying the cost thereof; the making of loans to persons and, for purposes of sections twelve hundred eighty-five-j, twelve hundred eighty-five-m and twelve hundred eighty-five-o of this title only, to any municipality or recipient for such purposes; the making of loans, providing of financing or extension of credit to or on behalf of beginning farmers for purposes of section twelve hundred eighty-five-r of this title only; the financing of the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park, provided however, that any such bonds or notes issued to finance Riverbank Park shall only be issued in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed pursuant to appropriations or reappropriations under chapter fifty-four of the laws of nineteen hundred ninety-one including any subsequent reappropriation of the unexpended balance of such appropriations or reappropriations for the purpose of Riverbank Park, plus an amount sufficient to fund any debt service reserve fund established by the corporation for the purpose of Riverbank Park and to provide for the payment of fees and other charges and expenses of the corporation in connection with such bonds and notes, which principal amount shall constitute the statutory ceiling on the amount of bonds and notes that can be issued for such purpose; the financing of all or any portion of any state park infrastructure project or reimbursement of the state for expenditures relating thereto, plus an amount to provide for the payment of fees and other charges and expenses of the corporation in connection with such bonds and notes; the provision of funds to the state for any amounts contributed or to be contributed to the water pollution control revolving fund, the pipeline for jobs fund or the drinking water revolving fund provided, however, that any such bonds or notes issued to provide funds to the water pollution control revolving fund, the pipeline for jobs fund or the drinking water revolving fund shall only be issued in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed pursuant to any appropriation or reappropriation enacted for the pipeline for jobs fund or for the payment of the state match for federal capitalization grants for the water pollution control revolving fund or the drinking water revolving fund, plus an amount sufficient to fund any debt service reserve fund and to provide for fees, charges and other costs of issuance, which principal amount shall constitute the statutory ceiling on the amount of bonds and notes that can be issued for such purpose; the financing of any environmental infrastructure projects authorized by section twelve hundred eighty-five-p of this title; the purchase of municipal bonds and notes, and bonds and notes of a state agency, the payment of the cost of any project, the payment of interest on bonds and notes of the corporation, the establishment of reserves to secure such bonds and notes; the provision of working capital and all other expenditures of the corporation incident to and necessary or convenient to carry out its purposes and powers;

(b) The corporation shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding, and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. Notwithstanding any statutory ceiling on outstanding bonds, any refunding bonds shall be sold in the amount required to pay or redeem outstanding bonds, to fund any reserve, escrow or payment fund, and to provide for the payment of all fees and other charges and expenses, including costs of issuance, incurred in connection with the issuance of such refunding bonds, provided that the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby.

(c) Except as may otherwise be expressly provided by the corporation, every issue of its notes or bonds shall be (i) general obligations of the corporation payable out of any revenues or monies of the corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues, (ii) special obligations of the corporation payable solely from the revenues, service charges, rentals, proceeds or other payments to be received on account of the mortgage, loan or other agreements and payments, reserve and insurance funds or accounts issuance of special obligations, and fees, charges or other monies to be received by the corporation in respect to loans pursuant to section twelve hundred eighty-five-b or twelve hundred eighty-five-j of this title, or from amounts received by the corporation pursuant to any contract, lease, easement, license or other instrument entered into by the corporation pursuant to sections twelve hundred eighty-five-k and twelve hundred eighty-five-l of this title or, (iii) special obligations of the corporation payable solely from amounts received pursuant to an agreement with the commissioner of environmental conservation pursuant to subdivision twelve of section twelve hundred eighty-five-j of this title, and may, but need not, be secured by mortgages, assignments or pledges of such revenues, service charges, rentals, proceeds, other payments, funds and accounts, fees, charges and other monies, and by mortgages or assignments thereof in respect to projects, and may include pooled financings subject only to any agreements with the holders of particular special obligation notes or bonds issued to finance the cost of, or loans for, a project or projects; no general obligations of the corporation shall be issued to finance the cost of, or loans for, a project or projects authorized to be constructed pursuant to section twelve hundred eighty-five-b or twelve hundred eighty-five-j of this title or to finance (A) the contribution of the state to the water pollution control revolving fund, (B) the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park or (C) state park infrastructure projects and no funds, monies, revenues or other assets of the corporation shall be used for loans authorized pursuant to section twelve hundred eighty-five-b or twelve hundred eighty-five-j of this title, except as may be available with respect to a project and a contract with a person as aforesaid, or for the payment to the state for amounts contributed by the state to the water pollution control revolving fund, to finance the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park or state park infrastructure projects. Nor shall any special obligation authorized pursuant hereto be payable from or secured by any debt service reserve fund created pursuant to section twelve hundred ninety-one of this title, and the state shall not be entitled to require the redemption of such special obligations pursuant to section twelve hundred ninety-three of this title; and such special obligation and the security therefor shall not be subject to the provisions of section twelve hundred ninety-four of this title but the remedies of the holders thereof shall be set forth in the terms of such special obligations and the instruments constituting such security; the making of loans, providing of financial or extension of credit to or on behalf of beginning farmers for purposes of section twelve hundred eighty-five-r of this title only;

(d) Any bonds or notes issued for the purpose of financing amounts deposited or to be deposited by the state in the water pollution control revolving fund may be issued in an aggregate principal amount sufficient to finance the amount to be paid or reimbursed to the state plus an amount sufficient to fund any debt service reserve fund established by the corporation and to provide for the payment of fees and other charges and expenses of the corporation in connection with such bonds and notes.

(e) Notwithstanding any other law to the contrary, the corporation shall not issue any notes or bonds on behalf of any state department or agency to fund the removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof or on behalf of the office of mental health to finance the pilgrim state sewage treatment project, after the thirty-first day of March, nineteen hundred ninety-six. This limitation shall not apply to bonds and notes issued to refund bonds issued for such purposes.

2. The notes and bonds shall be authorized by resolution of the directors of the corporation, shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewals thereof not exceeding twelve years from the date of issue of such original note, and in the case of any such bond not exceeding forty years from the date of issue, as such resolution or resolutions may provide; provided, however, that the final maturity of any bond issued for the purpose of financing any amounts deposited or to be deposited by the state in the water pollution control revolving fund shall not exceed thirty years from the date of issue of such bond. The notes and bonds shall bear interest at such rate or rates which may vary from time to time, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the corporation may be sold by the corporation, at public or private sale, at such price or prices as the corporation shall determine. No notes or bonds of the corporation may be sold by the corporation at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the rentals, rates, charges and other fees made or received by the corporation and other monies received or to be received from the ownership or operation or otherwise in connection with any project or projects and all or any part of the monies received in payment of principal or interest on bonds or notes of any state agency and municipal bonds or notes acquired by the corporation, to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the corporation including municipal bonds and notes acquired by the corporation in the issuance of general obligations, and in the issuance of special obligations, notes or other evidences of indebtedness of any person acquired by the corporation, and assigning and pledging any mortgages or other security interests acquired by the corporation or any interests of the corporation in properties or revenues or other sums payable to the corporation and any reserve and insurance funds or accounts or other funds and accounts established in connection with the issuance of special obligations to secure the payment of the notes or bonds or of any issue of notes or bonds of general obligations or special obligations, as the case may be, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of rentals, rates, charges and other fees made or received by the corporation;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof from the ownership or operation or otherwise in connection with any project or projects and of the gross income from municipal bonds and notes and bonds and notes of any state agency owned by the corporation;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of monies to be expended by the corporation for operating, administrative or other expenses of the corporation;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the corporation may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

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

5. It is the intention hereof that any pledge, mortgage or security instrument made by the corporation shall be valid and binding from the time when the pledge, mortgage or security instrument is made; that the monies or property so pledged, mortgaged and entrusted and thereafter received by the corporation shall immediately be subject to the lien of such pledge, mortgage or security instrument without any physical delivery thereof or further act; and that the lien of any such pledge, mortgage or security instrument shall be valid and binding as against

all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any mortgage, security instrument or other instrument by which a pledge, mortgage lien or other security is created need be recorded or filed and the corporation shall not be required to comply with any of the provisions of the uniform commercial code.

6. Neither the directors of the corporation nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The corporation, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the corporation, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

8. Neither the state nor any municipality shall be liable on notes or bonds issued as general obligations of the corporation and such notes and bonds shall not be a debt of the state or any municipality, and such notes and bonds shall contain on the face thereof a statement to such effect. The state shall not be liable on notes or bonds issued as special obligations of the corporation, and such notes and bonds shall not be a debt of the state and shall be payable solely from the revenues, service charges, rentals, proceeds or other payments to be derived from the extension of credit or the loan for the project for which such notes and bonds were issued, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 1290-a. Insurance and guarantees. The corporation may obtain from any department or agency of the United States of America any available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the corporation, but notwithstanding any other provisions of this title may not enter into any agreement or contract with respect to any such insurance or guaranty to the extent that it would in any way impair or interfere with the ability of the corporation to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the corporation.

§ 1291. Reserve funds and appropriations. 1. The corporation may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such debt service reserve funds (a) any monies appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (c) any other monies which may be made available to the corporation for the purpose of such funds from any other source or sources. The monies held in or credited to any debt service reserve fund established under this section, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the corporation secured by such debt service reserve fund as the same mature or as payments required by the terms of any contracts therefor as sinking fund payments become due, the purchase of such bonds of the corporation, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided however, that the corporation shall have power to provide that monies in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the corporation then outstanding and secured by such debt service reserve fund, except for the purpose of paying any sinking fund payments becoming due and principal of and interest on such bonds of the corporation secured by such debt service reserve fund maturing and becoming due and for the payment of which other monies of the corporation are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred by the corporation to any other fund or account of the corporation and the corporation shall have power to provide that any such transfer shall not reduce the amount of such debt service reserve fund below the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the corporation then outstanding and secured by such debt service reserve fund.

2. The corporation shall not issue bonds at any time if the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such debt service reserve fund at the time of issuance, unless the corporation, at the time of the issuance of such bonds, shall deposit in such debt service reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such debt service reserve fund, will be not less than the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year on the bonds then to be issued and on all other bonds of the corporation then outstanding and secured by such debt service reserve fund.

3. To assure the continued operation and solvency of the corporation for the carrying out of the public purposes of this title, provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year as determined by the corporation on all bonds of the corporation then outstanding and secured by such debt service reserve fund. In order further to assure the maintenance of such debt service reserve funds in the respective amounts provided therefor by the corporation in the issuance of its bonds secured thereby, there shall be annually apportioned and paid to

the corporation for deposit in each such debt service reserve fund such amount, if any, as shall be certified by the chief executive officer of the corporation to the governor and director of the budget as necessary to restore such debt service reserve fund to an amount equal to the maximum amount provided therefor by the corporation as aforesaid. The chief executive officer of the corporation shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore each debt service reserve fund to the amount aforesaid and the amount or amounts so certified, if any, shall be apportioned and paid to the corporation during the then current state fiscal year. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed forty million five hundred thirteen thousand dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

4. For the purposes of this section, "maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding year" means, as of the date of computation, the largest amount of money required in any succeeding year for the payment of interest on and maturing principal of outstanding bonds and payments required by the terms of any contracts to be made to any sinking fund established for the payment or redemption of such bonds, provided that the principal amount of any bonds required to be

made to any such sinking fund during any year shall, for the purposes of this definition, be considered as maturing in the year during which such payment is required and not in the year in which the stated maturity of such bonds occurs. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the corporation.

§ 1292. Agreement of the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this title, that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the corporation is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 1293. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the corporation to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers publishing and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption. The provisions of this section relating to the state's right to require redemption of bonds shall not apply to state-supported debt, as defined by section sixty-seven-a of the state finance law, issued by the corporation. Such corporation bonds shall remain subject to redemption pursuant to any contract with the holders of such bonds.

§ 1294. Remedies of noteholders and bondholders. 1. In the event that the corporation shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether on any sinking fund payment date, at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name;

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the corporation to collect rentals, rates, charges and other fees and to collect interest and amortization payments on municipal bonds and notes and bonds and notes of any state agency held by it adequate to carry out any agreement as to, or pledge of, such rentals, rates, charges and other fees and of such interest and amortization payments, and to require the corporation to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

(c) by action or suit, require the corporation to account as if it were the trustee of an express trust for the holders of such notes or bonds;

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

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the corporation, to the comptroller and to the attorney general of the state.

§ 1295. Notes and bonds as legal investment. The notes and bonds of the corporation are hereby made securities in which all public officers and bodies of the state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the corporation are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1296. Exemption from taxation; payments in lieu of taxes. It is hereby found, determined and declared that the creation of the corporation and the carrying out of its purposes is in all respects for the benefit of the people of the state of New York and for the improvement of their health, welfare and prosperity and is a public purpose, and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. 1. Real property owned by the corporation shall be exempt from taxation, special ad valorem levies and special assessments.

2. Real property owned by the corporation (1) used for or in connection with any project or projects, (2) which is located outside the boundaries of the contracting municipality or municipalities, and (3) which was subject to taxation, special ad valorem levies, or special assessments on the latest assessment roll finally completed, verified and filed preceding the date of acquisition thereof by the corporation shall be subject to payments in lieu of taxes, special ad valorem levies and special assessments by the corporation in accordance with the provisions of this section.

3. The in lieu payments shall be computed and determined annually by the commissioner of taxation and finance as follows:

(a) determine the full value of such property as of the applicable taxable status date for the assessment role for which in lieu payments are being computed;

(b) determine the full value of such property as of such taxable status date attributable to improvements constructed or reconstructed by the corporation;

(c) deduct item (b) from item (a);

(d) multiply the full value determined in item (c) by the ratio of assessed value to full value of other property on the same assessment roll;

(e) the result determined in item (d) shall be the approved assessed valuation for such property. The determinations of the full value and the ratio of assessed value to full value shall be determined by the commissioner.

4. Application for an approved assessed valuation shall be made by the assessor of the assessing unit within which such property is located. Application shall be made as soon as practicable after acquisition of such property by the corporation. The application shall be made on a form approved by the commissioner of taxation and finance and shall contain such information as such commissioner shall require.

5. Upon approval of such application by the commissioner the commissioner shall certify such approved assessed valuation to the assessing unit and to the corporation. The approved assessed valuation shall be entered by the assessor or other local official on the assessment roll with the notation that such property is exempt from taxation, special ad valorem levies and special assessments but qualifies for payments in lieu of taxes, special ad valorem levies and special assessments pursuant to this section. The approved assessed valuation shall be treated for all purposes as taxable assessed valuation and taxable full valuation on the assessment roll for which it is made. Amounts shall be extended against such approved assessed valuation in the same manner and at the same time as taxes, special ad valorem levies or special assessments are extended against taxable property. The appropriate collecting officer shall transmit a statement of the amounts computed as payable as in lieu of taxes, special ad valorem levies and special assessments to the corporation. The provisions of any general or special law relating to the collection and enforcement of taxes shall not be applicable to property subject to the provisions of this section.

6. The terms "taxation," "special ad valorem levies," "special assessments" and "assessing unit" shall have the same meanings as set forth in section one hundred two of the real property tax law.

7. Notwithstanding any provision to the contrary in this section, in view of the costs of governmental services being provided by public corporations, as defined in the general corporation law, the corporation may pay or may enter into agreements with any public corporation to pay, a sum or sums, annually or otherwise, or to provide other considerations to such public corporation with respect to real property owned by the corporation within the boundaries of such public corporation and used for any project or projects.

8. The corporation shall be required to pay no fees or taxes, whether state or local, including but not limited to fees or taxes on real estate, franchise taxes, sales taxes or other excise taxes, upon any of its property, real or personal, or upon the use thereof, or upon its activities in the operation and maintenance of its facilities or on any rentals, rates, charges or other fees, revenues or other income received by the corporation and that the bonds and notes of the corporation and the income therefrom shall at all times be exempt from taxation, except for gift and estate taxes and taxes on transfers. Nothing contained in this subdivision shall affect the obligation imposed by this section on the corporation to make in lieu payments.

9. This section shall constitute a covenant and agreement with the holders of all bonds and notes issued by the corporation.

§ 1297. Actions against the corporation. 1. As a condition to the consent of the state to such suits against the corporation, in every action against the corporation for damages, for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the corporation or other officer designated for such purpose and that the corporation has neglected or refused to make an adjustment or payment thereof.

2. An action against the corporation founded on tort, except an action for wrongful death, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the corporation within the time limited by and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

4. The rate of interest to be paid by the corporation upon any judgment for which it is liable shall not exceed four per centum per annum.

§ 1298. Title not affected if in part unconstitutional or ineffective. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.

TITLE 11-A

NIAGARA FRONTIER TRANSPORTATION AUTHORITY

§ 1299. Short title. This title may be cited as the "Niagara Frontier Transportation Act."

§ 1299-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section twelve hundred ninety-nine-c of this title.

2. "Authority facilities" shall mean the authority's railroad, omnibus, marine and aviation facilities and operations pursuant to joint service arrangements.

3. "Comptroller" shall mean the comptroller of the state of New York.

4. "Equipment" shall mean rolling stock, omnibuses, vehicles, air, marine or surface craft, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements, materials, supplies, instruments and devices of every nature whatsoever used or useful for transportation purposes or for the generation or transmission of motive power including but not limited to all power houses, and all apparatus and all devices for signalling, communications and ventilation as may be necessary, convenient or desirable for the operation of a transportation facility.

5. "Federal government" shall mean the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

6. "Governor" shall mean the governor of the state of New York.

7. "Joint service arrangements" shall mean agreements between or among the authority and any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state, any political subdivision or municipality of the state, or the nation, relating to property, buildings, structures, facilities, services, rates, fares, classifications, divisions, allowances or charges (including charges between operators of railroad, omnibus, marine and aviation facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part in or upon railroad, omnibus, marine or aviation facilities located within the district and in part in or upon railroad, omnibus, marine or aviation facilities located outside the district.

8. "Marine and aviation facilities" shall mean equipment and craft for

the transportation of passengers, mail and cargo between points within the district or pursuant to joint service arrangements, by marine craft and aircraft of all types including but not limited to hydrofoils, ferries, lighters, tugs, barges, helicopters, amphibians, seaplanes or other contrivances now or hereafter used in navigation or movement on waterways or in the navigation of or flight in airspace. It shall also mean port facilities in the transportation district including, but not limited to, (a) one or more docks, elevators, wharves, piers, bulkheads, slips, basins, harbors, railroad connections, side tracks or sidings, freight terminals, warehouses, bridges, tunnels, and areas for storage of cargoes, materials, goods, wares, and merchandise of any kind and for the loading, unloading, interchange or transfer of any such cargoes, materials, goods, wares and merchandise; (b) other buildings, structures, facilities or improvements necessary to accommodate steamships or other vessels and their cargoes or passengers; and (c) all real and personal property, driveways, roads, approaches, mechanical equipment and all appurtenances and facilities either on, above or under the ground which are necessary, convenient or desirable for the development, control and operation of port facilities in the transportation district. It shall also mean any airport facility within the transportation district, including but not limited to any facility or real property necessary, convenient or desirable for the landing, taking off, accommodation or servicing of such aircraft and shall include such facilities, property, structures and appurtenances as may be necessary or convenient in the operation, maintenance, development or improvement of airports including facilities, property, structures, and appurtenances, leased by the Authority to persons, firms or corporations engaged in air transportation or the production or development of materials, goods or equipment for airports or air transportation or in providing facilities for the accommodation, safety or comfort of the traveling public and for purposes related or incidental to one or more of the foregoing purposes. It shall also mean any airport facility within the transportation district or within ten miles of the boundaries thereof.

9. "Omnibus facilities" shall mean motor vehicles, of the type operated by carriers subject to the jurisdiction of the public service

commission, engaged in the transportation of passengers and their baggage, express and mail between points within the district or pursuant to joint service arrangements, and equipment, property, buildings, structures, improvements, loading or unloading areas, parking areas or other facilities, necessary, convenient or desirable for the accommodation of such motor vehicles or their passengers, including but not limited to buildings, structures and areas notwithstanding that portions may not be devoted to any omnibus purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

10. "Railroad facilities" shall mean right of way and related trackage, rails, cars, locomotives, other rolling stock, signal, power, fuel, communication and ventilation systems, power plants, stations, terminals, storage yards, repair and maintenance shops, yards, equipment and parts, offices and other real estate or personalty used or held for or incidental to the operation, rehabilitation or improvement of any railroad operating or to operate between points within the district or pursuant to joint service arrangements, including but not limited to buildings, structures, and areas notwithstanding that portions thereof may not be devoted to any railroad purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

11. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

12. "State" shall mean the state of New York.

13. "State agency" shall mean any officer, department, board, commissioner, bureau, division, public benefit corporation, agency or

instrumentality of the state.

14. "Transportation facility" shall mean any railroad, omnibus, marine or aviation facility and any person, firm, partnership, association or corporation which owns, leases or operates any such facility or any other facility used for service in the transportation of passengers, United States mail or personal property as a common carrier for hire and any portion thereof and the rights, leaseholds or other interest therein together with routes, tracks, extensions, connections, parking lots, garages, warehouses, yards, storage yards, maintenance and repair shops, terminals, stations and other related facilities thereof, the devices, appurtenances, and equipment thereof and power plants and other instrumentalities used or useful therefor or in connection therewith.

15. "Transportation district" and "district" shall mean the Niagara Frontier transportation district created by section twelve hundred ninety-nine-b of this title.

16. "Niagara Frontier Port Authority" shall mean the corporation continued by a chapter of the laws of nineteen hundred sixty-nine entitled "An act to effect a consolidation of the Niagara Frontier port authority and the Niagara Frontier transportation authority, and to amend the public authorities law and chapter two hundred sixty of the laws of nineteen hundred fifty-seven, entitled 'An act to designate the Niagara Frontier port authority to receive certain future payments from, and subsequent to July first, nineteen hundred ninety-two, to exercise jurisdiction over the property and assets acquired and held in the state of New York by the Buffalo and Fort Erie public bridge authority, and making other provision with respect to such payments, property and assets', in relation thereto".

17. "Nation" shall mean the Seneca Nation of Indians.

18. "Transit dependent individual" shall mean an individual who is limited to public transit as their primary mode of transportation because the individual has a permanent disability.

§ 1299-b. Niagara Frontier transportation district. There is hereby created and established a transportation district to be known as the Niagara Frontier transportation district which shall embrace the counties of Erie and Niagara.

1299-c. Niagara Frontier transportation authority. 1. (a) There is hereby created the "Niagara Frontier transportation authority." The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of a chairman, ten voting members and shall have one non-voting member as described in paragraph (b) of this subdivision appointed by the governor by and with the advice and consent of the senate. The chairman and all members shall be residents of the district. Of the ten voting members other than the chairman, one shall be appointed upon the written recommendation of the Erie county executive, one shall be appointed upon the written recommendation of the Erie county legislature, and at least one shall be a transit dependent individual. The chairman and each of the members shall be appointed for a term of eight years, provided however, that the chairman first appointed shall serve for a term ending June thirtieth, nineteen hundred seventy-three, and of the eight other members first appointed, one shall serve for a term ending June thirtieth, nineteen hundred sixty-eight, two shall serve for a term ending June thirtieth, nineteen hundred sixty-nine, one shall serve for a term ending June thirtieth, nineteen hundred seventy, two shall serve for a term ending June thirtieth, nineteen hundred seventy-one, one shall serve for a term ending June thirtieth, nineteen hundred seventy-two and one shall serve for a term ending June thirtieth, nineteen hundred seventy-three. The term of one of the members appointed to memberships first created by law after April first, nineteen hundred sixty-nine shall end on June thirtieth, nineteen hundred seventy-four, and the term of the other such member shall end on June thirtieth, nineteen hundred seventy-five. Following the expiration of any term ending on or after June thirtieth, nineteen hundred eighty-seven, each member shall be appointed for a term of five years beginning on the day after the expiration date of such prior term; provided, however, that the term of the member first appointed upon the written recommendation of the Erie county executive and the term of the member first appointed upon the written recommendation of the Erie county legislature shall be for a term ending on June thirtieth, nineteen hundred ninety-six.

(b) The non-voting member of the authority, who shall not be considered in determining a quorum, shall be recommended to the governor by the labor organization representing the plurality of the employees within the authority and shall be a resident of the Niagara Frontier transportation district as described in section twelve hundred ninety-nine-b of this title. Such non-voting member shall be appointed for a term of five years, provided, however, that if at any time during the term of appointment such non-voting member ceases to be affiliated with the labor organization representing the plurality of employees within the authority, then such labor organization may at any time during such term recommend a new member to the governor who shall serve the remainder of the term. If the local bargaining unit decertifies its existing union affiliation and certifies a new union, the union which represents the plurality of the employees may recommend a new member to the governor who shall serve the remainder of the term. The chairman of the authority, at his or her discretion, may exclude such non-voting member from attending any portion of a meeting of the authority or of any committee held for the purpose of discussing negotiations with labor organizations, pending litigation involving the labor organization, or the investigation, evaluation, or discipline of an employee.

(c) The transit dependent individual appointed pursuant to paragraph (a) of this subdivision shall be appointed by the governor. Such member shall be a resident of a county described in paragraph (a) of this subdivision. If a vacancy shall occur, a replacement shall be appointed within six months, subject to the same appointment process set forth in this paragraph. Any local or statewide transit advocacy organization may recommend one or more transit dependent individuals to be considered for appointment pursuant to this section.

2. The members of the authority, including the chairman shall not receive a salary or other compensation. Upon formal adoption of policies and guidelines by the authority, each member, including the chairman, shall be entitled to reimbursement for actual and necessary expenses

incurred in the performance of official duties.

3. A majority of the whole number of members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the authority, the authority shall have power to act by a majority of the members present at any meeting at which a quorum is in attendance.

4. The chairman shall preside over the board and shall establish committees to assist the board in carrying out its duties, including but not limited to a committee on operations and personnel; a committee on finance and audit; and a committee on capital planning. The chairman shall appoint members of the authority to such committees.

5. The authority shall be a "state agency" for the purposes of sections seventy-three and seventy-four of the public officers law.

6. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any public corporation as defined in the general corporation law, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his acceptance of membership on or chairmanship of the authority; provided, however, a chairman who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this title, but the members and chairman shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of such services.

7. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any member shall be

so removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

8. The authority shall continue so long as it shall have bonds or other obligations outstanding and until its existence shall be terminated by law. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the state, except that the Buffalo projects, together with all property and assets held and acquired by the authority or by the Niagara Frontier port authority in connection therewith, shall thereupon become the property of and shall be under the jurisdiction, control and possession of the city of Buffalo. As used herein, the Buffalo projects shall mean (a) the greater Buffalo international airport; (b) the Buffalo municipal piers project formerly owned and operated by the city of Buffalo at the foot of Michigan avenue on the Buffalo harbor, in the city of Buffalo; and (c) the Buffalo small boat harbor project formerly owned and operated by the city of Buffalo for the mooring of small craft and boats, located on Fuhrmann boulevard and the Buffalo harbor, in the city of Buffalo.

9. Notwithstanding the provisions of paragraph eight of this section or any other provisions of law, the authority may purchase and the city of Buffalo may sell its reversionary interests in any of the projects mentioned in paragraph eight of this section and in such event, upon termination of the authority by law, any project so acquired shall revert to and become the property of the state.

§ 1299-d. Purposes of the authority. 1. The purposes of the authority shall be the continuance, further development and improvement of transportation and other services related thereto within the Niagara Frontier transportation district, including but not limited to such transportation by railroad, omnibus, marine and air, in accordance with the provisions of this title. It shall be the further purpose of the authority to develop and implement a unified mass transportation policy for such district.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the authority shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

§ 1299-e. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement, at the discretion of the authority, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government; or in certificates of deposit of banks or trust companies; or in bank or trust accounts of banks in this state, secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

6. To enter into contracts and leases and to execute all instruments necessary or convenient;

7. To acquire, hold and dispose of real or personal property in the exercise of its powers;

8. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice; such counsel, auditors, engineers, and private consultants, officers and employees may not be a member of the authority;

9. (a) Notwithstanding section one hundred thirteen of the retirement and social security law or any other general or special law, the authority and any of its subsidiary corporations may continue or provide to its affected officers and employees any retirement, disability, death or other benefits provided or required for railroad personnel pursuant to federal or state law. Notwithstanding any provisions of the civil service law, no officer or employee of a subsidiary corporation, of the authority, other than a public benefit subsidiary corporation, shall be a public officer or a public employee;

(b) The authority and any of its public benefit subsidiary corporations may be a "participating employer" in the New York state employees' retirement system with respect to one or more classes of officers and employees of such authority or any such public benefit subsidiary corporation, as may be provided by resolution of such authority or any such public benefit subsidiary corporation, as the case may be, or any subsequent amendment thereof, filed with the comptroller and accepted by him pursuant to section thirty-one of the retirement and social security law. In taking any action pursuant to this paragraph (b), the authority and any of its public benefit subsidiary corporations shall consider the coverages and benefits continued or provided pursuant to paragraph (a) of this subdivision;

10. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

11. To enter upon such lands, waters or premises as in the judgment of the authority may be necessary, convenient or desirable for the purpose

of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

12. The authority may conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the authority shall fail or refuse to aid or assist the authority in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the authority is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

12-a. By a certificate filed in its office, from time to time to delegate to any member, officer or employee of the authority the power to conduct any investigation or hold any hearing which the authority is authorized or required to conduct or to hold by any provision of this title; and the person so designated shall have all of the powers of the authority in the conduct of such investigation or the holding of such hearing;

13. To appoint or designate one or more persons for the purpose of enforcing rules and regulations established by the authority, and to compel the observance of law and order on the properties, facilities and improvements of the authority for the protection and administration of such property, facilities and improvements, and the traveling public using such facilities. Each person as and when so appointed or designated shall be known as (a) a "Niagara frontier transportation authority security officer or patrolman" and shall be a peace officer as set forth in subdivision forty-five of section 2.10 of the criminal procedure law, or a police officer within the purview of subdivision thirty-four of section 1.20 of the criminal procedure law or (b) a "ticket inspector" and shall not be a peace officer or a police officer but, when so designated or appointed, shall be authorized to issue and serve appearance tickets pursuant to section 150.20 of the criminal procedure law with respect to violations of rules and regulations so

established.

13-a. To make application to the Foreign-Trade Zones Board established by the act of congress, approved June eighteenth, nineteen hundred thirty-four, entitled "An act to provide for the establishment, operation and maintenance of foreign trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", for a grant to such authority of the privilege of establishing, operating and maintaining a foreign-trade zone on premises located within the transportation district of the authority, pursuant to the provisions of such act, and if such application be granted, to accept such grant and to establish, operate and maintain such zone in accordance with state and federal law; and to enter into contracts or leases covering all arrangements involving the establishment, operation and maintenance of such zones with and within the counties of Erie and Niagara which counties are hereby authorized to enter into contracts and leases with the authority subject to such rules and regulations as promulgated by federal authority.

14. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1299-eee. Transit adjudication bureau. 1. Establishment. There is hereby created in the authority a transit adjudication bureau. The head of such bureau shall be the director, who shall be appointed by the chairman of the authority. The director may delegate the powers and duties conferred upon the director by this section to such qualified officers and employees of the bureau as he may designate.

2. Hearing officers. The chairman of the authority shall appoint hearing officers who shall preside at hearings for the adjudication of charges of transit infractions, as hereinafter defined, and who, as provided below, may be designated to serve on the appeals board of the bureau. Every hearing officer shall have been admitted to the practice of law in this state for a period of at least five years, and shall be compensated for his services on a per diem basis determined by the

bureau.

3. Jurisdiction. The bureau shall have, with respect to acts or incidents in or on the transit facilities of the authority, non-exclusive jurisdiction over violations of the rules which may from time to time be established by the authority. Matters within the jurisdiction of the bureau shall be known for purposes of this section as transit infractions. Nothing herein shall be construed to divest jurisdiction from any court now having jurisdiction over any criminal charge relating to any act committed in a transit facility, or to impair the ability of a police officer to conduct a lawful search of a person in a transit facility. The criminal court within which jurisdiction the transit authority shall operate transit facilities shall continue to have jurisdiction over any criminal charge brought for violation of the rules of the authority, as well as jurisdiction relating to any act which may constitute a crime or an offense under any law of the state of New York or any municipality or political subdivision thereof and which may also constitute a violation of such rules.

4. General powers. The bureau shall have the following functions, powers and duties:

a. To accept pleas (whether made in person or by mail) to, and to hear and determine, charges of transit infractions within its jurisdiction;

b. To impose civil penalties not to exceed a total of two hundred fifty dollars for any transit infraction within its jurisdiction, in accordance with a penalty schedule established by the authority;

c. In its sole discretion, to suspend or forgive penalties or any portion of penalties imposed on the condition that the respondent voluntarily agrees to perform and actually does satisfactorily perform unpaid services on transit facilities as assigned by the authority, such as, without limitation, cleaning of rolling stock;

d. To adopt, amend and rescind rules and regulations not inconsistent with any applicable provision of law to carry out the purposes of this section, including but not limited to rules and regulations prescribing the internal procedures and organization of the bureau, the manner and time of entering pleas, the conduct of hearings, and the amount and manner of payment of penalties;

e. To enter judgments and enforce them, without court proceedings, in the same manner as the enforcement of money judgments in civil actions, as provided below;

f. To compile and maintain complete and accurate records relating to all charges and dispositions, which records shall be deemed exempt from disclosure under the freedom of information law as records compiled for law enforcement purposes;

g. To apply to a court of competent jurisdiction for enforcement of any decision or order issued by such bureau or of any subpoena issued by a hearing officer as provided in paragraph d of subdivision seven of this section;

h. To enter into contracts with other government agencies, with private organizations, or with individuals to undertake on its behalf such functions as data processing, debt collections, mailing, and general administration, as the director deems appropriate, except that the conduct by hearing officers of hearings and of appeals may not be performed by outside contractors; and

i. To accept payment of penalties and to remit same to the authority.

5. Notices of violation. The bureau shall prepare and distribute notices of violation in blank to the Niagara Frontier transportation authority security officer, ticket inspector, and any other person empowered by law, rule and regulation to serve such notices. The form and wording of the notice of violation shall be prescribed by the director, and it may be the same as any other notice of violation or summons form already in use if said form meets the requirements hereof. The notice of violation may include provisions to record information which will facilitate the identification and location of respondents,

including but not limited to name, address, telephone numbers, date of birth, social security number if otherwise permitted by law, place of employment or school, and name and address of parents or guardian if a minor. Notices of violation shall be served by delivering the notice within the state to the person to be served. A copy of each notice of violation served hereunder shall be filed and retained by said bureau, and shall be deemed a record kept in the ordinary course of business, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained herein. Said notice of violation shall contain information advising the person charged of the manner and the time within which such person may either admit or deny the offense charged in the notice. Such notice of violation shall also contain a warning to advise the person charged that failure to plead in the manner and within the time stated in the notice may result in a default decision and order being entered against such person.

6. Defaults. Where a respondent has failed to plead within the time allowed by the rules of said bureau or has failed to appear on a designated hearing date or a subsequent date following an adjournment, such failure to plead or appear shall be deemed, for all purposes, to be an admission of liability and shall be grounds for rendering a default decision and order imposing a penalty in such amount as may be prescribed by the authority.

7. Hearings. a. Whenever a person charged with a transit infraction returnable to the bureau enters a plea of not guilty, the bureau shall advise such person personally, or by registered or certified mail, of the date on which he or she must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading that failure to appear on the date designated, or any subsequent adjourned date, shall be deemed for all purposes, an admission of liability, and that a default judgment may be rendered and penalty may be prescribed.

b. Every hearing for the adjudication of a charge of a transit infraction hereunder shall be held before a hearing officer in accordance with the rules and regulations promulgated by the bureau.

c. The hearing officer shall not be bound by the rules of evidence in the conduct of the hearing, except rules relating to privileged communications.

d. The hearing officer when the defendant refuses to stipulate to the contents of the notice of violation, unless the hearing officer determines that the notice of violation should be dismissed, shall require the person who served the petition to attend the hearing and may issue subpoenas to compel the appearance of that person or of other persons to give testimony, and issue subpoenas duces tecum to compel the production for examination or introduction into evidence of any book, paper or other thing relevant to the charges.

e. In the case of a refusal to obey a subpoena, the bureau may make application to the Supreme Court pursuant to section twenty-three hundred eight of the civil practice law and rules, for an order requiring such appearance, testimony or production of evidence.

f. The bureau shall make and maintain a sound recording or other record of every hearing.

g. After due consideration of the evidence and arguments, the hearing officer shall determine whether the charges have been established. No charge may be established except upon clear and convincing evidence. Where the charges have not been established, an order dismissing the charges shall be entered. Where a determination is made that a charge has been established or if an answer admitting the charge has been received, the hearing officer shall set a penalty in accordance with the penalty schedule established by the authority, and an appropriate order shall be entered in the records of the bureau. The respondent shall be given notice of such entry in person or by mail. This order shall constitute the final determination of the hearing officer, and for purposes of review it shall be deemed to incorporate any intermediate determinations made by said officer in the course of the proceeding. When no appeal is filed this order shall be the final order of the bureau.

8. Administrative and judicial review. a. There shall be appeals boards within the bureau which shall consist of three or more hearing officers, as the director shall determine. The director shall select a chairman for each appeals board from the members so appointed. No hearing officer may sit on an appeals board considering an appeal from a determination made by said hearing officer.

b. A party aggrieved by a final determination of a hearing officer may obtain a review thereof by serving upon the bureau within thirty days of the sending of the notice of entry of such order a notice of appeal setting forth the reasons why the determination should be reversed or modified. There shall be no interlocutory appeals.

c. An appeal from a final determination of a hearing officer shall be submitted to the appeals board, which shall have power to review the facts and the law, but shall not consider any evidence which was not presented to the hearing officer, and shall have power to reverse or modify any judgment appealed from for error of fact or law.

d. Appeals shall be made without the appearance of the appellant and appellant's attorney unless the presence of either or both are requested by the appellant, appellant's attorney, or the appeals board. Within twenty days after a request for an appearance, made by the appellant, appellant's attorney or the board, the bureau shall advise the appellant or appellant's attorney, either personally or by registered or certified mail, of the date on which he or she shall appear. The appellant shall be notified in writing of the decision of the appeals board.

e. A party may request and obtain a record of the proceedings resulting in a determination for which an appeal is sought, but the party shall pay to the bureau the cost of providing such record. When a record is timely requested for the purpose of preparing an appeal, the bureau shall not thereafter cause the appeal to be heard or submitted less than ten days after the delivery or mailing of the record to appellant or appellant's attorney.

f. The service of a notice of appeal shall not stay the enforcement of an order appealed from unless the appellant shall have posted a bond in the amount of penalties imposed in the order appealed from at the time of, or before, the service of such notice.

g. No determination of a hearing officer which is appealable under the provisions of this section shall be reviewed in any court unless an appeal has been filed and determined in accordance with this subdivision. When an appeal has been filed, the order of the appeals board shall be the final order of the bureau. Judicial review may be sought pursuant to article seventy-eight of the civil practice law and rules.

9. Enforcement of judgments. a. The bureau shall have the power to enforce its final decisions and orders imposing civil penalties for violations of laws, rules and regulations enforced by it as if they were money judgments, without court proceedings, in the manner described herein.

b. Any final order of the bureau imposing a civil penalty, whether the adjudication was had by hearing or upon default or otherwise, shall constitute a judgment rendered by the bureau which may be entered in the county court of Erie or Niagara county or any other place provided for the entry of civil judgments within the state, provided that no proceeding for judicial review shall be pending and the time for initiation of such proceeding shall have expired, and may be enforced without court proceedings in the same manner as the enforcement of money judgments entered in civil actions. Any final order shall be a bar to any criminal proceeding for conduct upon which the order was based.

c. Notwithstanding the foregoing provisions, before a judgment based upon a default may be so entered the bureau must have attempted to notify the respondent by first class mail, in such form as the bureau may direct: (i) of the default decision and order and the penalty imposed; (ii) that a judgment will be entered in the county court of Erie or Niagara county or any other place provided for the entry of civil judgments within the state; and (iii) the entry of such judgments may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of the bureau within thirty days of the mailing of such notice.

10. Funds. All penalties collected pursuant to the provisions of this section shall be paid to the authority.

§ 1299-f. Special powers of the authority. In order to effectuate the purposes of this title: 1. The authority may acquire, by purchase, gift, grant, transfer, contract or lease, any transportation facility, wholly or partially within the Niagara Frontier transportation district or any part thereof, or the use thereof, and may enter into any joint service arrangements as hereinafter provided. Any such acquisition or joint service arrangement shall be authorized only by resolution of the authority approved by not less than a majority of the whole number of members of the authority then in office. In addition to and not in limitation of any other power conferred upon the authority by the provisions of this title, the authority is hereby empowered and authorized in respect of any property and assets at any time owned or held by, or under the jurisdiction of, the Buffalo and Fort Erie public bridge authority, to accept and receive any such interest therein as it may have been or may hereafter be designated by the state by law to receive, and in respect thereof, except as otherwise provided by the designating statute, it shall have and exercise all of the powers and jurisdiction herein conferred upon it in respect of any other property, rights, assets, facilities and projects in any other manner acquired or from any other source received by it pursuant to the provisions of this title.

2. The authority may on such terms and conditions as the authority may determine necessary, convenient or desirable itself establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any such transportation facility, or may provide for such establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair by contract, lease, or

other arrangement on such terms as the authority may deem necessary, convenient or desirable with any person, including but not limited to any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state, any political subdivision or municipality of the state, or the nation. In connection with the operation of any such transportation facility, the authority may establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair or may provide by contract, lease or other arrangement for the establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any related services and activities it deems necessary, convenient or desirable, including but not limited to the transportation and storage of freight and the United States mail, feeder and connecting transportation, parking areas, transportation centers, stations and related facilities.

3. The authority may establish, levy and collect or cause to be established, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, levy and collection of such fares, tolls, rentals, rates, charges and other fees as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or by a subsidiary corporation of the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Any such fares, tolls, rentals, rates, charges or other fees for the transportation of passengers shall be established and changed only if approved by resolution of the authority adopted by not less than a majority of the whole number of members of the authority then in office and only after a public hearing, provided however, that fares, tolls, rentals, rates, charges or other fees for the transportation of passengers on any transportation facility which are in effect at the time that the then owner of such transportation facility becomes a subsidiary corporation of the authority or at the time that operation of such transportation facility is commenced by the authority or is commenced under contract, lease or other arrangement including joint service arrangements, with the authority may be continued in effect

without such a hearing. Such fares, tolls, rentals, rates, charges and other fees shall be established as may in the judgment of the authority be necessary to maintain the combined operations of the authority and its subsidiary corporations on a self-sustaining basis. The said operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or cause to be paid from revenue and any other funds or property actually available to the authority and its subsidiary corporations (a) as the same shall become due, the principal of and interest on the bonds and notes and other obligations of the authority and of such subsidiary corporations, together with the maintenance of proper reserves therefor, (b) the cost and expense of keeping the properties and assets of the authority and its subsidiary corporations in good condition and repair, and (c) the capital and operating expenses of the authority and its subsidiary corporations. The authority may contract with the holders of bonds and notes with respect to the exercise of the powers authorized by this section.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct and safety of the public as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing the conduct and safety of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct or safety of the public and any local law, ordinance, rule or regulation, such rule or regulation of the authority shall prevail. Violation of any such rule or regulation of the authority governing the conduct or the safety of the public in or upon any facility of the authority shall constitute an offense and shall be punishable by a fine not exceeding fifty dollars or imprisonment for not more than thirty days or both, or may in the alternative be designated a

transit infraction punishable by the imposition by the transit adjudication bureau established pursuant to the provisions of this title of a civil penalty in an amount for any one violation of not to exceed two hundred fifty dollars, exclusive of interest or costs assessed thereon, in accordance with a schedule of such penalties as may from time to time be established by the authority. There shall be no penalty or increment in fine by virtue of a respondent's timely exercise of his right to a hearing or appeal. The rules may provide, in addition to any other sanctions, for the confiscation of tokens, tickets, cards or other fare media that have been forged, counterfeited, improperly altered or transferred, or otherwise used in a manner inconsistent with such rules.

5. The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities through, and cause any one or more of its powers, duties, functions or activities to be exercised or performed by, one or more wholly owned subsidiary corporations of the authority and may transfer to or from any such corporation, or between such corporations, any moneys, real property or other property or the services of any officers, employees or consultants for any of the purposes of this title. The directors or members of each such subsidiary corporation shall be the same persons holding the offices of members of the authority. Each such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. Each such subsidiary corporation shall be subject to the restrictions and limitations to which the authority may be subject. Each such subsidiary corporation shall be subject to suit in accordance with section twelve hundred ninety-nine-p of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

If the authority shall determine that one or more of its subsidiary corporations should be in the form of a public benefit corporation, it shall create each such public benefit corporation by executing and filing with the secretary of state a certificate of incorporation, which may be amended from time to time by filing, which shall set forth the name of such public benefit subsidiary corporation, its duration, the location of its principal office, and any or all of the purposes of acquiring, owning, leasing, establishing, constructing, effectuating, operating, maintaining, renovating, improving, extending or repairing one or more facilities of the authority. Each such public benefit subsidiary corporation shall be a body politic and corporate and shall have all those powers vested in the authority by the provisions of this title which the authority shall determine to include in its certificate of incorporation except the power to contract indebtedness.

Any other provision of law to the contrary notwithstanding the authority may elect to maintain consolidated records of account for itself and its subsidiary corporations and to report on a consolidated basis with regard to the moneys and activities of the authority and its subsidiary corporations, and the authority shall not be required to keep separate records of account for or to report separately with regard to moneys or activities of any of its subsidiary corporations or of the authority itself apart from its subsidiary corporations or with regard to transfers of property or services between the authority and its subsidiary corporations or between said subsidiary corporations.

The Niagara Frontier port authority shall be deemed to be a subsidiary corporation for the purposes of this subdivision.

Whenever any state, political subdivision, municipality, commission, agency, officer, department, board, division or person is authorized and empowered for any of the purposes of this title to co-operate and enter into agreements with the authority such state, political subdivision, municipality, commission, agency, officer, department, board, division or person shall have the same authorization and power for any of such purposes to co-operate and enter into agreements with a subsidiary corporation of the authority.

6. The authority, in its own name or in the name of the state, may apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person,

government or agency whatever, which it may use to meet capital or operating expenses and for any other use within the scope of its powers, and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable.

7. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of transportation facilities, equipment or real property operated by or under contract, lease or other arrangement with the authority. Except as hereinafter specially provided, no municipality or political subdivision, including but not limited to a county, city, village, town or school or other district shall have jurisdiction over any facilities of the authority or any of its activities or operations. The local laws, resolutions, ordinances, rules and regulations of a municipality or political subdivision, heretofore or hereafter adopted, conflicting with this title or any rule or regulation of the authority, shall not be applicable to the activities or operations of the authority, or the facilities of the authority, except such facilities that are devoted to purposes other than transportation purposes. Each municipality or political subdivision, including but not limited to a county, city, village, town or district in which any facilities of the authority are located shall provide for such facilities police, fire and health protection services of the same character and to the same extent as those provided for residents of such municipality or political subdivision.

The jurisdiction, supervision, powers and duties of the department of transportation of the state under the transportation law shall not extend to the authority in the exercise of any of its powers under this title. The authority may agree with such department for the execution by such department of any grade crossing elimination project or any grade crossing separation reconstruction project along any railroad facility operated by the authority or by one of its subsidiary corporations or under contract, lease or other arrangement with the authority. Any such project shall be executed as provided in article ten of the transportation law and the railroad law, respectively, and the costs of any such project shall be borne as provided in such laws, except that the authority's share of such costs shall be borne by the state.

§ 1299-g. Acquisition and disposition of real property. 1. In addition to the powers provided in section twelve hundred ninety-nine-f of this title to acquire transportation facilities, equipment and real property, the authority may acquire, by condemnation pursuant to the condemnation law, any real property it may deem necessary, convenient or desirable to effectuate the purpose of this title, provided however, that any such condemnation proceedings shall be brought only in the supreme court and the compensation to be paid shall be ascertained and determined by the court without a jury. Notwithstanding the foregoing provisions of this subdivision one, no real property may be acquired by the authority by condemnation for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such condemnation.

2. Nothing herein contained shall be construed to prevent the authority from bringing any proceedings to remove a cloud on title or such other proceedings as it may, in its discretion, deem proper and necessary or from acquiring any such property by negotiation or purchase.

3. Where a person entitled to an award in the proceedings to condemn any real property for any of the purposes of this title remains in possession of such property after the time of the vesting of title in the condemnor, the reasonable value of his use and occupancy of such property subsequent to such time as fixed by agreement or by the court in such proceedings or by any court of competent jurisdiction shall be a lien against such award subject only to the liens of record at the time of vesting of title in the condemnor.

4. Title to all property acquired under this act shall vest in the authority.

5. The authority may, whenever it determines that it is in the interest of the authority, dispose of any real property or property

other than real property, which it determines is not necessary, convenient or desirable for its purposes. Provided, however, that the authority shall provide the county, city, town, and village in which the real property is situated with sixty days notice prior to offering such property for disposition or sale.

6. The authority may, whenever it shall determine that it is in the interest of the authority, rent, lease or grant easements or other rights in, any land or property of the authority.

*** § 1299-gg. Acquisition and disposition of real property by department of transportation.** If funds are made available by the authority for the payment of the cost and expense of the acquisition thereof, the department of transportation of the state of New York, when requested by the authority, may acquire such real property in the name of the state as may be determined from time to time by the authority as being necessary, convenient or desirable to effectuate the purposes of this title, may remove the owner or occupant thereof where necessary and obtain possession and, when requested by the authority, may dispose of any real property so acquired, all according to the procedure provided in section thirty of the highway law. The authority shall have the right to possess and use for its corporate purposes all such real property so acquired. Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by such department with the approval of the authority or by the court of claims as provided in section thirty of the highway law. When a claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before such court. All awards and judgments arising from such claims shall be paid out of moneys of the authority. No real property may be acquired pursuant to the provisions of this section for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such acquisition.

* NB There are 2 § 1299-gg's

§ 1299-h. Co-operation and assistance of other agencies. --1. To avoid duplication of effort and in the interests of economy, the authority may make use of existing studies, surveys, plans, data and other materials in the possession of any state agency or any municipality or political subdivision of the state. Each such agency, municipality or subdivision is hereby authorized to make the same available to the authority and otherwise to assist it in the performance of its functions. At the request of the authority, each such agency, municipality or subdivision which is engaged in highway or other transportation activities or in land use or development planning, or which is charged with the duty of providing or regulating any transportation facility or any other public facility, is further authorized to provide the authority with information regarding its plans and programs affecting the transportation district so that the authority may have available to it current information with respect thereto. The officers and personnel of such agencies, municipalities or subdivisions, and of any other government or agency whatever, may serve at the request of the authority upon such advisory committees as the authority shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

2. Notwithstanding any contrary provision of law, every municipality in this transportation district is authorized and empowered to consent to the use by the authority of any real or personal property owned by any such municipality and necessary, convenient or desirable in the opinion of the authority for any of the facilities or projects authorized under this title, including such real property as has already been devoted to a public use, and as an incident to such consent, to lease or otherwise transfer and convey to the authority any such real or personal property upon such terms as may be determined by the authority and any such municipality. Every such municipality is also authorized and empowered, as an incident to such consent, to vest in the authority the control, possession, operation, maintenance, rents, charges and any and all other revenues of any facilities now owned by any such

municipality, the title to such facilities remaining in such municipality.

3. Notwithstanding any contrary provision of law, every municipality in the transportation district may, by ordinance, local law, or resolution of its governing body, make covenants with the authority which shall inure to the benefit of the holders of any bonds or notes issued by the authority under this title and which shall be a part of the contract with the holders of such bonds or notes, as to

(a). The authorizing of the construction of any facilities which will be competitive with any facilities owned or operated by the authority or within a reasonable sphere of operation or extension of such facilities by the authority;

(b). Discontinuing of any facilities owned or operated by the municipality or any department or agency thereof;

(c). Limitations on the licensing of private facilities within the territorial limits of the municipality which may compete with the facilities owned or operated by the authority or within a reasonable sphere of operation or extension by the authority; and

(d). Transferring to the authority any powers or functions of the municipality or any department or agency thereof, or the control of any property thereof.

4. The commissioner of general services shall have power, in his discretion, from time to time to transfer and convey to the authority, or to a subsidiary corporation of the authority, and for such consideration as may be determined by him to be paid to the state, unappropriated state lands and lands under water which the authority shall certify to be necessary or desirable for the corporate purposes of the authority.

§ 1299-i. Notes and bonds of the authority. 1. (a) The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving its purposes, including the acquisition, establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any transportation facility, the payment of interest on bonds and notes of the authority, establishment of reserves to secure such bonds and notes, the provision of working capital and all other expenditures of the authority and its subsidiary corporations incident to and necessary or convenient to carry out their purposes and powers;

(b) The authority shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded;

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues;

2. The notes and bonds shall be authorized by resolution approved by not less than a majority of the whole number of members of the authority then in office, shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewals thereof not exceeding five years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine. No notes or bonds of the authority may be sold by the authority at private sale, however, unless such sale and the terms thereof have been

approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the fares, tolls, rentals, rates, charges and other fees made or received by the authority or any of its subsidiary corporations, and other moneys received or to be received, to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the authority or of any of its subsidiary corporations to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use, and disposition of fares, tolls, rentals, rates, charges and other fees made or received by the authority or any of its subsidiary corporations;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of moneys to be expended by the authority or any of its subsidiary corporations for operating, administrative or other expenses of the authority or any of its subsidiary corporations;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

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

5. It is the intention hereof that any pledge, mortgage or security instrument made by the authority shall be valid and binding from the time when the pledge, mortgage or security instrument is made; that the monies or property so pledged, mortgaged and entrusted and thereafter received by the authority shall immediately be subject to the lien of such pledge, mortgage or security instrument without any physical delivery thereof or further act; and that the lien of any such pledge, mortgage or security instrument shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any mortgage, security instrument or other instrument by which a pledge, mortgage lien or other security is created need be recorded or filed and the authority shall not be required to comply with any of the provisions of the uniform commercial

code.

6. Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

8. The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 1299-j. Reserve funds and appropriations. 1. The authority may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such debt service reserve funds (a) any monies appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of notes or bonds to the extent provided in the resolution of the authority authorizing the issuance thereof, and (c) any other monies which may be made available to the authority for the purpose of such funds from any other source or sources. The monies held in or credited to any debt service reserve fund established under this section, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such debt service reserve fund as the same mature, the purchase of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that the authority shall have power to provide that monies in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on the bonds of the authority then outstanding and secured by such debt service reserve fund, except for the purpose of paying principal of and interest on such bonds of the authority secured by such debt service reserve fund maturing and becoming due and for the payment of which other monies of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred by the authority to any other fund or account of the authority and the authority shall have power to provide that any such transfer shall not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on all bonds of the authority then outstanding and secured by such debt service reserve fund.

2. The authority shall have power to provide that it shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such debt service reserve fund at the time of issuance, unless the authority, at the time of the issuance of such bonds, shall deposit in such debt service reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such debt service reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any such succeeding calendar year or years not exceeding two such years on the bonds then to be issued and on all other bonds of the authority then outstanding and secured by such debt service reserve fund.

3. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such

fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

§ 1299-k. Agreement of the state. --The state does hereby pledge to and agree with the holders of any notes or bonds issued under this title, that the state will not limit or alter the rights hereby vested in the authority to acquire, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any authority facilities, to establish, levy and collect fares, tolls, rentals, rates, charges and other fees, to receive and use for its corporate purposes, in the same manner as its own funds and revenues, all moneys directed by law to be paid to it by the Buffalo and Fort Erie public bridge authority, and to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the authority is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 1299-l. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating respectively in the cities of Buffalo and Niagara Falls at least twice, the first publication to be at least thirty days before the date of redemption.

§ 1299-m. Remedies of noteholders and bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue than outstanding, by instrument or instruments filed in the office of the clerk of any county in which the authority operates and has an office and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fares, tolls, rentals, rates, charges and other fees adequate to carry out any agreement as to, or pledge of, such fares, tolls, rentals, rates, charges and other fees and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

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

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

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the instrument or instruments are filed in accordance with subdivision one of this section.

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the authority, to the comptroller and to the attorney general of the state.

§ 1299-n. Notes and bonds as legal investment. The notes and bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1299-o. Exemption from taxation. It is hereby found, determined and declared that the creation of the authority and the carrying out of its purposes is in all respects for the benefit of the people of the state of New York and for the improvement of their health, welfare and prosperity and is a public purpose, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. Without limiting the generality of the following provisions of this section, property owned by the authority, property leased by the authority and used for transportation purposes, and property used for transportation purposes by or for the benefit of the authority exclusively pursuant to the provisions of a joint service arrangement or of a joint facilities agreement or trackage rights agreement shall all be exempt from taxation and special ad valorem levies. The authority shall be required to pay no fees, taxes or assessments, whether state or local, except special benefit assessments if said property is located in a special benefit district, including but not limited to fees, taxes or assessments on real estate, franchise taxes, sales taxes or other excise taxes, upon any of its property, or upon the use thereof, or upon its activities in the operation and maintenance of its facilities or on any fares, tolls, rentals, rates, charges or other fees, revenues or other income received by the authority and the bonds of the authority and the income therefrom shall at all times be exempt from taxation, except for gift and estate taxes and taxes on transfers. This section shall constitute a covenant and agreement with the holders of all bonds issued by the authority. The terms "taxation" and "special ad valorem levy" shall have the same meanings as defined in section one hundred two of the real property tax law and the term "transportation purposes" shall have the same meaning as used in titles two-a and two-b of article four of such law.

§ 1299-p. Actions against the authority. 1. As a condition to the consent of the state to such suits against the authority, in every action against the authority for damages, for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority or other officer designated for such purpose and the authority has neglected or refused to make an adjustment or payment thereof.

2. An action against the authority founded on tort, except an action for wrongful death, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

3. The authority shall be liable, and shall assume the liability to the extent that it shall save harmless any duly appointed officer or employee of the authority, for the negligence of such officer or employee, in the operation of a vehicle or other facility of transportation owned or otherwise under the jurisdiction and control of the authority in the discharge of a duty imposed upon such officer or employee at the time of the accident, injury or damages complained of, while otherwise acting in the performance of his duties and within the scope of his employment.

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

5. The rate of interest to be paid by the authority upon any judgment for which it is liable shall not exceed four per centum per annum.

6. The provisions of this section which relate to the requirement for

service of a notice of claim shall not apply to a subsidiary corporation of the authority. In all other respects, each subsidiary corporation of the authority shall be subject to the provisions of this section as if such subsidiary corporation were separately named herein, provided, however, that a subsidiary corporation of the authority which is a stock corporation shall not be subject to the provisions of this section except with respect to those causes of action arising on and after the first day of the twelfth calendar month following that calendar month in which such stock corporation becomes a subsidiary corporation of the authority.

§ 1299-q. Station operation and maintenance. The operation, maintenance and use of passenger stations shall be public purposes of the counties of Erie and Niagara. The total cost to the authority and each of its subsidiary corporations of operation, maintenance and use of each passenger station within the district serviced by one or more railroad facilities of the authority or of such subsidiary corporation, including the buildings, appurtenances, platforms, lands and approaches incidental or adjacent thereto, shall be borne by the county within the district in which such station is located. On or before June first of each year, the authority shall determine and certify to the counties of Erie and Niagara the total cost to the authority and its subsidiary corporations, for the twelve-month period ending the preceding March thirty-first, of operation, maintenance and use of each such passenger station within each county, respectively. On or before the following September first, of each year, each such county shall pay to the authority such cost so certified to it on or before the preceding June first. If for any such twelve-month period the authority determines that the total revenues of any railroad facility will be such as not to require payment for the full amount of the costs of operation, maintenance and use of the passenger stations served by such facility, the authority in its discretion may reduce by a uniform percentage of established costs the amounts required of each county so served, provided however, that the amount required of any such county shall not be reduced for any such twelve-month period below the total cost to the authority and its subsidiary corporations so certified of maintenance and use of such passenger stations so served in such county. Each county shall have power to finance such costs to it by the issuance of budget notes pursuant to section 29.00 of the local finance law.

§ 1299-r. Agreements relating to payments in lieu of taxes. To the end that municipal corporations, counties, cities, towns, villages and school districts may not suffer undue loss of taxes or assessments:

If the authority owns or acquires property and all or any portion of such property is subsequently developed, improved or used for non-transportation purposes, it shall during such period of disuse for transportation purposes be subject to assessment, at the prevailing method of determining assessments based upon the current assessed value of all or the relevant portion of such property by the appropriate assessing unit and the authority shall, based on such assessment, annually, in lieu of taxes, pay such amount to the municipal corporation and/or school district.

The authority may, in its discretion, enter into agreements to pay annual sums in lieu of taxes in respect of any real property which is owned by the authority and exempt from taxation pursuant to section twelve hundred ninety-nine-o of this article to the participating municipal corporation or school district in which the property is located, provided however, that the amount so paid for any year upon such property shall not exceed the sum last paid as taxes on such property to such municipal corporation or school district prior to the time of its acquisition by the agency.

Vacant properties, properties acquired by the authority for non-transportation purposes but intended to be used for future transportation purposes and properties acquired by the authority for transportation purposes and used as such, shall not be subject to the payment of any taxes or any payments in lieu thereof except that the authority shall pay such property special benefit assessments on the property if it is located in an existing special benefit district.

§ 1299-s. Five-year capital and operating plans. 1. (a) On or before October first, nineteen hundred ninety, and annually thereafter on or before April first, the authority shall adopt a capital program plan for the five-year period commencing April first. The plan shall contain the capital program, separately itemized, by the following functions: metro transit operations, airport operations, and port operations.

(b) The plan shall set goals and objectives by function for capital spending, establish standards for service and operations, describe each capital project proposed to be initiated in each of the years covered by the plan and explain how each proposed project supports the achievement of the service and operational standards established in the plan. The plan shall list separately by function those projects contributing to the maintenance of the system infrastructure and those intended to enhance the system. The plan shall also include an estimated cost for each project and set forth an estimate of the amount of capital funding required for each year of the plan and the expected sources of such funding. It shall also include a project schedule for the initiation and completion of each project. Each plan subsequent to the first such plan shall describe the current status of each capital project included in the previously adopted plan.

(c) In addition to the annual update, a quarterly capital plan status report shall be provided to the committee on capital planning and shall include, but not be limited to, a description of any material change in the scope, cost, funding or time of initiation or completion of a project as adopted in the plan. The first such report shall cover the three month period commencing April first, nineteen hundred ninety-one and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April and July.

2. (a) On or before October first, nineteen hundred ninety, and annually thereafter on or before April first, the authority shall adopt an operating plan for the five-year period commencing April first. The plan shall include the annual estimated operating cost for the following authority functions: metro transit operations, airport operations, and port operations. The plans shall also include the proposed method of

financing for the level of service defined for each year of the plan and shall fully allocate the general authority costs to the authority's functions. The plan shall provide a narrative describing the overall financial condition of the authority.

(b) In addition to the annual update, the authority shall prepare for the committee on finance and audit quarterly reports on the financial condition of each of its functions. The first such report shall cover the three month period commencing April first, nineteen hundred ninety-one and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April and July. The reports shall include a budgetary comparison of the most recent quarter and year-to-date actual revenues and expenditures with the same time period in the previous year and with the projections for that time period based on the board approved budget. The reporting for the metro transit operations shall be separate for the bus and light rail divisions.

3. (a) On or before October first, nineteen hundred ninety, and annually thereafter on or before April first, the authority shall set operational performance goals and objectives for the metro transit operations, consistent with paragraph (b) of subdivision one of this section and shall establish performance indicators to measure standards of service and operations. The performance indicators shall include: revenue passengers, total passengers, revenue vehicle miles, revenue vehicle hours, number of employees by department, vehicle mean distance between failure, on-time performance for total service provided, the cost per revenue passenger, the cost per revenue vehicle mile and the revenue-to-cost ratio.

(b) The authority shall prepare for the committee on operations and personnel quarterly reports on the operating performance of the metro transit operations. The first such report shall cover the three month period commencing April first, nineteen hundred ninety-one and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April and July. The reporting for the metro transit operations shall be separate for the bus and light rail divisions. The report shall compare the performance indicators of the most recent quarter and the year-to-date performance indicators with the same time period in the previous year and with the annual goals established pursuant to this subdivision.

4. Any and all annual reports, including interim reports, shall be submitted to the director of the division of the budget, the commissioner of transportation and the chief executive officer of Erie county and Niagara county, the county legislatures of Erie county and Niagara county, the temporary president of the senate, the speaker of the assembly, the chairpersons of the senate finance committee and the assembly ways and means committee, and the chairpersons of the senate and assembly transportation committees.

§ 1299-t. Contracts. The authority shall promulgate regulations pursuant to the state administrative procedure act governing the award of all contracts for public work and all purchase contracts, including the procurement of supplies, material and equipment; personal and professional service contracts; emergency purchases; and advertising. Prior to promulgating such regulations, the authority shall submit the proposed regulations for comment to the chief executive officers and county legislatures of Erie county and Niagara county. The authority shall also establish internal controls necessary to insure compliance with these regulations. The authority shall retain independent auditors to analyze and evaluate the effectiveness of such internal controls.

§ 1299-u. Title not affected if in part unconstitutional or ineffective. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.

TITLE 11-B

ROCHESTER-GENESEE REGIONAL TRANSPORTATION AUTHORITY

§ 1299-aa. Short title. This title may be cited as the "Rochester-Genesee Regional Transportation Authority Act".

§ 1299-bb. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section twelve hundred ninety-nine-dd of this title.

2. "Transportation district" and "district" shall mean the Rochester-Genesee regional transportation district created by section twelve hundred ninety-nine-cc of this title.

3. "Participating county" shall mean any of the counties defined in section twelve hundred ninety-nine-cc of this title.

4. "Federal government" shall mean the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

5. "Governor" shall mean the governor of the state of New York.

6. "Comptroller" shall mean the comptroller of the state of New York.

7. "Director of the budget" shall mean the director of the budget of the state of New York.

8. "State" shall mean the state of New York.

9. "State agency" shall mean any officer, department, board, commission, bureau, division, public benefit corporation, agency or instrumentality of the state.

10. "Municipality" shall mean a city, town, village or county not wholly contained within a city.

11. "Municipal corporation" shall mean a city, town, village, county not wholly contained within a city, special transportation district, public benefit corporation or other public corporation, or two or more

of the foregoing acting jointly.

12. "Personal property" shall mean chattels and other tangible things of a movable or removable nature.

13. "Property" shall mean both real and personal property.

14. "Master plan" shall mean an action plan for implementation of improvements to such means of public transportation and related services by omnibus, railroad and marine and aviation facilities as the authority may contemplate within the Rochester-Genesee Regional Transportation District to effectuate the purposes of this act.

15. "Joint service arrangement" shall mean agreements between or among the authority and any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state, or any political subdivision or municipality of the state, relating to property, buildings, structures, facilities, services, rates, fares, classifications, divisions, allowances or charges (including charges between operators of railroad, omnibus, marine and aviation facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part in or upon railroad, omnibus, marine or aviation facilities located within the district and in part in or upon railroad, omnibus, marine or aviation facilities located outside the district.

16. "Project" shall mean any undertaking by the authority within the district including but not limited to port or harbor facilities, transportation properties, access and service roads and bridges, equipment, appurtenances, utilities, airport facilities and any other improvement under authority jurisdiction within the regional district.

17. "Facility" shall mean, among other things, such properties, structures, appurtenances, utilities, terminals, wharfs, docks, piers, railroad trackage, warehouses, elevators, equipment for handling freight and passengers and vehicles and such other works, properties, buildings

or allied items necessary or desirable in connection with development, operation, maintenance or improvement of port, airport and public transportation needs for the accommodation, safety or comfort of the public and commercial enterprise for the regional transportation district.

18. "Equipment" shall mean rolling stock, omnibuses, vehicles, air, marine or surface craft, motors, boilers, engines, and other instrumentalities used or useful therefor or in connection therewith.

19. "Omnibus facilities" shall mean motor vehicles, of the type operated by carriers subject to the jurisdiction of the public service commission, engaged in the transportation of passengers and their baggage, express and mail between points within the district or pursuant to joint service arrangements, and equipment, property, buildings, structures, improvements, loading or unloading areas, parking areas, berthing facilities or other facilities, necessary, convenient or desirable for the accommodation of such motor vehicles or their passengers, including but not limited to buildings, structures and areas notwithstanding that portions may not be devoted to any omnibus purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

20. "Railroad facilities" shall mean right-of-way and related trackage, rails, cars, locomotives, other rolling stock, signal, power, fuel, communication and ventilation systems, power plants, stations, terminals, storage yards, repair and maintenance shops, yards, equipment and parts, offices and other real estate or personalty used or held for or incidental to the operation, rehabilitation or improvement of any railroad operating or to operate between points within the district or pursuant to joint service arrangements, including but not limited to buildings, structures, and areas notwithstanding that portions thereof may not be devoted to any railroad purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

21. "Real property" shall mean lands, structures, franchises and

interests in land, waters, lands under water, riparian rights and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

22. "Marine and aviation facilities" shall mean equipment and craft for the transportation of passengers, mail and cargo between points from and to and within the district or pursuant to joint service arrangements, by marine craft and aircraft of all types including but not limited to hydrofoils, ferries, lighters, tugs, barges, helicopters, amphibians, seaplanes or other contrivances now or hereafter used in navigation or movement on waterways or in the navigation of or flight in airspace. It shall also mean any airport facility within the transportation district, including but not limited to any facility or real property necessary, convenient or desirable for the landing, taking off, accommodation or servicing of such aircraft, and shall include such facilities, property, structures and appurtenances as may be necessary or convenient in the operation, maintenance, development or improvement of airports including facilities, property, structures, and appurtenances, leased by the Authority to persons, firms or corporations engaged in air transportation or the production or development of materials, goods or equipment for airports or air transportation or in providing facilities for the accommodation, safety or comfort of the traveling public and for purposes related or incidental to one or more of the foregoing purposes. It shall also mean port facilities in the transportation district including, but not limited to, (a) one or more docks, elevators, wharves, piers, bulkheads, slips, basins, harbors, railroad connections, side tracks or sidings, freight terminals, warehouses, bridges, tunnels, and areas for storage of cargoes, materials, goods, wares, and merchandise of any kind and for the loading, unloading, interchange or transfer of any such cargoes, materials, goods, wares and merchandise; (b) other buildings, structures, facilities or improvements necessary to accommodate steamships or other vessels and their cargoes or passengers; and (c) all

real and personal property, driveways, roads, approaches, mechanical equipment and all appurtenances and facilities either on, above or under the ground which are necessary, convenient or desirable for the development, control and operation of port facilities in the transportation district.

23. "Transportation facility" shall mean any railroad, omnibus, marine or aviation facility and any person, firm, partnership, association or corporation which owns, leases or operates any such facility or any other facility used for service in the transportation of passengers, United States mail or personal property as a common carrier for hire and any portion thereof and the rights, leaseholds or other interest therein together with routes, tracks, extensions, connections, parking lots, garages, warehouses, yards, storage yards, maintenance and repair shops, terminals, stations and other related facilities thereof, the devices, appurtenances, and equipment thereof and power plants and other instrumentalities used or useful therefor or in connection therewith.

24. "Commissioner of transportation" shall mean commissioner of transportation of the state of New York.

25. "Transit dependent individual" shall mean an individual who is limited to public transit as their primary mode of transportation because the individual has a permanent disability.

§ 1299-cc. Rochester-Genesee regional transportation district. 1. There is hereby created and established a transportation district to be known as the Rochester-Genesee regional transportation district. This district shall embrace the county of Monroe and such of the following counties as may elect to become members by action of their governing bodies: all counties included within the Lake Ontario region as designated by the New York state office of planning services, namely, Genesee, Livingston, Ontario, Orleans, Seneca, Wayne and Yates, and any county contiguous to this region. The transportation district shall also include all lands and water and all lands under water and all rivers, bays and harbors and Lake Ontario, within any of the counties of said district.

§ 1299-dd. Rochester-Genesee regional transportation authority. 1. (a) There is hereby created the Rochester-Genesee regional transportation authority. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall consist of: (i) at least one member from each county that elects to join the authority except that the county of Monroe shall have seven members of whom three shall be appointed from the city of Rochester and four at large from the county of Monroe, (ii) and a voting member who is a transit dependent individual appointed pursuant to paragraph (c) of this subdivision, and (iii) one non-voting member as described in paragraph (b) of this subdivision. The members shall be appointed by the governor by and with the advice and consent of the senate. The governor shall make initial appointments to the authority in such number and from lists submitted as follows: three members shall be appointed to the authority from a list of not less than six names, all of whom must be residents of the city of Rochester, submitted to the governor by the council of the city of Rochester; four persons from a list of not less than eight persons, all of whom must be residents of the county of Monroe submitted by the legislature of the county of Monroe. Other counties electing to participate shall each submit to the governor a list of not less than two persons for each one hundred thousand or major fraction of the total population, as determined by the last federal decennial or federal county-wide special census. From the counties outside the county of Monroe which shall elect to participate, the governor shall appoint one member for each one hundred thousand or major fraction of the total population, as determined by the last federal decennial or federal county-wide special census, with a minimum of one member to represent each county outside the county of Monroe so electing to participate. All members of the authority shall be residents of the area from which they are nominated.

(b) The non-voting member of the authority, who shall not be considered in determining a quorum, shall be recommended to the governor by the labor organization representing the plurality of the employees within the authority and shall be a resident of the Rochester-Genesee regional transportation district as described in section twelve hundred ninety-nine-cc of this title. Such non-voting member shall be appointed for a term of five years, provided, however, that if at any time during the term of appointment such non-voting member ceases to be affiliated with the labor organization representing the plurality of employees within the authority, then such labor organization may at any time during such term recommend a new member to the governor who shall serve the remainder of the term. If the local bargaining unit decertifies its existing union affiliation and certifies a new union, the union which represents the plurality of the employees may recommend a new member to the governor who shall serve the remainder of the term. The chairman of the authority, at his or her discretion, may exclude such non-voting member from attending any portion of a meeting of the authority or of any committee held for the purpose of discussing negotiations with labor organizations, pending litigation involving the labor organization, or the investigation, evaluation, or discipline of an employee.

(c) The voting member who is a transit dependent individual as described in paragraph (a) of this subdivision shall be appointed by the governor for a term of five years. Such member shall be a resident of a county within the district. If a vacancy occurs for such position, a replacement shall be appointed within six months pursuant to this process. Any local or statewide transit advocacy organization may recommend one or more transit dependent individuals to be considered pursuant to this section.

2. The members of the authority shall continue in office until their successors are appointed and shall have qualified. One member appointed from the city of Rochester and one member appointed from the county of Monroe shall be appointed for terms ending July thirty-first, nineteen hundred seventy-one; one member appointed from the city of Rochester and two members appointed from the county of Monroe shall be appointed for terms ending July thirty-first, nineteen hundred seventy-two; and one member appointed from the city and one member appointed from the county of Monroe shall be appointed for terms ending July thirty-first, nineteen hundred seventy-three. The member (or members) who is (or are) appointed from the other counties shall be appointed for a term (or terms) of five years, but all terminating on the thirty-first day of

July of the fifth year. Thereafter, upon expiration of the term of a member of the authority a successor shall be appointed by the governor for a term expiring five years after the expiration of the term of his predecessor. If a vacancy shall occur by reason of a death, disqualification, resignation or removal of a member, the successor shall be appointed by the governor for the unexpired term. Persons succeeding members from the city of Rochester and the county of Monroe on the authority shall be appointed from the same area and by the same procedure as the original appointments. In the event of a vacancy as defined herein, the successor appointed by the governor for an unexpired term shall be from the same area. The same procedure shall be followed for the filling of vacancies of members appointed from other counties. Members of the authority shall, before entering upon the duties of their office, take the constitutional oath of office and file the same in the office of the secretary of state. No person while serving in any elective office shall be eligible to serve as a member of the authority. The members of the authority shall officially be designated and referred to as commissioners.

3. The members of the authority, including the chairman, shall not receive a salary or other compensation when rendering service as a member of the authority or as a member of one of its subsidiary corporations, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

4. A majority of the whole number of votes of members of the authority, including the voting member who is a transit dependent individual as described in subdivision one of this section, shall constitute a quorum for the transaction of business or the exercise of any power of the authority. Except as otherwise specified in this act, for the transaction of any business or the exercise of any power of the authority, the authority shall have power to act by a majority vote of the members present at any meeting at which a quorum is in attendance. Each member of the authority shall have one vote for each thirty-five thousand or major fraction thereof of the population of the county or city from which he is appointed based upon the results of the last federal decennial or federal county-wide special census divided by the

total number of members appointed from such county or city, except that the voting member who is a transit dependent individual as described in subdivision one of this section shall have one vote in total. The minimum number of votes each member shall have, regardless of population, is one. The votes of all members shall be calculated with fractions being rounded to the nearest whole number. The population of a county for the purposes of this provision is the total population of such county less the population of any city which is entitled to have members appointed on the authority.

5. The authority shall organize by the selection from its members of a chairman, vice chairman, secretary and such other officers as the members may deem necessary. It shall adopt such rules as it may deem necessary and proper for the government of its own proceedings, and shall keep a record of such proceedings.

6. The authority shall be a "state agency" for the purposes of sections seventy-three and seventy-four of the public officers law.

7. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any public corporation as defined in the general corporation law, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his acceptance of membership on or chairmanship of the authority; provided, however, a member or chairman who holds such other public office or employment shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

8. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any member shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his

findings thereon, together with a complete record of the proceedings.

9. The authority shall continue so long as it shall have bonds or other obligations outstanding and until its existence shall be terminated by law. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the state.

10. Each of the counties that elect to become participating members of the Rochester-Genesee regional transportation district may do so by resolution adopted by a majority of the membership of its governing body and such election by a county shall take effect upon the filing of a duly certified copy of such resolution with the authority and with the secretary of state, and the mailing of a certified copy thereof to the county clerk of each county which is granted the power of election under the provisions of this act.

§ 1299-ee. Purposes of the authority. 1. The purposes of the authority shall be the continuance, further development and improvement of transportation and other services related thereto within the Rochester-Genesee regional transportation district, by railroad, omnibus, marine and air, in accordance with the provisions of this title.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the authority shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

§ 1299-ff. Formulation, filing and adoption of master plan; amendments. The authority shall formulate a master plan for transportation within the district. In formulating such master plan, the authority shall consult and cooperate with the commissioner of transportation and planning authorities in the areas of its operations, and shall utilize state, local or regional transportation planning. The authority shall request and use existing studies, plans, surveys, data and other materials completed by or under development by any state agency or municipality or political subdivision of the state. The authority shall file copies of such plan with the commissioner of transportation, the Genesee-Finger Lakes Regional Planning Board, the city council of the city of Rochester, the legislature of the county of Monroe, and with the legislative body of any other county, within the district, affected by such plan, as hereinafter stated, except where applications for state or federal aid have been filed for any particular transportation undertaking prior to the enactment of this legislation. The plan shall contain information regarding the transportation system that the authority intends to provide including information regarding the facilities connected therewith, the services the authority contemplates providing and the estimated costs and the proposed method of financing. During sixty days after the filing of the master plan with the commissioner of transportation, in the Office of the Genesee-Finger Lakes Regional Planning Board and with the legislative bodies as aforesaid, said plan shall be available for public inspection at the office or offices of the authority and at such other places in the areas affected, within the district, as the authority may designate. Not earlier than thirty days after the filing of said master plan with the commissioner of transportation, the Genesee-Finger Lakes Regional Planning Board and such legislative bodies, a public hearing on said plan shall be held by the authority. Notice of such a hearing shall be given to the commissioner of transportation, the Genesee-Finger Lakes Regional Planning Board and the legislative bodies as aforesaid and by publication once a week for two weeks prior to the said hearing at the time and place fixed by the authority in newspapers of general circulation within the areas affected, to be selected by the authority. The last publication date shall not be less than five days before said hearing. Within thirty days following said public hearing, the authority shall provide a transcript of such hearing to the commissioner of transportation, the Genesee-Finger Lakes Regional Planning Board and the legislative bodies as aforesaid, together with any amendments the authority may propose to the master plan. The authority shall request approval of the master plan, including such amendments as the authority may propose, from the aforementioned legislative bodies and the commissioner of transportation. Any part of said plan which is disapproved by a political subdivision because it alters existing services or the financing thereof within said political subdivision shall not become operative. This disapproval of part or parts of the plan shall not make the entire plan inoperative. Any part of said plan which is disapproved by the commissioner of transportation because it conflicts with a state-wide comprehensive master plan for transportation or the Rochester Metropolitan transportation plan or, in the absence of such plans, would have an adverse effect upon sound transportation development policy and planning, shall not become operative. If the said legislative bodies or said regional planning board fail to act within said sixty days or in the case of the commissioner of transportation within ninety days after approval is requested, said failure shall be deemed approval, and the authority may adopt the master plan by a majority vote of its membership and may include changes, if any, recommended by said commissioner of transportation, planning board or said legislative bodies.

The master plan may be amended from time to time in the same manner using the procedures outlined herein for the original adoption, except that proposed changes made by the authority upon recommendations of the commissioner of transportation, said legislative bodies or the Genesee-Finger Lakes Regional Planning Board in the first plan may be embodied or continued by a majority vote of the authority without additional hearings thereon as required for the amendments proposed to be made.

§ 1299-fff. Filing five year performance, capital and operating finance plans. 1. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt an operational performance plan for the five-year period commencing April first. The plan shall set operational performance plan goals and objectives, including but not limited to ridership and passenger revenue goals and objectives for the period, for fixed route bus operations, and shall establish performance indicators to measure standards of service and operations. The performance indicators shall include: revenue passengers, total passengers, revenue vehicle miles, revenue vehicle hours, number of employees by department, vehicle mean distance between failures, on-time performance for total service provided, the cost per passenger, the cost per revenue vehicle mile and the operating-revenue-to-cost ratio.

(b) Quarterly reports shall be prepared for authority members on operating performance of fixed route bus operations. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April, and July of each year. The report shall compare the performance indicators for the most recent quarter and the year-to-date performance indicators with the same time period in the previous year with the annual goals established pursuant to this subdivision.

2. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt a capital program plan for the five-year period commencing April first. The plan shall contain the capital program, separately itemized, by the following functions: regular fixed route bus service, demand responsive bus service, and any aviation facilities and any marine facilities for which it currently has or shall assume responsibility.

(b) The plan shall set goals and objectives by function for capital spending, establish standards for service and operation, describe each capital project to be initiated in each of the years covered by the plan and explain how each proposed project supports the goals and objectives and the service and operational standards established in the performance plan. The plan shall list separately by function those projects contributing to the maintenance of the system infrastructure and those intended to enhance the system. The plan shall also include an estimated cost for each project and set forth an estimate of the amount of capital funding required for each year of the plan and the expected sources of such funding. It shall also include a project schedule for the initiation and completion of each project. Each plan subsequent to the first such plan shall describe the current status of each capital project which has a total estimated cost of one hundred thousand dollars or more and which was included in the previously adopted plan.

(c) In addition to the annual update, a quarterly capital plan status report shall be provided to the authority members and shall include, but not be limited to, a description of any material change in the scope, cost, funding or time of initiation or completion of a project which has a total estimated cost of one hundred thousand dollars or more, as adopted in the plan. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April, and July of each year.

3. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt an operating finance plan for the five-year period commencing April first. The plan shall include the annual estimated operating cost for the following authority functions: fixed bus operations, demand responsive bus operations, and any aviation facilities and any marine facilities for which it currently has, or shall assume responsibility. The plan shall include the proposed method of financing for the level of service defined for each year of the plan and shall fully allocate the authority's general costs to each of the above separate functions. The plan shall provide a narrative describing the overall financial condition of the operating budget of the authority.

(b) In addition to the annual update, quarterly operating budget reports shall be prepared for the authority members on the financial condition of each of the authority's functions. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April, and July of each year. The reports shall include a budgetary comparison of the most recent quarter and year-to-date actual revenue and expenditures with the same time period in the previous year and with the projections for that time period based on the board approved budget. The reporting for fixed route bus operations shall be separate from the reporting for demand responsive bus service.

4. Any and all reports, including interim reports, shall be submitted to the director of the division of the budget, the commissioner of transportation and the chief executive officers of Genesee, Livingston, Monroe, and Wayne counties, the county legislatures of Genesee, Livingston, Monroe, and Wayne counties, the temporary president of the senate, the speaker of the assembly, the chairpersons of the senate finance committee and the assembly ways and means committee, and the chairpersons of the senate and assembly transportation committees.

*** § 1299-gg. General powers of the authority.** A. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement, at the discretion of the authority, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government; or certificates of deposit of banks or trust companies or in bank or trust accounts of banks in this state, secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

6. To enter into contracts and leases and to execute all instruments

necessary or convenient;

7. To acquire, hold and dispose of real or personal property in the exercise of its powers;

8. To appoint a general manager, who shall serve at the pleasure of the authority, and such officers and employees as the authority may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice; such general manager, counsel, auditors, engineers, and private consultants, officers and employees may not be a member of the authority;

9. (a) Notwithstanding section one hundred thirteen of the retirement and social security law or any other general or special law, the authority and any of its subsidiary corporations may continue or provide to its affected officers and employees any retirement, disability, death or other benefits provided or required for railroad personnel pursuant to federal or state law. Notwithstanding any provisions of the civil service law, no officer or employee of a subsidiary corporation, of the authority, other than a public benefit subsidiary corporation, shall be a public officer or a public employee;

(b) The authority and any of its public benefit subsidiary corporations may be a "participating employer" in the New York state employees' retirement system with respect to one or more classes of officers and employees of such authority or any such public benefit subsidiary corporation, as may be provided by resolution of such authority or any such public benefit subsidiary corporation, as the case may be, or any subsequent amendment thereof, filed with the comptroller and accepted by him pursuant to section thirty-one of the retirement and social security law. In taking any action pursuant to this paragraph (b), the authority and any of its public benefit subsidiary corporations shall consider the coverages and benefits continued or provided pursuant to paragraph (a) of this subdivision;

10. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto and shall undertake a study of the port potential of Sodus Bay and shall undertake a feasibility study of the merging of the Rochester-Monroe County Port Authority into the Rochester-Genesee Regional Transportation Authority.

11. To enter upon such lands, waters or premises as in the judgment of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

12. The authority may conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the authority shall fail or refuse to aid or assist the authority in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the authority is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

13. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

14. To enter into collective bargaining agreements with labor representatives duly elected by the employees of the authority.

15. To insure or provide for the insurance of the authority's property or operations as required by law and also against such other risks as the authority may deem advisable.

B. The authority shall file in the office of the commissioner of transportation of the state of New York annual reports, after the close of each of the authority's fiscal years, which shall be open to public inspection. Such reports shall include, in addition to any information which the commissioner may require, a statement with respect to its operations including the following data:

(a) Cost breakdown of real property acquired;

(b) Cost breakdown in appropriate units of facilities acquired;

(c) Operating revenues;

(d) Operating expenses.

The authority shall also file copies of such reports with the city council of the city of Rochester and with the county legislative bodies in all counties where such authority operates.

* NB There are 2 § 1299-gg's

§ 1299-hh. Special powers of the authority. In order to effectuate the purposes of this title: 1. The authority may acquire, by purchase, gift, grant, transfer, contract or lease, or condemnation, any transportation facility, including port or related facilities wholly or partially within the Rochester-Genesee regional transportation district or any part thereof, or the use thereof, and may enter into any joint service arrangements as hereinafter provided. Any such acquisition or joint service arrangement shall be authorized only by resolution of the authority approved by not less than a majority vote of the authority.

2. The authority may on such terms and conditions as the authority may determine necessary, convenient or desirable itself establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any such transportation facility, or may provide for such establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair by contract, lease, or other arrangement on such terms as the authority may deem necessary, convenient or desirable with any person, including but not limited to any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state or any political subdivision or municipality of the state. In connection with the operation of any such transportation facility, the authority may establish, construct, effectuate, operate, maintain, renovate, improve,

extend or repair or may provide by contract, lease or other arrangement for the establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any related services and activities it deems necessary, convenient or desirable, including but not limited to the transportation and storage of freight and the United States mail, feeder and connecting transportation, parking areas, transportation centers, ports, stations and related facilities.

3. The authority may establish, levy and collect or cause to be established, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, levy and collection of such fares, tolls, rentals, rates, charges and other fees as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or by a subsidiary corporation of the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Any such fares, tolls, rentals, rates, charges or other fees for the transportation of passengers shall be established and changed only if approved by resolution of the authority adopted by not less than a majority vote of the authority and only after a public hearing, provided however, that fares, tolls, rentals, rates, charges or other fees for the transportation of passengers on any transportation facility which are in effect at the time that the then owner of such transportation facility becomes a subsidiary corporation of the authority or at the time that operation of such transportation facility is commenced by the authority or is commenced under contract, lease or other arrangement including joint service arrangements, with the authority may be continued in effect without such a hearing. Such fares, tolls, rentals, rates, charges and other fees shall be established as may in the judgment of the authority be necessary to maintain the combined operations of the authority and its subsidiary corporations on a self-sustaining basis. The said operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or cause to be paid from revenue and any other funds or property actually available to the authority and its subsidiary corporations (a) as the same shall become due, the principal of and

interest on the bonds and notes and other obligations of the authority and of such subsidiary corporations, together with the maintenance of proper reserves therefor, (b) the cost and expense of keeping the properties and assets of the authority and its subsidiary corporations in good condition and repair, and (c) the capital and operating expenses of the authority and its subsidiary corporations. The authority may contract with the holders of bonds and notes with respect to the exercise of the powers authorized by this section.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct and safety of the public as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing the conduct and safety of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct or safety of the public and any local law, ordinance, rule or regulation, such rule or regulation of the authority shall prevail. Violation of any such rule or regulation of the authority governing the conduct or the safety of the public in or upon any facility of the authority shall constitute an offense and shall be punishable by a fine not exceeding fifty dollars or imprisonment for not more than thirty days or both.

5. The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities through, and cause any one or more of its powers, duties, functions or activities to be exercised or performed by, one or more wholly owned subsidiary corporations of the authority and may transfer to or from any such corporation any moneys, real property or other property for any of the purposes of this title. The directors or members of each such subsidiary corporation shall be the same persons

holding the offices of members of the authority. Each such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. Each such subsidiary corporation shall be subject to the restrictions and limitations to which the authority may be subject. Each such subsidiary corporation shall be subject to suit in accordance with section twelve hundred ninety-nine-qq of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

If the authority shall determine that one or more of its subsidiary corporations should be in the form of a public benefit corporation, it shall create each such public benefit corporation by executing and filing with the secretary of state a certificate of incorporation, which may be amended from time to time by filing, which shall set forth the name of such public benefit subsidiary corporation, its duration, the location of its principal office, and any or all of the purposes of acquiring, owning, leasing, establishing, constructing, effectuating, operating, maintaining, renovating, improving, extending or repairing one or more facilities of the authority. Each such public benefit subsidiary corporation shall be a body politic and corporate and shall have all those powers vested in the authority by the provisions of this title which the authority shall determine to include in its certificate of incorporation except the power to contract indebtedness.

Whenever any state, political subdivision, municipality, commission, agency, officer, department, board, division or person is authorized and empowered for any of the purposes of this title to co-operate and enter into agreements with the authority such state, political subdivision, municipality, commission, agency, officer, department, board, division or person shall have the same authorization and power for any of such purposes to co-operate and enter into agreements with a subsidiary corporation of the authority.

6. The authority, in its own name or in the name of the state, may apply for and receive and accept grants of property, money and services

and other assistance offered or made available to it by any person, government or agency whatever, which it may use to meet capital or operating expenses and for any other use within the scope of its powers, and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable.

7. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of transportation facilities, equipment or real property operated by or under contract, lease or other arrangement with the authority. Except as hereinafter specially provided, no municipality or political subdivision, including but not limited to a county, city, village, town or school or other district shall have jurisdiction over any facilities of the authority or any of its activities or operations. In the operation, maintenance and control of any facilities devoted to purposes other than direct transportation purposes, the authority shall be subject to all local laws, resolutions, ordinances, rules and regulations of a municipality or political subdivision. Each municipality or political subdivision, including but not limited to a county, city, village, town or district in which any facilities of the authority are located shall provide for such facilities police, fire and health protection services of the same character and to the same extent as those provided for residents of such municipality or political subdivision.

The authority may agree with the state department of transportation for the execution by such department of any grade crossing elimination project or any grade crossing separation reconstruction project along any railroad facility operated by the authority or by one of its subsidiary corporations or under contract, lease or other arrangement with the authority. Any such project shall be executed as provided in the grade crossing elimination act and the railroad law, respectively, and the costs of any such project shall be borne as provided in such laws, except that the authority's share of such costs shall be borne by the state.

8. The authority may accept unconditional grants of money or property

as subsidy payments for expansion of service into areas where such service would not be self-supporting. The authority may accept unconditional grants of money or property from any city, village, town or county not wholly contained within a city the whole or any part of which shall be served or to be served by a transportation facility operated by the authority. Such grants of money or property would be for the purpose of assisting the authority in meeting its capital or operating expenses. The acceptance of any such grant shall not operate to make the authority an agency of the municipality making the grant. The provisions of this section are intended as enabling legislation only and shall not be interpreted as implying that absent their enactment an authority would lack the power to accept such grant or subsidy.

9. The authority may do all things necessary, convenient or desirable to design, develop, acquire, construct, maintain, operate, improve and reconstruct a rapid transit system in the Charlotte-Henrietta Corridor which is described generally as follows: commencing on the north at the Port of Rochester, thence southwesterly along the Penn Central railroad right of way to its intersection with the Baltimore and Ohio railroad-belt line division right of way, thence southerly along the Baltimore and Ohio railroad-belt line division to its intersection with the railroad right of way of the former "rapid transit and industrial railway", near Lexington Avenue, owned by the City of Rochester, thence southerly along said former "rapid transit and industrial railway" through certain abandoned canal lands owned by the State of New York to the point where it intersects with the Rochester branch of the Lehigh Valley railroad right of way, thence southerly along said Lehigh Valley railroad to the point where it intersects with the Erie railroad right of way, thence southerly along the Erie railroad right of way to a terminus near Erie Station Road at the Riverton new community, also thence southeasterly along said Lehigh Valley Railroad from the point where it intersects with the Erie Railroad right of way, to a terminus near Calkins Road. The Charlotte-Henrietta Corridor shall be deemed a "transportation facility" of the authority for all of the purposes of this title.

10. Notwithstanding any of the above provisions, no project may be

undertaken by the authority unless such project is a part of or consistent with the adopted master plan.

§ 1299-ii. Acquisition and disposition of real property. 1. In addition to the powers provided in section twelve hundred ninety-nine-gg of this title to acquire transportation facilities, equipment and real property, the authority may acquire, by condemnation pursuant to the condemnation law and/or in accordance with the condemnation provisions of subdivision seven of this section, any real property it may deem necessary, convenient, or desirable to effectuate the purpose of this title, provided, however, that any such condemnation proceedings shall be brought only in the supreme court and the compensation to be paid shall be ascertained and determined by the court without a jury. Notwithstanding the foregoing provisions of this subdivision, no real property may be acquired by the authority by condemnation or by purchase for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such acquisition.

2. Nothing herein contained shall be construed to prevent the authority from bringing any proceedings to remove a cloud on title or such other proceedings as it may, in its discretion, deem proper and necessary or from acquiring any such property by negotiation or purchase.

3. Where a person entitled to an award in the proceedings to condemn any real property for any of the purposes of this title remains in possession of such property after the time of the vesting of title in the condemnor, the reasonable value of his use and occupancy of such property subsequent to such time as fixed by agreement or by the court in such proceedings or by any court of competent jurisdiction shall be a lien against such award subject only to the liens of record at the time of vesting of title in the condemnor.

4. Title to all property acquired under this act shall vest in the authority.

5. The authority may, whenever it determines that it is in the interest of the authority, dispose of any real property or property other than real property, which it determines is not necessary, convenient or desirable for its purposes.

6. The authority may, whenever it shall determine that it is in the interest of the authority, rent, lease or grant easements or other rights in, any land or property of the authority.

7. The authority may adopt the following condemnation procedures. A certified copy of a resolution adopted by the authority authorizing the acquisition and identifying and describing the property and franchises, if any, sought to be acquired by condemnation shall be filed in the office of the county clerk of the county in which such property is situated, held or maintained. A petition for an order vesting title to such property and franchises, if any, sought to be acquired by condemnation shall set forth a description of the said property and franchises, if any, and a prayer that title be vested in the authority, shall be presented, upon notice of the application to condemn published in five successive issues of a publication of general circulation within the county where such property and franchises, if any, are located, to a special term of the supreme court held at the time and place specified in such notice, within the judicial district in which the property being acquired or some part thereof is situated. Such proceedings shall have precedence over all other cases on the calendar of such court, any other provision of the law to the contrary notwithstanding. Upon due proof to the satisfaction of the court of the filing of the resolution as hereinafter described, such court, not later than three days after the presentation of the petition, shall thereupon enter an order vesting title to such property and franchises, if any, in the authority. Upon such vesting of title the authority shall have the right to enter upon and take possession of such property. A notice of such acquisition shall be directed to the owners of the property and franchises, if any, so acquired and to any other person or persons having an estate, interest or easement in such property or a lien, charge or encumbrance thereon by personal service or by registered mail at the last known address within

fifteen days after such vesting of title. Such notice shall set forth such resolution, the date of the submission to the court, the date of the order vesting title in such authority and such other matters as the authority may determine.

8. If funds are made available by the authority for the payment of the cost and expense of the acquisition thereof, the department of transportation of the state of New York, when requested by the authority, may acquire such real property in the name of the state as may be determined from time to time by the authority as being necessary, convenient or desirable to effectuate the purposes of this title, may remove the owner or occupant thereof where necessary, and obtain possession and, when requested by the authority, may dispose of any real property so acquired, all according to the procedure provided in section thirty of the highway law and pursuant to the procedure required under federal law, when applicable. The authority shall have the right to possess and use for its corporate purposes all such real property so acquired. Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by such department with the approval of the authority or by the court of claims as provided in section thirty of the highway law and as required by federal law, when applicable. When a claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before such court. All awards and judgments arising from such claims shall be paid out of moneys of the authority. No real property may be acquired pursuant to the provisions of this section for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such acquisition.

§ 1299-jj. Co-operation and assistance of other agencies. In the interest of economy and to promote coordination of authority projects with state, local, county and regional plans and also to carry out the objective of full participation of all agencies in the development of a transportation system and facilities to meet the objectives of this act, the authority shall request and use existing studies, master plans, surveys, data and other materials completed by or under development by any state agency or any municipality or political subdivision of the state. The authority shall consult with and cooperate with the commissioner of transportation and with planning authorities in the areas of its operations and shall utilize local or state planning. When a project is contemplated by the authority, the authority shall submit a preliminary prospectus thereof to the commissioner of transportation for review and comment and shall consider the report of the commissioner in formulating detailed plans for such project. When a project is contemplated by the authority within the jurisdiction of any county planning board or the Genesee-Finger Lakes Regional Planning Board, the authority shall prepare a preliminary prospectus thereof, describing the purpose, general location, and nature of the project contemplated, with such further data relative thereto that the authority shall consider pertinent. Within sixty days of receipt of such prospectus such planning board or boards shall prepare a report thereon, commenting on its conformity or lack of conformity with any related official plan of the state or region or any official planning agency within the region. Such report shall be considered by the authority in formulating detailed plans for such a project. At the request of the authority, each such agency, municipality or subdivision which is engaged in highway or other transportation activities or in land use or development planning, or which is charged with the duty of providing or regulating any transportation facility or any other public facility, is further authorized to provide the authority with information regarding its plans and programs affecting the transportation district so that the authority may have available to it current information with respect thereto. The officers and personnel of such agencies, municipalities or subdivisions, and of any other government or agency whatever, may serve at the request of the authority upon such advisory committees as the authority shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

§ 1299-kk. Notes and bonds of the authority. 1. (a) The authority shall have power and is hereby authorized from time to time to borrow money and issue its negotiable bonds and notes in such principal amount, as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving its purposes, including the acquisition, establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any transportation facility, the payment of interest on bonds and notes of the authority, establishment of reserves to secure such bonds and notes, the provision of working capital and all other expenditures of the authority and its subsidiary corporations incident to and necessary or convenient to carry out their purposes and powers;

(b) The authority shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded;

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues;

(d) Whether or not the notes or bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the notes or bonds shall be and hereby are made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

2. The notes and bonds shall be authorized by resolution approved by not less than a majority vote of the authority, shall bear such date or dates, and shall mature at such time or times, as specified therein, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such

denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine. No notes or bonds of the authority may be sold by the authority at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the fares, tolls, rentals, rates, charges and other fees made or received by the authority or any of its subsidiary corporations, and other moneys received or to be received, to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the authority or of any of its subsidiary corporations to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use, and disposition of fares, tolls, rentals, rates, charges and other fees made or received by the authority or any of its subsidiary corporations;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with

noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of moneys to be expended by the authority or any of its subsidiary corporations for operating, administrative or other expenses of the authority or any of its subsidiary corporations;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

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

5. It is the intention hereof that any pledge, mortgage or security instrument made by the authority shall be valid and binding from the time when the pledge, mortgage or security instrument is made; that the monies or property so pledged, mortgaged and entrusted and thereafter received by the authority shall immediately be subject to the lien of such pledge, mortgage or security instrument without any physical

delivery thereof or further act; and that the lien of any such pledge, mortgage or security instrument shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any mortgage, security instrument or other instrument by which a pledge, mortgage lien or other security is created need be recorded or filed and the authority shall not be required to comply with any of the provisions of the uniform commercial code.

6. Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

8. The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 1299-ll. Reserve funds and appropriations. 1. The authority may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such debt service reserve funds (a) any monies appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of notes or bonds to the extent provided in the resolution of the authority authorizing the issuance thereof, and (c) any other monies which may be made available to the authority for the purpose of such funds from any other source or sources. The monies held in or credited to any debt service reserve fund established under this section, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such debt service reserve fund as the same mature, the purchase of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that the authority shall have power to provide that monies in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on the bonds of the authority then outstanding and secured by such debt service reserve fund, except for the purpose of paying principal of and interest on such bonds of the authority secured by such debt service reserve fund maturing and becoming due and for the payment of which other monies of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred by the authority to any other fund or account of the authority and the authority shall have power to provide that any such transfer shall not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on all bonds of the authority then outstanding and secured by such debt service reserve fund.

2. The authority shall have power to provide that it shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such debt service reserve fund at the time of issuance, unless the authority, at the time of the issuance of such bonds, shall deposit in such debt service reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in

such debt service reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any such succeeding calendar year or years not exceeding two such years on the bonds then to be issued and on all other bonds of the authority then outstanding and secured by such debt service reserve fund.

3. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

§ 1299-mm. Agreement of the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this title, that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the authority is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 1299-nn. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating in the city of Rochester at least twice, the first publication to be at least thirty days before the date of redemption.

§ 1299-oo. Remedies of noteholders and bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of any county in which the authority operates and has an office and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fares, tolls, rentals, rates, charges and other fees adequate to carry out any agreement as to, or pledge of, such fares, tolls, rentals, rates, charges and other fees and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

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

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

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceedings by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the instrument or instruments are filed in accordance with subdivision one of this section.

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the authority, to the comptroller and to the attorney general of the state.

§ 1299-pp. Notes and bonds as legal investment. The notes and bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1299-qq. Exemption from taxation. It is hereby found, determined and declared that the creation of the authority and the carrying out of its purposes is in all respects for the benefit of the people of the state of New York and for the improvement of their health, welfare and prosperity and is a public purpose, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. Without limiting the generality of the following provisions of this section, property owned by the authority and used for transportation purposes, property leased by the authority and used for transportation purposes, and property used for transportation purposes by or for the benefit of the authority exclusively pursuant to the provisions of a joint service arrangement or of a joint facilities agreement or trackage rights agreement shall all be exempt from taxation and special ad valorem levies. The authority shall be required to pay no fees, taxes or assessments, whether state or local, except special benefit assessments if said property is located in a special benefit district, including but not limited to fees, taxes or assessments on real estate, franchise taxes, sales taxes or other excise taxes, upon any of its property, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities or on any fares, tolls, rentals, rates, charges or other fees, revenues or other income received by the authority and all bonds, notes and obligations of the authority and the income therefrom shall at all times be exempt from taxation, except for gift and estate taxes and taxes on transfers. This section shall constitute a covenant and agreement with the holders of all bonds, notes and obligations issued by the authority. The terms "taxation" and "special ad valorem levy" shall have the same meanings as defined in section one hundred two of the real property tax law and the term "transportation purposes" shall have the same meaning as used in titles two-a and two-b of article four of such law.

§ 1299-rr. Actions against the authority. 1. As a condition to the consent of the state to such suits against the authority, in every action against the authority for damages, for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority or other officer designated for such purpose and the authority has neglected or refused to make an adjustment or payment thereof.

2. An action against the authority founded on tort, except an action for wrongful death, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

3. The authority shall be liable, and shall assume the liability to the extent that it shall save harmless any duly appointed officer or employee of the authority, for the negligence of such officer or employee, in the operation of a vehicle or other facility of transportation owned or otherwise under the jurisdiction and control of the authority in the discharge of a duty imposed upon such officer or employee at the time of the accident, injury or damages complained of, while otherwise acting in the performance of his duties and within the scope of his employment.

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

5. The rate of interest to be paid by the authority upon any judgment for which it is liable shall not exceed four per centum per annum.

6. The provisions of this section which relate to the requirement for service of a notice of claim shall not apply to a subsidiary corporation of the authority. In all other respects, each subsidiary corporation of the authority shall be subject to the provisions of this section as if such subsidiary corporation were separately named herein, provided, however, that a subsidiary corporation of the authority which is a stock corporation shall not be subject to the provisions of this section except with respect to those causes of action arising on and after the first of the twelfth calendar month following that calendar month in which such stock corporation becomes a subsidiary corporation of the authority.

§ 1299-ss. Agreements relating to payment in lieu of taxes. To the end that municipal corporations, counties and school districts may not suffer undue loss of taxes or assessments:

If the authority acquires property for non-transportation purposes (e.g. for future transportation purposes but not to be so used immediately) the authority except as hereinafter provided, shall pay to the participating county and/or city, town or school district where the property is located, annually, in lieu of taxes, a sum equal to the sum last paid as taxes upon the property prior to the time of its acquisition by the authority. Should such property be subsequently developed and improved but still remain unused for transportation purposes, it shall during such period of disuse for transportation be subject to assessment, at the prevailing method of determining assessments, by the county and/or city and/or school district and the authority shall, based on such assessment, annually, in lieu of taxes, pay to the county and/or city and/or school district an amount fixed by it.

If the authority acquires property for transportation purposes but subsequently uses such property for non-transportation purposes, then the authority shall be required, except as hereinafter provided, to pay annually in lieu of taxes to the participating county and/or city and/or school district wherein such property is located, an amount equal to the sum which the said county and/or city and/or school district would ordinarily be imposed as taxes, pursuant to the prevailing method of determining assessments.

Properties acquired by the authority for transportation and used as such, shall not be subject to the payment of any taxes except that the authority shall pay such property special benefit assessments on the property if it is located in an existing special benefit district.

§ 1299-tt. Interest of members or employees of authority in contracts prohibited. It shall be a misdemeanor for a member of the authority or an officer, agent, servant or employee employed by or appointed by the authority, to be in any way or manner interested, directly or indirectly, as principal, surety or otherwise, in a contract, the expense or consideration whereof is payable out of the funds of the authority.

§ 1299-uu. Fiscal year. The fiscal year of the authority shall begin on the first day of April.

§ 1299-vv. Consent by the state. The commissioner of general services shall have power, in his discretion, from time to time to transfer and convey to the authority, or to one or more participating counties for the use of the authority, and for such consideration and upon such terms and conditions as may be determined by him to be paid to the state, unappropriated state lands, abandoned canal lands and lands under water which the authority shall certify to be necessary or desirable for the corporate purposes of the authority.

§ 1299-ww. Separability. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.

§ 1299-xx. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

TITLE 11-C

CAPITAL DISTRICT TRANSPORTATION AUTHORITY

§ 1300. Short title. This title may be cited as the "Capital District Transportation Authority Act".

§ 1301. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section thirteen hundred three of this title.

2. "Transportation district" and "district" shall mean the Capital District transportation district created by section thirteen hundred two of this title.

3. "Participating county" shall mean any of the counties defined in section thirteen hundred two of this title.

4. "Federal government" shall mean the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

5. "Governor" shall mean the governor of the state of New York.

6. "Comptroller" shall mean the comptroller of the state of New York.

7. "Director of the budget" shall mean the director of the budget of

the state of New York.

8. "State" shall mean the state of New York.

9. "State agency" shall mean any officer, department, board, commission, bureau, division, public benefit corporation, agency or instrumentality of the state.

10. "Municipality" shall mean a city, town, village or county not wholly contained within a city.

11. "Municipal corporation" shall mean a city, town, village, county not wholly contained within a city, special transportation district, public benefit corporation or other public corporation, or two or more of the foregoing acting jointly.

12. "Personal property" shall mean chattels and other tangible things of a movable or removable nature.

13. "Property" shall mean both real and personal property.

14. "Master plan" shall mean the long range regional transportation plan for the upper Hudson planning and development region including, but not limited to that prepared by the capital district transportation study and approved by the commissioner.

15. "Joint service arrangement" shall mean agreements between or among the authority and any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state, or any political subdivision or municipality of the state, relating to property, buildings, structures, facilities, services, rates, fares, classifications, divisions, allowances or charges (including charges between operators of railroad, omnibus, marine and aviation facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part or upon railroad, omnibus, marine or aviation facilities located within the

district and in part in or upon railroad, omnibus, marine or aviation facilities located outside the district.

16. "Project" shall mean any undertaking by the authority within the district including but not limited to port or harbor facilities, transportation properties, access and service roads and bridges, serving railroad, omnibus, marine and air facilities, equipment, appurtenances, utilities, airport facilities and any other improvement under authority jurisdiction within the district.

17. "Facility" shall mean, among other things, such properties, structures, appurtenances, utilities, terminals, wharves, docks, piers, railroad trackage, warehouses, elevators, equipment for handling freight, passengers and vehicles and such other works, properties, buildings or allied items necessary or desirable in connection with development, operation, maintenance or improvement of port, airport and public transportation needs for the accommodation, safety or comfort of the public and commercial enterprise for the regional transportation district.

18. "Equipment" shall mean rolling stock, omnibuses, vehicles, air, marine or surface craft, motors, boilers, engines, and other instrumentalities used or useful therefor or in connection therewith.

19. "Omnibus facilities" shall mean motor vehicles, of the type operated by carriers subject to the jurisdiction of the public service commission, engaged in the transportation of passengers and their baggage, express and mail between points within the district or pursuant to joint service arrangements, and equipment, property, buildings, structures, improvements, loading or unloading areas, parking areas, berthing facilities or other facilities, necessary, convenient or desirable for the accommodation of such motor vehicles or their passengers, including but not limited to buildings, structures and areas notwithstanding that portions may not be devoted to any omnibus purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

20. "Railroad facilities" shall mean right-of-way and related trackage, rails, cars, locomotives, other rolling stock, signal, power, fuel, communication and ventilation systems, power plants, stations, terminals, storage yards, repair and maintenance shops, yards, equipment and parts, offices and other real estate or personalty used or held for or incidental to the operation, rehabilitation or improvement of any railroad operating or to operate between points within the district or pursuant to joint service arrangements, including but not limited to buildings, structures, and areas notwithstanding that portions thereof may not be devoted to any railroad purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

21. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, riparian rights and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

22. "Marine and aviation facilities" shall mean equipment and craft for the transportation of passengers, mail and cargo between points from and to and within the district or pursuant to joint service arrangements, by marine craft and aircraft of all types including but not limited to hydrofoils, ferries, lighters, tugs, barges, helicopters, amphibians, seaplanes or other contrivances now or hereafter used in navigation or movement on waterways or in the navigation of or flight in airspace. It shall also mean any airport facility within the transportation district, including but not limited to any facility or real property necessary, convenient or desirable for the landing, taking off, accommodation or servicing of such aircraft, and shall include such facilities, property, structures and appurtenances as may be necessary or convenient in the operation, maintenance, development or improvement of airports including facilities, property, structures, and appurtenances, leased by the authority to persons, firms or corporations

engaged in air transportation or the production or development of materials, goods or equipment for airports or air transportation or in providing facilities for the accommodation, safety or comfort of the traveling public and for purposes related or incidental to one or more of the foregoing purposes. It shall also mean port facilities in the transportation district including, but not limited to, (a) one or more docks, elevators, wharves, piers, bulkheads, slips, basins, harbors, railroad connections, side tracks or sidings, freight terminals, warehouses, bridges, tunnels, and areas for storage of cargoes, materials, goods, wares, and merchandise of any kind and for the loading, unloading, interchange or transfer of any such cargoes, materials, goods, wares and merchandise; (b) other buildings, structures, facilities or improvements necessary to accommodate steamships or other vessels and their cargoes or passengers; and (c) all real and personal property, driveways, roads, approaches, mechanical equipment and all appurtenances and facilities either on, above or under the ground which are necessary, convenient or desirable for the development, control and operation of port facilities in the transportation district.

23. "Transportation facility" shall mean any railroad, omnibus, marine, aviation or parking facility and any person, firm, partnership, association or corporation which owns, leases or operates any such facility or any other facility used for service in the transportation of passengers, United States mail or personal property as a common carrier for hire and any portion thereof and the rights, leaseholds or other interest therein together with routes, tracks, extensions, connections, parking lots, garages, warehouses, yards, storage yards, maintenance and repair shops, terminals, stations and other related facilities thereof, the devices, appurtenances, and equipment thereof and power plants and other instrumentalities used or useful therefor or in connection therewith.

24. "Commissioner" shall mean commissioner of transportation of the state of New York.

25. "Action plan" shall mean a plan for implementation of improvements

to such means of public transportation and related services by omnibus, railroad and marine and aviation facilities as the authority may contemplate within the capital district transportation district to effectuate the purposes of this act.

26. "Transit dependent individual" shall mean an individual who is limited to public transit as their primary mode of transportation because the individual has a permanent disability.

§ 1302. Capital District transportation district. There is hereby created and established a transportation district to be known as the Capital District transportation district. This district shall embrace the counties of Albany, Schenectady, Rensselaer, and Saratoga and such of the following counties as may elect to become members by action of their governing bodies as provided in subdivision ten of section thirteen hundred three: Greene, Columbia, Montgomery, Fulton, Warren and any other county included within the upper Hudson planning and development region as designated by the state. The transportation district shall also include all lands and water and all lands under water and all rivers, lakes, bays and harbors within any of the counties of said district.

§ 1303. Capital District transportation authority. 1. (a) There is hereby created the Capital District transportation authority. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall consist of not less than eight nor more than fifteen members, including a chairman and shall have one non-voting member as described in paragraph (b) of this subdivision. At least one voting member shall be a transit dependent individual who shall be appointed by the governor. If a vacancy occurs for such transit dependent individual member position, a replacement shall be appointed within six months, subject to the same appointment process within this paragraph. The members shall be appointed by the governor by and with the advice and consent of the senate. The governor shall make initial appointments to the authority in such number and from lists submitted as follows: three members shall be appointed to the authority from a list of six names, all of whom shall be residents of the county of Albany, four of which names shall be submitted to the governor by the majority party of the legislature of the county of Albany and two of which names shall be submitted by the minority party of such legislature; two members shall be appointed to the authority from a list of four names, all of whom shall be residents of the county of Schenectady, three of which names shall be submitted to the governor by the majority party of the legislature of the county of Schenectady and one of which names shall be submitted by the minority party of such legislature; two members shall be appointed to the authority from a list of four names, all of whom shall be residents of the county of Rensselaer, three of which names shall be submitted to the governor by the majority party of the legislature of the county of Rensselaer and one of which names shall be submitted by the minority party of such legislature; two members shall be appointed to the authority from a list of four names, all of whom shall be residents of the county of Saratoga, three of which names shall be submitted to the governor by the majority party of the legislature of the county of Saratoga and one of which names shall be submitted by the minority party of such legislature. Other counties electing to participate shall each submit to the governor a list of two persons each of whom shall be a resident of such county, one of which names shall be submitted to the governor by the majority party of the legislature of such county and one of which names shall be submitted by the minority party of such legislature, from which number the governor shall appoint one member for each such county so electing to participate. In addition to the members representing each county, the governor shall appoint one voting member who is a transit dependent individual who resides in a county within the district. Any local or statewide transit advocacy organization may recommend one or more transit dependent individuals to be considered for appointment pursuant to this section.

(b) The non-voting member of the authority, who shall not be considered in determining a quorum, shall be recommended to the governor by the labor organization representing the plurality of the employees within the authority and shall be a resident of the Capital District transportation district as described in section thirteen hundred two of this title. The non-voting member shall be appointed for a term of five years, provided, however, that if at any time during the term of appointment the non-voting member ceases to be affiliated with the labor organization representing the plurality of employees within the authority, then such labor organization may at any time during such term recommend a new member to the governor who shall serve the remainder of the term. If the local bargaining unit decertifies its existing union affiliation and certifies a new union, the union which represents the plurality of the employees may recommend a new member to the governor who shall serve the remainder of the term. The chairman of the authority, at his or her discretion, may exclude such non-voting member from attending any portion of a meeting of the authority or of any committee held for the purpose of discussing negotiations with labor organizations, pending litigation involving the labor organization, or the investigation, evaluation, or discipline of an employee.

2. The members of the authority shall continue in office until their successors are appointed and shall have qualified. One of the members appointed from the county of Albany shall be appointed for a term ending July thirty-first, nineteen hundred seventy-two; one of the members appointed from the counties of Albany, Schenectady, Rensselaer and Saratoga, respectively, shall be appointed for terms ending July thirty-first, nineteen hundred seventy-three, respectively; one of the members appointed from the counties of Albany, Schenectady, Rensselaer and Saratoga, respectively, shall be appointed for terms ending July thirty-first, nineteen hundred seventy-four, respectively. The member (or members) who is (or are) appointed from the other counties shall be appointed for a term (or terms) of five years, but all terminating on the thirty-first day of July of the fifth year. Thereafter, upon expiration of the term of a member of the authority a successor shall be appointed by the governor for a term expiring five years after the expiration of the term of his predecessor. If a vacancy shall occur by reason of a death, disqualification, resignation or removal of a member, the successor shall be appointed by the governor for the unexpired term of, from the same area and by the same procedure as his predecessor. Members of the authority shall, before entering upon the duties of their office, take the constitutional oath of office and file the same in the

office of the secretary of state. No person while serving in any elective office shall be eligible to serve as a member of the authority.

3. The members of the authority shall not receive a salary or other compensation, but each member shall be entitled to reimbursement of actual and necessary expenses incurred in the performance of his or her official duties.

4. A majority of the whole number of members of the authority shall constitute a quorum for the transaction of business or the exercise of any power of the authority. Except as otherwise specified in this act, for the transaction of any business or the exercise of any power of the authority, the authority shall have power to act by a majority of the members present at any meeting at which a quorum is in attendance.

5. The authority shall organize by the selection from its members of a chairman, vice-chairman and secretary. It shall adopt such rules as it may deem necessary and proper for the government of its own proceedings, and shall keep a record of such proceedings.

6. The authority shall be a "state agency" for the purposes of sections seventy-three and seventy-four of the public officers law.

7. Notwithstanding any inconsistent provision of this or any other law, general, special or local, no officer or employee of the state, or of any public corporation as defined in the general corporation law, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his acceptance of membership on or chairmanship of the authority; provided, however, a member or chairman who holds such other public office or employment shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

8. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges

against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any member shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

9. The authority shall continue so long as it shall have bonds or other obligations outstanding and until its existence shall be terminated by law. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the state.

10. Each of the counties that elect to become participating members of the Capital District transportation district may do so by resolution adopted by a majority of the membership of its governing body and such election by a county shall take effect upon the filing of a duly certified copy of such resolution with the authority and with the secretary of state, and the mailing of a certified copy thereof to the county clerk of each county which is granted the power of election under the provisions of this act.

§ 1304. Purposes of the authority. 1. The purposes of the authority shall be the continuance, further development and improvement of transportation and other services related thereto within the Capital District transportation district, by railroad, omnibus, marine and air, in accordance with the provisions of this title.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the authority shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

§ 1305. Formulation, filing and adoption of action plan; amendments. The authority shall formulate an action plan for transportation within the district. In formulating such action plan, the authority shall consult and cooperate with the commissioner, the capital district regional planning commission and the planning authorities in the area of its operations, and shall utilize state, local or regional transportation planning. The authority shall request and use existing studies, plans, surveys, data and other materials completed by or under development by any state agency or municipality or political subdivision of the state. The authority shall file copies of such plan with the commissioner, the capital district regional planning commission, the legislatures of the counties of Albany, Schenectady, Rensselaer and Saratoga, and with the legislative body of any other county within the district affected by such plan, as hereinafter stated, except where applications for state or federal aid have been filed for any particular transportation undertaking prior to the enactment of this legislation. The plan shall contain information regarding the transportation system that the authority intends to provide including information regarding the facilities connected therewith, the services the authority contemplates providing and the estimated costs and the proposed method of financing. During sixty days after the filing of the action plan with the commissioner, the capital district regional planning commission and with the legislative bodies as aforesaid, said plan shall be available for public inspection at the office or offices of the authority and at such other places in the areas affected, within the district, as the authority may designate. Not earlier than thirty days after the filing of said action plan with the commissioner, the capital district regional planning commission and such legislative bodies, a public hearing on said plan shall be held by the authority. Notice of such a hearing shall be given to the commissioner, the capital district regional planning commission, and the legislative bodies as aforesaid and by publication once a week for two weeks prior to the said hearing at the time and place fixed by the authority in newspapers of general circulation within the areas affected, to be selected by the authority. The last publication date shall not be less than five days before said hearing. Within thirty days following said public hearing, the authority shall provide a transcript of such hearing to the commissioner, the capital district regional planning commission and the legislative bodies as aforesaid, together with any amendments the authority may propose to the action plan. The authority shall request approval of the action plan, including such amendments as the authority may propose, from the commissioner and the aforementioned legislative bodies. Any part of said plan which is disapproved by a county because it alters existing services or the financing thereof within said county shall not become operative. The commissioner may disapprove any part of said plan if he finds that it conflicts with a state-wide comprehensive master plan for transportation or the capital district transportation plan or, in the absence of such plans, would have an adverse effect upon sound transportation development policy and planning. Any part of such plan so disapproved by the commissioner shall not become operative. Disapproval of part or parts of the plan shall not make the entire plan inoperative. If any of such legislative bodies fail to act within sixty days or in the case of the commissioner within ninety days after approval is requested, said failure shall be deemed approval, and the authority may adopt the action plan by a majority vote of its membership and may include changes, if any, recommended by said commissioner, planning commission or said legislative bodies.

The action plan may be amended from time to time in the same manner using the procedures outlined herein for the original adoption, except that a proposed amendment which is recommended by the legislative body or bodies of all the counties affected thereby and approved by the commissioner may be embodied or continued by a majority vote of the authority without additional hearings thereon as required for the amendments proposed to be made.

§ 1305-a. Filing five year performance, capital and operating finance plans. 1. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt an operational performance plan for the five-year period commencing April first. The plan shall set operational performance plan goals and objectives, including but not limited to ridership and passenger revenue goals and objectives for the period, for fixed route bus operations, and shall establish performance indicators to measure standards of service and operations. The performance indicators shall include: revenue passengers, total passengers, revenue vehicle miles, revenue vehicle hours, number of employees by department, vehicle mean distance between failures, on-time performance for total service provided, the cost per passenger, the cost per revenue vehicle mile and the operating-revenue-to-cost ratio.

(b) Quarterly reports shall be prepared for authority members on operating performance of fixed route bus operations. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April, and July of each year. The report shall compare the performance indicators for the most recent quarter and the year-to-date performance indicators with the same time period in the previous year with the annual goals established pursuant to this subdivision.

2. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt a capital program plan for the five-year period commencing April first. The plan shall contain the capital program, separately itemized, by the following functions: regular fixed route bus service, demand responsive bus service, and any aviation facilities and any marine facilities for which it currently has or shall assume responsibility.

(b) The plan shall set goals and objectives by function for capital spending, establish standards for service and operation, describe each capital project to be initiated in each of the years covered by the plan and explain how each proposed project supports the goals and objectives and the service and operational standards established in the performance plan. The plan shall list separately by function those projects contributing to the maintenance of the system infrastructure and those intended to enhance the system. The plan shall also include an estimated cost for each project and set forth an estimate of the amount of capital funding required for each year of the plan and the expected sources of such funding. It shall also include a project schedule for the initiation and completion of each project. Each plan subsequent to the first such plan shall describe the current status of each capital project which has a total estimated cost of one hundred thousand dollars or more and which was included in the previously adopted plan.

(c) In addition to the annual update, a quarterly capital plan status report shall be provided to the authority members and shall include, but not be limited to, a description of any material change in the scope, cost, funding or time of initiation or completion of a project which has a total estimated cost of one hundred thousand dollars or more, as adopted in the plan. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April, and July of each year.

3. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt an operating finance plan for the five-year period commencing April first. The plan shall include the annual estimated operating cost for the following authority functions: fixed bus operations, demand responsive bus operations, and any aviation facilities and any marine facilities for which it currently has, or shall assume responsibility. The plan shall include the proposed method of financing for the level of service defined for each year of the plan and shall fully allocate the authority's general costs to each of the above separate functions. The plan shall provide a narrative describing the overall financial condition of the operating budget of the authority.

(b) In addition to the annual update, quarterly operating budget reports shall be prepared for the authority members on the financial condition of each of the authority's functions. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April, and July of each year. The reports shall include a budgetary comparison of the most recent quarter and year-to-date actual revenue and expenditures with the same time period in the previous year and with the projections for that time period based on the board approved budget. The reporting for fixed route bus operations shall be separate from the reporting for demand responsive bus service.

4. Any and all reports, including interim reports, shall be submitted to the director of the division of the budget, the commissioner of transportation and the chief executive officers of Albany, Rensselaer, Saratoga, and Schenectady counties, the county legislatures of Albany, Rensselaer, Saratoga, and Schenectady counties, the temporary president of the senate, the speaker of the assembly, the chairpersons of the senate finance committee and the assembly ways and means committee, and the chairpersons of the senate and assembly transportation committees.

§ 1306. General powers of the authority. A. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement, at the discretion of the authority, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government; or certificates of deposit of banks or trust companies or in bank or trust accounts of banks in this state secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit with the approval of the Comptroller;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

6. To enter into contracts and leases and to execute all instruments necessary or convenient;

7. To acquire, hold and dispose of real or personal property in the exercise of its powers;

8. To appoint a general manager, who shall serve at the pleasure of the authority, and such officers and employees as the authority may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice; such general manager, counsel, auditors, engineers, and private consultants, officers and employees may not be a member of the authority;

9. (a) Notwithstanding section one hundred thirteen of the retirement and social security law or any other general or special law, the authority and any of its subsidiary corporations may continue or provide to its affected officers and employees any retirement, disability, death or other benefits provided or required for railroad personnel pursuant to federal or state law. Notwithstanding any provisions of the civil service law, no officer or employee of a subsidiary corporation, of the authority, other than a public benefit subsidiary corporation, shall be a public officer or a public employee;

(b) The authority and any of its public benefit subsidiary corporations may be a "participating employer" in the New York state employees' retirement system with respect to one or more classes of officers and employees of such authority or any such public benefit subsidiary corporation, as may be provided by resolution of such authority or any such public benefit subsidiary corporation, as the case may be, or any subsequent amendment thereof, filed with the comptroller and accepted by him pursuant to section thirty-one of the retirement and social security law. In taking any action pursuant to this paragraph (b), the authority and any of its public benefit subsidiary corporations shall consider the coverages and benefits continued or provided pursuant to paragraph (a) of this subdivision.

10. To make plans, surveys, and studies necessary, convenient or

desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto and shall undertake feasibility studies, at such time as the authority deems best, of merging into the authority the Port of Albany authority and of acquiring the Albany county airport, the Schenectady county airport, the United Traction Company, the Schenectady Transportation Corporation or any successor entities.

11. To enter upon such lands, waters or premises as in the judgment of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

12. The authority may conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the authority shall fail or refuse to aid or assist the authority in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the authority is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

13. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

14. To enter into collective bargaining agreements with labor representatives duly elected by the employees of the authority.

15. To insure or provide for the insurance of the authority's property or operations as required by law and also against such other risks as the authority may deem advisable.

B. The authority shall file in the office of the commissioner and with the legislative bodies of each county in the district annual reports, after the close of each of the authority's fiscal years, which shall be open to public inspection. Such reports shall include, in addition to any information which the commissioner may require, a statement with respect to its operations including the following data:

(a) Cost breakdown of real property acquired for each system or facility acquired or operated by the authority;

(b) Cost breakdown in appropriate units of facilities acquired or operated by the authority;

(c) Operating revenues for each system or facility acquired or operated by the authority;

(d) Operating expenses for each system or facility acquired or operated by the authority.

C. The authority shall prepare and file with the commissioner and the legislative bodies of each county in the district an annual budget consisting of projected operating revenues and expenditures for the next fiscal year.

§ 1307. Special powers of the authority. In order to effectuate the purposes of this title: 1. The authority may acquire, by purchase, gift, grant, transfer, contract or lease, or condemnation, any transportation facility, including port or related facilities wholly or partially within the Capital District transportation district or any part thereof, or the use thereof, and may enter into any joint service arrangements as hereinafter provided. Any such acquisition or joint service arrangement shall be authorized only by resolution of the authority approved by not less than a majority of the whole number of members of the authority then in office.

2. The authority may on such terms and conditions as the authority may determine necessary, convenient or desirable itself establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any such transportation facility, or may provide for such establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair by contract, lease, or other arrangement on such terms as the authority may deem necessary, convenient or desirable with any person, including but not limited to

any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state or any political subdivision or municipality of the state. In connection with the operation of any such transportation facility, the authority may establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair or may provide by contract, lease or other arrangement for the establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any related services and activities it deems necessary, convenient or desirable, including but not limited to the transportation and storage of freight and the United States mail, feeder and connecting transportation, parking areas, transportation centers, port, stations and related facilities.

3. The authority may establish, levy and collect or cause to be established, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, levy and collection of such fares, tolls, rentals, rates, charges and other fees as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or by a subsidiary corporation of the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Any such fares, tolls, rentals, rates, charges or other fees for the transportation of passengers shall be established and changed only if approved by resolution of the authority adopted by not less than a majority of the whole number of members of the authority then in office and only after a public hearing, provided however, that fares, tolls, rentals, rates, charges or other fees for the transportation of passengers on any transportation facility which are in effect at the time that the then owner of such transportation facility becomes a subsidiary corporation of the authority or at the time that operation of such transportation facility is commenced by the authority or is commenced under contract, lease or other arrangement including joint service arrangements, with the authority may be continued in effect without such a hearing. Such fares, tolls, rentals, rates, charges and other fees shall be established as may in the judgment of the authority

be necessary to maintain the combined operations of the authority and its subsidiary corporations on a self-sustaining basis. The said operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or cause to be paid from revenue or any other funds or property actually available to the authority and its subsidiary corporations (a) as the same shall become due, the principal of and interest on the bonds and notes and other obligations of the authority and of such subsidiary corporations, together with the maintenance of proper reserves therefor, (b) the cost and expense of keeping the properties and assets of the authority and its subsidiary corporations in good condition and repair, and (c) the capital and operating expenses of the authority and its subsidiary corporations. The authority may contract with the holders of bonds and notes with respect to the exercise of the powers authorized by this section.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct and safety of the public as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing the conduct and safety of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct or safety of the public and any local law, ordinance, rule or regulation, such rule or regulation of the authority shall prevail. Violation of any such rule or regulation of the authority governing the conduct or the safety of the public in or upon any facility of the authority shall constitute an offense and shall be punishable by fine not exceeding fifty dollars or imprisonment for not more than thirty days or both.

5. The authority may acquire, hold, own, lease, establish, construct,

effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities through, and cause any one or more of its powers, duties, functions or activities to be exercised or performed by, one or more wholly owned subsidiary corporations of the authority and may transfer to or from any such corporation any moneys, real property or other property for any of the purposes of this title. The directors or members of each such subsidiary corporation shall be the same persons holding the offices of members of the authority. Each such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. Each such subsidiary corporation shall be subject to the restrictions and limitations to which the authority may be subject. Each such subsidiary corporation shall be subject to suit in accordance with section thirteen hundred sixteen of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

If the authority shall determine that one or more of its subsidiary corporations should be in the form of a public benefit corporation, it shall create each such public benefit corporation by executing and filing with the secretary of state a certificate of incorporation, which may be amended from time to time by filing, which shall set forth the name of such public benefit subsidiary corporation, its duration, the location of its principal office, and any or all of the purposes of acquiring, owning, leasing, establishing, constructing, effectuating, operating, maintaining, renovating, improving, extending or repairing one or more facilities of the authority. Each such public benefit subsidiary corporation shall be a body politic and corporate and shall have all those powers vested in the authority by the provisions of this title which the authority shall determine to include in its certificate of incorporation except the power to contract indebtedness.

Whenever any state, political subdivision, municipality, commission, agency, officer, department, board, division or person is authorized and empowered for any of the purposes of this title to cooperate and enter into agreements with the authority such state, political subdivision, municipality, commission, agency, officer, department, board, division or person shall have the same authorization and power for any of such purposes to cooperate and enter into agreements with a subsidiary corporation of the authority.

6. The authority, in its own name or in the name of the state, may apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person, government or agency whatever, which it may use to meet capital or operating expenses and for any other use within the scope of its powers, and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable. In no event, however, shall the authority submit to the state or federal government or any agency or instrumentality thereof an application for a state or federal project unless the application shall have been first approved by the commissioner as being part of or consistent with such statewide plan, regional plan or transportation development policy and planning concept.

7. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of transportation facilities, equipment or real property operated by or under contract, lease or other arrangement with the authority. Except as hereinafter specially provided, no municipality or political subdivision, including but not limited to a county, city, village, town or school or other district shall have jurisdiction over any facilities of the authority or any of its activities or operations. In the operation, maintenance and control of any facilities devoted to purposes other than direct transportation purposes, the authority shall be subject to all local laws, resolutions, ordinances, rules and regulations of a municipality or political subdivision. Each municipality or political subdivision, including but not limited to a county, city, village, town or district in which any facilities of the authority are located shall provide for such facilities police, fire and health protection services of the same character and to the same extent as those provided for residents of such municipality or political subdivision.

The authority may agree with the state department of transportation for the execution by such department of any grade crossing elimination project or any grade crossing separation reconstruction project along any railroad facility operated by the authority or by one of its subsidiary corporations or under contract, lease or other arrangement with the authority. Any such project shall be executed as provided in the grade crossing elimination act and the railroad law, respectively, and the costs of any such project shall be borne as provided in such laws, except that the authority's share of such costs shall be borne by the state.

8. The authority may accept unconditional grants of money or property as subsidy payments for expansion of service into areas where such service would not be self-supporting. The authority may accept unconditional grants of money or property from any city, village, town or county not wholly contained within a city the whole or any part of which shall be served or to be served by a transportation facility operated by the authority. Such grants of money or property would be for the purpose of assisting the authority in meeting its capital or operating expenses. The acceptance of any such grant shall not operate to make the authority an agency of the municipality making the grant. The provisions of this section are intended as enabling legislation only and shall not be interpreted as implying that absent their enactment an authority would lack the power to accept such grant or subsidy.

9. Notwithstanding any of the above provisions, no project may be undertaken by the authority unless such project is a part of or consistent with the master plan.

§ 1308. Acquisition and disposition of real property. 1. In addition to the powers provided in section thirteen hundred six of this title to acquire transportation facilities, equipment and real property, the authority may acquire, by condemnation pursuant to the condemnation law and/or in accordance with the condemnation provisions of subdivision seven of this section, any real property it may deem necessary, convenient, or desirable to effectuate the purpose of this title, provided, however, that any such condemnation proceedings shall be brought only in the supreme court and the compensation to be paid shall be ascertained and determined by the court without a jury. Notwithstanding the foregoing provisions of this subdivision, no real property may be acquired by the authority by condemnation or by purchase for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such acquisition.

2. Nothing herein contained shall be construed to prevent the authority from bringing any proceedings to remove a cloud on title or such other proceedings as it may, in its discretion, deem proper and necessary or from acquiring any such property by negotiation or purchase.

3. Where a person entitled to an award in the proceedings to condemn any real property for any of the purposes of this title remains in possession of such property after the time of the vesting of title in the condemnor, the reasonable value of his use and occupancy of such property subsequent to such time as fixed by agreement or by the court in such proceedings or by any court of competent jurisdiction shall be a lien against such award subject only to the liens of record at the time of vesting of title in the condemnor.

4. Title to all property acquired under this act shall vest in the authority.

5. The authority may, whenever it determines that it is in the interest of the authority, dispose of any real property or property other than real property, which it determines is not necessary, convenient or desirable for its purposes.

6. The authority may, whenever it shall determine that it is in the interest of the authority, rent, lease or grant easements or other rights in, any land or property of the authority.

7. The authority may adopt the following condemnation procedures. A certified copy of a resolution adopted by the authority authorizing the acquisition and identifying and describing the property and franchises, if any, sought to be acquired by condemnation shall be filed in the office of the county clerk of the county in which such property is situated, held or maintained. A petition for an order vesting title to such property and franchises, if any, sought to be acquired by condemnation shall set forth a description of the said property and franchises, if any, and a prayer that title be vested in the authority, shall be presented, upon notice of the application to condemn published in five successive issues of a publication of general circulation within the county where such property and franchises, if any, are located, to a special term of the supreme court held at the time and place specified in such notice, within the judicial district in which the property being acquired or some part thereof is situated. Such proceedings shall have precedence over all other cases on the calendar of such court, any other provision of the law to the contrary notwithstanding. Upon due proof to the satisfaction of the court of the filing of the resolution as hereinafter described, such court, not later than three days after the presentation of the petition, shall thereupon enter an order vesting title to such property and franchises, if any, in the authority. Upon such vesting of title the authority shall have the right to enter upon and take possession of such property. A notice of such acquisition shall be directed to the owners of the property and franchises, if any, so acquired and to any other person or persons having an estate, interest or easement in such property or a lien, charge or encumbrance thereon by personal service or by registered mail at the last known address within fifteen days after such vesting of title. Such notice shall set forth such resolution, the date of the submission to the court, the date of the order vesting title in such authority and such other matters as the authority may determine.

8. If funds are made available by the authority for the payment of the cost and expense of the acquisition thereof, the department of transportation of the state of New York, when requested by the authority, may acquire such real property in the name of the state as may be determined from time to time by the authority as being necessary,

convenient or desirable to effectuate the purposes of this title, may remove the owner or occupant thereof where necessary, and obtain possession and, when requested by the authority, may dispose of any real property so acquired, all according to the procedure provided in section thirty of the highway law and pursuant to the procedure required under federal law, when applicable. The authority shall have the right to possess and use for its corporate purposes all such real property so acquired. Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by such department with the approval of the authority or by the court of claims as provided in section thirty of the highway law and as required by federal law, when applicable. When a claim has been filed with the court of claims the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before such court. All awards and judgments arising from such claims shall be paid out of moneys of the authority. No real property may be acquired pursuant to the provisions of this section for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such acquisition.

§ 1309. Cooperation and assistance of other agencies. In the interest of economy and to promote coordination of authority projects with state, local, county and regional plans and also to carry out the objective of full participation of all agencies in the development of a transportation system and facilities to meet the objectives of this act, the authority shall request and use existing studies, master plans, surveys, data and other materials completed by or under development by any state agency or any municipality or political subdivision of the state. The authority shall consult with and cooperate with the commissioner of transportation and with planning authorities in the areas of its operations and shall utilize local and state planning. When a project is contemplated by the authority, the authority shall submit a preliminary prospectus thereof to the commissioner of transportation for review and comment and shall consider the report of the commissioner in formulating detailed plans for such project. When a project is contemplated by the authority within the jurisdiction of any county planning board or the capital district regional planning board, the authority shall prepare and submit to such planning board or boards a preliminary prospectus thereof, describing the purpose, general location, and nature of the project contemplated, with such further data relative thereto that the authority shall consider pertinent. Within sixty days of receipt of such prospectus such planning board or boards shall prepare a report thereon, commenting on its conformity or lack of conformity with any related official plan of the state or region or any official planning agency within the region. Such report shall be considered by the authority in formulating detailed plans for such a project. At the request of the authority, each such agency, municipality or subdivision which is engaged in highway or other transportation activities or in land use or development planning, or which is charged with the duty of providing or regulating any transportation facility or any other public facility, is further authorized to provide the authority with information regarding its plans and programs affecting the transportation district so that the authority may have available to it current information with respect thereto. The officers and personnel of such agencies, municipalities or subdivisions, and of any other government or agency whatever, may serve at the request of the authority upon such advisory committees as the authority shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

§ 1310. Notes and bonds of the authority. 1. (a) The authority shall have power and is hereby authorized from time to time to borrow money and issue its negotiable bonds and notes in such principal amount, as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving its purposes, including the acquisition, establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any transportation facility, the payment of interest on bonds and notes of the authority, establishment of reserves to secure such bonds and notes, the provision of working capital and all other expenditures of the authority and its subsidiary corporations incident to and necessary or convenient to carry out their purposes and powers;

(b) The authority shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purposes. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded;

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues;

(d) Whether or not the notes or bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the notes or bonds shall be and hereby are made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

2. The notes and bonds shall be authorized by resolution approved by not less than a majority of the whole number of members of the authority then in office, shall bear such date or dates, and shall mature at such time or times, as specified therein and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine. No notes or bonds of the authority may be sold by the authority at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the

director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the fares, tolls, rentals, rates, charges and other fees made or received by the authority or any of its subsidiary corporations, and other moneys received or to be received, to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the authority or of any of its subsidiary corporations to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use, and disposition of fares, tolls, rentals, rates, charges and other fees made or received by the authority or any of its subsidiary corporations;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of moneys to be expended by the authority or any of its subsidiary corporations for operating, administrative or other expenses of the authority or any of its subsidiary corporations;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

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

5. It is the intention hereof that any pledge, mortgage or security instrument made by the authority shall be valid and binding from the time when the pledge, mortgage or security instrument is made; that the moneys or property so pledged, mortgaged and entrusted and thereafter received by the authority shall immediately be subject to the lien of such pledge, mortgage or security instrument without any physical delivery thereof or further act; and that the lien of any such pledge, mortgage or security instrument shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any mortgage, security instrument or other instrument by which a pledge, mortgage lien or other security is created need be recorded or filed and the authority shall not be required to comply with any of the provisions of the uniform commercial code.

6. Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

8. The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 1311. Reserve funds and appropriations. 1. The authority may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such debt service reserve funds (a) any moneys appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of notes or bonds to the extent provided in the resolution of the authority authorizing the issuance thereof, and (c) any other moneys which may be made available to the authority for the purpose of such funds from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this section, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such debt service reserve fund as the same mature, the purchase of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that the authority shall have power to provide that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on the bonds of the authority then outstanding and secured by such debt service reserve fund, except for the purpose of paying principal of and interest on such bonds of the authority secured by such debt service reserve fund maturing and becoming due and for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred by the authority to any other fund or account of the authority and the authority shall have power to provide that any such transfer shall not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on all bonds of the authority then outstanding and secured by such debt service reserve fund.

2. The authority shall have power to provide that it shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such debt service reserve fund at the time of issuance, unless the authority, at the time of the issuance of such bonds, shall deposit in such debt service fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such debt service reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any such succeeding calendar year or years not exceeding two such years on the bonds then to be issued and on all other bonds of the authority then outstanding and secured by such debt service reserve fund.

3. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

§ 1312. Agreement of the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this title, that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the authority is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 1313. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating in the counties of Albany, Schenectady, Rensselaer and Saratoga at least twice, the first publication to be at least thirty days before the date of redemption.

§ 1314. Remedies of noteholders and bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of any county in which the authority operates and has an office and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fares, tolls, rentals, rates, charges and other fees adequate to carry out any agreement as to, or pledge of, such fares, tolls, rentals, rates, charges and other fees and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

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

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

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or

proceedings by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the instrument or instruments are filed in accordance with subdivision one of this section.

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the authority, to the comptroller and to the attorney general of the state.

§ 1315. Notes and bonds as legal investment. The notes and bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1316. Exemption from taxation. It is hereby found, determined and declared that the creation of the authority and the carrying out of its purposes is in all respects for the benefit of the people of the state of New York and for the improvement of their health, welfare and prosperity and is a public purpose, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. Without limiting the generality of the following provisions of this section, property owned by the authority and used for transportation purposes, property leased by the authority and used for transportation purposes, and property used for transportation purposes by or for the benefit of the authority exclusively pursuant to the provisions of a joint service arrangement or of a joint facilities agreement or trackage rights agreement shall all be exempt from taxation and special ad valorem levies. The authority shall be required to pay no fees, taxes or assessments, whether state or local, except special benefit assessments if said property is located in a special benefit district, including but not limited to fees, taxes or assessments on real estate, franchise taxes, sales taxes or other excise taxes, upon any of its property, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities or on any fares, tolls, rentals, rates, charges or other fees, revenues or other income received by the authority and all bonds, notes and obligations of the authority and the income therefrom shall at all times be exempt from taxation, except for gift and estate taxes and taxes on transfers. This section shall constitute a covenant and agreement with the holders of all bonds, notes and obligations issued by the authority. The terms "taxation" and "special ad valorem levy" shall have the same meanings as defined in section one hundred two of the real property tax law and the term "transportation purposes" shall have the same meaning as used in titles two-a and two-b of article four of such law.

§ 1317. Actions against the authority. 1. As a condition to the consent of the state to such suits against the authority, in every action against the authority for damages, for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority or other officer designated for such purpose and the authority has neglected or refused to make an adjustment or payment thereof.

2. An action against the authority founded on tort, except an action

for wrongful death, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

3. The authority shall be liable, and shall assume the liability to the extent that it shall save harmless any duly appointed officer or employee of the authority, for the negligence of such officer or employee, in the operation of a vehicle or other facility of transportation owned or otherwise under the jurisdiction and control of the authority in the discharge of a duty imposed upon such officer or employee at the time of the accident, injury or damages complained of, while otherwise acting in the performance of his duties and within the scope of his employment.

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

5. The rate of interest to be paid by the authority upon any judgment for which it is liable shall not exceed four per centum per annum.

6. The provisions of this section which relate to the requirement for service of a notice of claim shall not apply to a subsidiary corporation of the authority. In all other respects, each subsidiary corporation of the authority shall be subject to the provisions of this section as if such subsidiary corporation were separately named herein, provided, however, that a subsidiary corporation of the authority which is a stock corporation shall not be subject to the provisions of this section

except with respect to those causes of action arising on and after the first of the twelfth calendar month following that calendar month in which such stock corporation becomes a subsidiary corporation of the authority.

§ 1318. Agreements relating to payment in lieu of taxes. To the end that municipal corporations, counties and school districts may not suffer undue loss of taxes or assessments:

If the authority acquires property for non-transportation purposes (e.g. for future transportation purposes but not to be so used immediately) the authority except as hereinafter provided, shall pay to the participating county and/or city, town or school district where the property is located, annually, in lieu of taxes, a sum equal to the sum last paid as taxes upon the property prior to the time of its acquisition by the authority. Should such property be subsequently developed and improved but still remain unused for transportation purposes, it shall during such period of disuse for transportation be subject to assessment, at the prevailing method of determining assessments, by the county and/or city and/or school district and the authority shall, based on such assessment, annually, in lieu of taxes, pay to the county and/or city and/or school district an amount fixed by it.

If the authority acquires property for transportation purposes but subsequently uses such property for non-transportation purposes, then the authority shall be required, except as hereinafter provided, to pay annually in lieu of taxes to the participating county and/or city and/or school district wherein such property is located, an amount equal to the sum which the said county and/or city and/or school district would ordinarily be imposed as taxes, pursuant to the prevailing method of determining assessments.

Properties acquired by the authority for transportation and used as such, shall not be subject to the payment of any taxes except that the authority shall pay such property special benefit assessments on the property if it is located in an existing special benefit district.

The authority may, in its discretion, enter into agreements to pay annual sums in lieu of taxes in respect of any real property which is owned by the authority and exempt from taxation pursuant to section thirteen hundred sixteen of this title to the participating county and for city, town or school district in which the property is located, provided, however, that the amount so paid for any year upon such property shall not exceed the sum last paid as taxes on such property to such county, city, town or school district prior to the time of its acquisition by the agency.

§ 1319. Interest of members or employees of authority in contracts prohibited. It shall be a misdemeanor for a member of the authority or an officer, agent, servant or employee employed by or appointed by the authority, to be in any way or manner interested, directly or indirectly, as principal, surety or otherwise, in a contract, the expense or consideration whereof is payable out of the funds of the authority.

§ 1320. Fiscal year. The fiscal year of the authority shall begin on the first day of April.

§ 1321. Consent by the state. The commissioner of general services shall have power, in his discretion, from time to time to transfer and convey to the authority, or to one or more participating counties for the use of the authority, and for such consideration as may be determined by him to be paid to the state, unappropriated state lands and lands under water which the authority shall certify to be necessary or desirable for the corporate purposes of the authority.

§ 1322. Separability. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.

§ 1323. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

TITLE 11-D

CENTRAL NEW YORK REGIONAL TRANSPORTATION AUTHORITY

§ 1325. Short title. This title may be cited as the "Central New York Regional Transportation Authority Act".

§ 1326. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section thirteen hundred twenty-eight of this title.

2. "Transportation district" and "district" shall mean the central New York regional transportation district created by section thirteen hundred twenty-seven of this title.

3. "Participating county" shall mean any of the counties defined in section thirteen hundred twenty-seven of this title.

4. "Federal government" shall mean the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

5. "Governor" shall mean the governor of the state of New York.

6. "Comptroller" shall mean the comptroller of the state of New York.

7. "Director of the budget" shall mean the director of the budget of

the state of New York.

8. "State" shall mean the state of New York.

9. "State agency" shall mean any officer, department, board, commission, bureau, division, public benefit corporation, agency or instrumentality of the state.

10. "Municipality" shall mean a city, town, village or county not wholly contained within a city.

11. "Municipal corporation" shall mean a city, town, village, county not wholly contained within a city, special transportation district, public benefit corporation or other public corporation, or two or more of the foregoing acting jointly.

12. "Personal property" shall mean chattels and other tangible things of a movable or removable nature.

13. "Property" shall mean both real and personal property.

14. "Master plan" shall mean the long range regional transportation plan for the central New York area including, but not limited to that prepared by the Syracuse metropolitan transportation study and the Oswego-Fulton area transportation study and approved by the commissioner.

15. "Joint service arrangement" shall mean agreements between or among the authority and any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state, or any political subdivision or municipality of the state, relating to property, buildings, structures, facilities, services, rates, fares, classifications, divisions, allowances or charges (including charges between operators of railroad, omnibus, marine and aviation facilities) or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part or upon

railroad, omnibus, marine or aviation facilities located within the district and in part in or upon railroad, omnibus, marine or aviation facilities located outside the district.

16. "Project" shall mean any undertaking by the authority within the district including but not limited to port or harbor facilities, transportation properties, access and service roads and bridges, serving railroad, omnibus, marine and air facilities, equipment, appurtenances, airport facilities and any other improvement under authority jurisdiction within the district.

17. "Facility" shall mean, among other things, such properties, structures, appurtenances, terminals, wharves, docks, piers, railroad trackage, warehouses, elevators, equipment for handling freight, passengers and vehicles and such other works, properties, buildings or allied items necessary or desirable in connection with development, operation, maintenance or improvement of port, airport and public transportation needs for the accommodation, safety or comfort of the public and commercial enterprise for the regional transportation district.

18. "Equipment" shall mean rolling stock, omnibuses, vehicles, air, marine or surface craft, motors, boilers, engines, and other instrumentalities used or useful therefor or in connection therewith.

19. "Omnibus facilities" shall mean motor vehicles, of the type operated by carriers subject to the jurisdiction of the public service commission, engaged in the transportation of passengers and their baggage, express and mail between points within the district or pursuant to joint service arrangements, and equipment, property, buildings, structures, improvements, loading or unloading areas, parking areas, berthing facilities or other facilities, necessary, convenient or desirable for the accommodation of such motor vehicles or their passengers, including but not limited to buildings, structures and areas notwithstanding that portions may not be devoted to any omnibus purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

20. "Railroad facilities" shall mean right-of-way and related trackage, rails, cars, locomotives, other rolling stock, signal, power, fuel, communication and ventilation systems, power plants, stations, terminals, storage yards, repair and maintenance shops, yards, equipment and parts, offices and other real estate or personalty used or held for or incidental to the operation, rehabilitation or improvement of any railroad operating or to operate between points within the district or pursuant to joint service arrangements, including but not limited to buildings, structures, and areas notwithstanding that portions thereof may not be devoted to any railroad purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

21. "Real property" shall mean lands, structures, franchise and interests in land, waters, lands under water, riparian rights and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

22. "Marine and aviation facilities" shall mean equipment and craft for the transportation of passengers, mail and cargo between points from and to and within the district or pursuant to joint service arrangements, by marine craft and aircraft of all types including but not limited to hydrofoils, ferries, lighters, tugs, barges, helicopters, amphibians, seaplanes or other contrivances now or hereafter used in navigation or movement on waterways or in the navigation of or flight in airspace. It shall also mean any airport facility within the transportation district, including but not limited to any facility or real property necessary, convenient or desirable for the landing, taking off, accommodation or servicing of such aircraft, and shall include such facilities, property, structures and appurtenances as may be necessary or convenient in the operation, maintenance, development or improvement of airports including facilities, property, structures, and

appurtenances, leased by the authority to persons, firms or corporations engaged in air transportation or the production or development of materials, goods or equipment for airports or air transportation or in providing facilities for the accommodation, safety or comfort of the traveling public and for purposes related or incidental to one or more of the foregoing purposes. It shall also mean port facilities in the transportation district including but not limited to, (a) one or more docks, elevators, wharves, piers, bulkheads, slips, basins, harbors, railroad connections, side tracks or sidings, freight terminals, warehouses, bridges, tunnels, and areas for storage of cargoes, materials, goods, wares, and merchandise of any kind and for the loading, unloading, interchange or transfer of any such cargoes, materials, goods, wares and merchandise; (b) other buildings, structures, facilities or improvements necessary to accommodate steamships or other vessels and their cargoes or passengers; and (c) all real and personal property, driveways, roads, approaches, mechanical equipment and all appurtenances and facilities either on, above or under the ground which are necessary, convenient or desirable for the development, control and operation of port facilities in the transportation district.

23. "Transportation facility" shall mean any railroad, omnibus, marine or aviation or parking facility and any person, firm, partnership, association or corporation which owns, leases or operates any such facility or any other facility used for service in the transportation of passengers, United States mail or personal property as a common carrier for hire and any portion thereof and the rights, leaseholds or other interest therein together with routes, tracks, extensions, connections, parking lots, garages, warehouses, yards, storage yards, maintenance and repair shops, terminals, stations and other related facilities thereof, the devices, appurtenances, and equipment thereof and power plants and other instrumentalities used or useful therefor or in connection therewith.

24. "Commissioner" shall mean commissioner of transportation of the state of New York.

25. "Action plan" shall mean a plan for implementation and improvement of such means of public transportation and related services by omnibus, railroad and marine and aviation facilities as the authority may contemplate within the transportation district to effectuate the purposes of this act.

26. "Transit dependent individual" shall mean an individual who is limited to public transit as their primary mode of transportation because the individual has a permanent disability.

§ 1327. Central New York regional transportation district. 1. There is hereby created and established a transportation district to be known as the central New York regional transportation district. This district shall embrace the county of Onondaga and such of the following counties as may elect to become members by action of their governing bodies: Cayuga, Cortland, Jefferson, Madison, Oneida and Oswego. The transportation district shall also include all lands and water and all lands under water and all rivers, lakes, bays and harbors within any of the counties of said district.

§ 1328. Central New York regional transportation authority. 1. (a) There is hereby created the central New York regional transportation authority. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall consist of not more than twelve members, including a chairman and shall have one non-voting member as described in paragraph (b) of this subdivision. At least one voting member shall be a transit dependent individual who shall be appointed by the governor. If a vacancy occurs for such transit dependent individual member position, a replacement shall be appointed within six months, subject to the same appointment process within this paragraph. The members shall be appointed by the governor by and with the advice and consent of the senate. The governor shall make initial appointments to the authority in such number and from lists submitted as follows: three members shall be appointed to the authority from a list of not less than six names, submitted to the governor by the common council of the city of Syracuse, five members from a list of not less than ten names, submitted by the legislature of the county of Onondaga and two members shall be appointed from a list of not less than four names submitted by the legislature of the county of Oneida. Other counties electing to participate shall each submit to the governor a list of not less than two persons for each one hundred thousand or major fraction of the total population, as determined by the nineteen hundred seventy or any subsequent federal decennial or federal county-wide special census, of the counties outside the county of Onondaga which shall elect to participate, from which number the governor shall appoint one member for each one hundred thousand or major fraction of the total population, as determined by such federal decennial or federal county-wide special census, with a maximum of three members to represent such counties outside the county of Onondaga so electing to participate. In addition to the members specified above, the governor shall appoint a transit dependent individual as a voting member who resides within a county within the district. Any local or statewide transit advocacy organization may recommend one or more transit dependent individuals to be considered for appointment pursuant to this section.

(b) The non-voting member of the authority, who shall not be considered in determining a quorum, shall be recommended to the governor by the labor organization representing the plurality of the employees within the authority. The non-voting member shall be appointed for a term of seven years, provided, however, that if at any time during the term of appointment the non-voting member ceases to be affiliated with the labor organization representing the plurality of employees within the authority, then such labor organization may at any time during such term recommend a new member to the governor who shall serve the remainder of the term. If the local bargaining unit decertifies its existing union affiliation and certifies a new union, the union which represents the plurality of the employees may recommend a new member to the governor who shall serve the remainder of the term. The chairman of the authority, at his or her discretion, may exclude such non-voting member from attending any portion of a meeting of the authority or of any committee held for the purpose of discussing negotiations with labor organizations, pending litigation involving the labor organization, or the investigation, evaluation, or discipline of an employee.

2. The members of the authority shall continue in office until their successors are appointed and shall have qualified. One member recommended by the common council of the city of Syracuse and one member recommended by the legislature of the county of Onondaga shall be appointed for terms ending July thirty-first, nineteen hundred seventy-five; one member recommended by the common council of the city of Syracuse and two members recommended by the legislature of the county of Onondaga shall be appointed for terms ending July thirty-first, nineteen hundred seventy-six; and one member recommended by the common council of the city of Syracuse and two members recommended by the legislature of the county of Onondaga shall be appointed for terms ending July thirty-first, nineteen hundred seventy-seven. The member (or members) who is (or are) recommended by the other county legislatures or board of supervisors shall be appointed for a term (or terms) of seven years, but all terminating on the thirty-first day of July of the seventh year. Thereafter, upon expiration of the term of a member of the authority a successor shall be appointed by the governor for a term expiring seven years after the expiration of the term of his predecessor. If a vacancy shall occur by reason of death, disqualification, resignation or removal of a member, the successor shall be appointed by the governor for the unexpired term. Persons succeeding members recommended by the appropriate legislative bodies of the city of Syracuse and the counties of Onondaga and Oneida on the authority shall be appointed by the same procedure as the original appointments. The same procedure shall be followed for the filling of vacancies of members appointed from other counties. Members of the authority shall, before entering upon the duties of their office, take the constitutional oath of office and file the same in the office of the secretary of state.

3. The members of the authority shall not receive a salary or other compensation when rendering service as a member, but each member shall be entitled to reimbursement of actual and necessary expenses incurred in the performance of his or her official duties.

4. A majority of the whole number of members of the authority shall

constitute a quorum for the transaction of business or the exercise of any power of the authority. Except as otherwise specified in this act, for the transaction of any business or the exercise of any power of the authority, the authority shall have power to act by a majority of the members present at any meeting at which a quorum is in attendance.

5. The authority shall organize by the selection from its members of a chairman, vice-chairman and secretary. It shall adopt such rules as it may deem necessary and proper for the government of its own proceedings, and shall keep a record of such proceedings.

6. The authority shall be a "state agency" for the purposes of sections seventy-three and seventy-four of the public officers law.

7. Notwithstanding any inconsistent provision of this or any other law, general, special or local, no officer or employee of the state, or of any public corporation as defined in the general corporation law, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his acceptance of membership on or chairmanship of the authority; provided, however, a member or chairman who holds such other public office or employment shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

8. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any member shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

9. The authority shall continue so long as it shall have bonds or other obligations outstanding and until its existence shall be terminated by law. Upon the termination of the existence of the

authority, all its rights and properties shall pass to and be vested in the state.

10. Each of the counties that elect to become participating members of the transportation district may do so by resolution adopted by a majority of the membership of its governing body and such election by a county shall take effect upon the filing of a duly certified copy of such resolution with the authority and with the secretary of state, and the mailing of a certified copy thereof to the county clerk of each county which is granted the power of election under the provisions of this act.

§ 1329. Purposes of the authority. 1. The purposes of the authority shall be the continuance, further development and improvement of transportation and other services related thereto within the transportation district, by railroad, omnibus, marine and air, in accordance with the provisions of this title.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the authority shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

§ 1330. Formulation, filing and adoption of action plan; amendments. The authority shall formulate an action plan for transportation within the district. In formulating such plan, the authority shall consult and cooperate with the commissioner and the planning authorities in the area of its operations, and shall utilize state, local or regional transportation planning. The authority shall request and use existing studies, plans, surveys, data and other materials completed by or under development by any state agency or municipality. The authority shall file copies of such plan with the commissioner, the central New York regional planning and development board, the common council of the city of Syracuse, the county legislature of the county of Onondaga, and with the legislative body of any other county, within the district, affected by such plan, as hereinafter stated. The plan shall contain information regarding the transportation system that the authority intends to provide including information regarding the facilities connected therewith, the services the authority contemplates providing and the estimated costs and the proposed method of financing. During sixty days after the filing of the action plan with the commissioner, the central New York regional planning and development board and with the legislative body or bodies as aforesaid, said plan shall be available for public inspection at the office or offices of the authority and at such other places in the areas affected, within the district, as the authority may designate. Not earlier than thirty days after the filing of said action plan with the commissioner, the central New York regional planning and development board and such legislative body or bodies, a public hearing on said plan shall be held by the authority. Notice of such a hearing shall be given to the commissioner, the central New York regional planning and development board and the legislative body or bodies as aforesaid and by publication once a week for two weeks prior to the said hearing at the time and place fixed by the authority in newspapers of general circulation within the areas affected, to be selected by the authority. The last publication date shall not be less than five days before said hearing. Within thirty days following said public hearing, the authority shall provide a transcript of such hearing to the commissioner, the central New York regional planning and development board and the legislative body or bodies as aforesaid, together with any amendments the authority may propose to the action plan. The authority shall request approval of the action plan, including such amendments as the authority may propose, from the commissioner and the aforementioned legislative body or bodies. Any part of said plan which is disapproved by a political subdivision because it alters existing services or the financing thereof within said political subdivision shall not become operative. The commissioner may disapprove any part of said plan if he finds that it conflicts with a state-wide comprehensive master plan for transportation or the Syracuse metropolitan transportation study and the Oswego-Fulton area transportation study or, in the absence of such plans, would have an adverse effect upon sound transportation development policy and planning. Any part of such plan so disapproved by the commissioner shall not become operative. Disapproval of part or parts of the plan shall not make the entire plan inoperative. If the said legislative body or bodies fail to act within sixty days or in the case of the commissioner within ninety days after approval is requested, said failure shall be deemed approval, and the authority may adopt the action plan by a majority vote of its membership and may include changes, if any, recommended by the commissioner, said planning board or legislative body or bodies.

The action plan may be amended from time to time in the same manner using the procedures outlined herein for the original adoption, except that a proposed amendment which is recommended by the legislative body or bodies affected thereby and approval by the commissioner may be embodied or continued by a majority vote of the authority without additional hearings thereon as required for the amendments proposed to be made.

§ 1330-a. Filing five year performance, capital and operating finance plans. 1. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt an operational performance plan for the five-year period commencing April first. The plan shall set operational performance plan goals and objectives, including but not limited to ridership and passenger revenue goals and objectives for the period, for fixed route bus operations, and shall establish performance indicators to measure standards of service and operations. The performance indicators shall include: revenue passengers, total passengers, revenue vehicle miles, revenue vehicle hours, number of employees by department, vehicle mean distance between failures, on-time performance for total service provided, the cost per passenger, the cost per revenue vehicle mile and the operating-revenue-to-cost ratio.

(b) Quarterly reports shall be prepared for authority members on operating performance of fixed route bus operations. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April, and July of each year. The report shall compare the performance indicators for the most recent quarter and the year-to-date performance indicators with the same time period in the previous year with the annual goals established pursuant to this subdivision.

2. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt a capital program plan for the five-year period commencing April first. The plan shall contain the capital program, separately itemized, by the following functions: regular fixed route bus service, demand responsive bus service, and any aviation facilities and any marine facilities for which it currently has or shall assume responsibility.

(b) The plan shall set goals and objectives by function for capital spending, establish standards for service and operation, describe each capital project to be initiated in each of the years covered by the plan and explain how each proposed project supports the goals and objectives and the service and operational standards established in the performance plan. The plan shall list separately by function those projects contributing to the maintenance of the system infrastructure and those intended to enhance the system. The plan shall also include an estimated cost for each project and set forth an estimate of the amount of capital funding required for each year of the plan and the expected sources of such funding. It shall also include a project schedule for the initiation and completion of each project. Each plan subsequent to the first such plan shall describe the current status of each capital project which has a total estimated cost of one hundred thousand dollars or more and which was included in the previously adopted plan.

(c) In addition to the annual update, a quarterly capital plan status report shall be provided to the authority members and shall include, but not be limited to, a description of any material change in the scope, cost, funding or time of initiation or completion of a project which has a total estimated cost of one hundred thousand dollars or more, as adopted in the plan. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of

October, January, April, and July of each year.

3. (a) On or before October first, nineteen hundred ninety-four, and annually thereafter on or before April first, the authority shall adopt an operating finance plan for the five-year period commencing April first. The plan shall include the annual estimated operating cost for the following authority functions: fixed bus operations, demand responsive bus operations, and any aviation facilities and any marine facilities for which it currently has, or shall assume responsibility. The plan shall include the proposed method of financing for the level of service defined for each year of the plan and shall fully allocate the authority's general costs to each of the above separate functions. The plan shall provide a narrative describing the overall financial condition of the operating budget of the authority.

(b) In addition to the annual update, quarterly operating budget reports shall be prepared for the authority members on the financial condition of each of the authority's functions. The first such report shall cover the three-month period commencing April first, nineteen hundred ninety-five and shall be submitted no later than thirty days after the end of the quarter. Thereafter, quarterly reports shall be submitted on the last day of October, January, April, and July of each year. The reports shall include a budgetary comparison of the most recent quarter and year-to-date actual revenue and expenditures with the same time period in the previous year and with the projections for that time period based on the board approved budget. The reporting for fixed route bus operations shall be separate from the reporting for demand responsive bus service.

4. Any and all reports, including interim reports, shall be submitted to the director of the division of the budget, the commissioner of transportation and the chief executive officers of Cayuga, Onondaga, and Oswego counties, the county legislatures of Cayuga, Onondaga, and Oswego counties, the temporary president of the senate, the speaker of the assembly, the chairpersons of the senate finance committee and the assembly ways and means committee, and the chairpersons of the senate and assembly transportation committees.

§ 1331. General powers of the authority. A. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

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

3. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement, at the discretion of the authority, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in certificates of deposit or other interest bearing depository accounts in banks or trust companies in this state if the certificate or account is secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and fulfillment of its purposes under this title;

6. To enter into contracts and leases and to execute all instruments necessary or convenient;

7. To acquire, hold and dispose of real or personal property in the exercise of its powers;

8. To appoint a general manager, who shall serve at the pleasure of the authority, and such officers and employees as the authority may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional, management or technical

services and advice; such general manager, counsel, auditors, engineers, and private consultants, officers and employees may not be a member of the authority;

9. (a) Notwithstanding section one hundred thirteen of the retirement and social security law or any other general or special law, the authority and any of its subsidiary corporations may continue or provide to its affected officers and employees any retirement, disability, death or other benefits provided or required for railroad personnel pursuant to federal or state law. Notwithstanding any provisions of the civil service law, no officer or employee of a subsidiary corporation, of the authority, other than a public benefit subsidiary corporation, shall be a public officer or a public employee;

(b) The authority and any of its public benefit subsidiary corporations may be a "participating employer" in the New York state employees' retirement system with respect to one or more classes of officers and employees of such authority or any such public benefit subsidiary corporation, as may be provided by resolution of such authority or any such public benefit subsidiary corporation, as the case may be, or any subsequent amendment thereof, filed with the comptroller and accepted by him pursuant to section thirty-one of the retirement and social security law. In taking any action pursuant to this paragraph (b), the authority and any of its public benefit subsidiary corporations shall consider the coverages and benefits continued or provided pursuant to paragraph (a) of this subdivision;

10. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

11. To enter upon such lands, waters or premises as in the judgment of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

12. The authority may conduct investigations and hearings in the

furtherance of its general purposes, and in aid thereof have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the authority shall fail or refuse to aid or assist the authority in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the authority is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

13. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title;

14. To enter into collective bargaining agreements with labor representatives duly elected by the employees of the authority;

15. To insure or provide for the insurance of the authority's property or operations as required by law and also against such other risks as the authority may deem advisable.

B. The authority shall prepare and file with the commissioner and each county of the transportation district an annual budget consisting of projected operating revenues and expenditures for the next fiscal year.

C. The authority shall file in the office of the commissioner annual reports, after the close of each of the authority's fiscal years, which shall be open to public inspection. Such reports shall include, in addition to any information which the commissioner may require, a statement with respect to its operation including the following data:

(a) Cost breakdown of real property acquired for each system or facility acquired or operated by the authority;

(b) Cost breakdown in appropriate units of facilities acquired for each facility acquired or operated by the authority;

(c) Operating revenues for each facility acquired or operated by the authority;

(d) Operating expenses for each facility acquired or operated by the authority.

The authority shall also file copies of such reports with the legislative body or bodies of the city of Syracuse and all counties where such authority operates. In addition, the commissioner may request the authority to file interim reports with him containing such information which he may require and the authority shall file such reports.

§ 1332. Special powers of the authority. In order to effectuate the purposes of this title: 1. The authority may acquire, by purchase, gift, grant, transfer, contract or lease, or condemnation, any transportation facility, including port or related facilities wholly or partially within the transportation district or any part thereof, or the use thereof, and may enter into any joint service arrangements as hereinafter provided. Any such acquisition or joint service arrangement shall be authorized only by resolution of the authority approved by not less than a majority of the whole number of members of the authority then in office.

2. The authority may on such terms and conditions as the authority may determine necessary, convenient or desirable itself establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any such transportation facility, or may provide for such establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair by contract, lease, or other arrangement on such terms as the authority may deem necessary, convenient or desirable with any person, including but not limited to any common carrier or freight forwarder, the state, any state agency, the federal government, any other state or agency or instrumentality thereof, any public authority of this or any other state or any political subdivision or municipality of the state. In connection with the operation of any such transportation facility, the authority may establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair or may provide by contract, lease or other arrangement for the establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any related services and activities it deems necessary, convenient or desirable,

including but not limited to the transportation and storage of freight and the United States mail, feeder and connecting transportation, parking areas, transportation centers, port, stations and related facilities.

3. The authority may establish, levy and collect or cause to be established, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, levy and collection of such fares, tolls, rentals, rates, charges and other fees as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or by a subsidiary corporation of the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Any such fares, tolls, rentals, rates, charges or other fees for the transportation of passengers shall be established and changed only if approved by resolution of the authority adopted by not less than a majority of the whole number of members of the authority then in office and only after a public hearing, provided however, that fares, tolls, rentals, rates, charges or other fees for the transportation of passengers on any transportation facility which are in effect at the time that the then owner of such transportation facility becomes a subsidiary corporation of the authority or at the time that operation of such transportation facility is commenced by the authority or is commenced under contract, lease or other arrangement including joint service arrangements, with the authority may be continued in effect without such a hearing. Such fares, tolls, rentals, rates, charges and other fees shall be established as may in the judgment of the authority be necessary to maintain the combined operations of the authority and its subsidiary corporations on a self-sustaining basis. The said operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or cause to be paid from revenue and any other funds or property actually available to the authority and its subsidiary corporations (a) as the same shall become due, the principal of and interest on the bonds and notes and other obligations of the authority and of such subsidiary corporations, together with the maintenance of proper reserves therefor, (b) the cost and expense of keeping the properties and assets of the authority and

its subsidiary corporations in good condition and repair, and (c) the capital and operating expenses of the authority and its subsidiary corporations. The authority may contract with the holders of bonds and notes with respect to the exercise of the powers authorized by this section.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct and safety of the public as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing the conduct and safety of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct or safety of the public and any local law, ordinance, rule or regulation, such rule or regulation of the authority shall prevail. Violation of any such rule or regulation of the authority governing the conduct or the safety of the public in or upon any facility of the authority shall constitute an offense and shall be punishable by fine not exceeding fifty dollars or imprisonment for not more than thirty days or both.

5. The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities through, and cause any one or more of its powers, duties, functions or activities to be exercised or performed by, one or more wholly owned subsidiary corporations of the authority and may transfer to or from any such corporation any moneys, real property or other property for any of the purposes of this title. The directors or members of each such subsidiary corporation shall be the same persons holding the offices of members of the authority. Each such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions

of the authority and of the authority's property, functions and activities. Each such subsidiary corporation shall be subject to the restrictions and limitations to which the authority may be subject. Each such subsidiary corporation shall be subject to suit in accordance with section thirteen hundred forty-one of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

If the authority shall determine that one or more of its subsidiary corporations should be in the form of a public benefit corporation, it shall create each such public benefit corporation by executing and filing with the secretary of state a certificate of incorporation, which may be amended from time to time by filing, which shall set forth the name of such public benefit subsidiary corporation, its duration, the location of its principal office, and any or all of the purposes of acquiring, owning, leasing, establishing, constructing, effectuating, operating, maintaining, renovating, improving, extending or repairing one or more facilities of the authority. Each such public benefit subsidiary corporation shall be a body politic and corporate and shall have all those powers vested in the authority by the provisions of this title which the authority shall determine to include in its certificate of incorporation except the power to contract indebtedness.

Whenever any state, political subdivision, municipality, commission, agency, officer, department, board, division or person is authorized and empowered for any of the purposes of this title to cooperate and enter into agreements with the authority such state, political subdivision, municipality, commission, agency, officer, department, board, division or person shall have the same authorization and power for any of such purposes to cooperate and enter into agreements with a subsidiary corporation of the authority.

6. The authority, in its own name or in the name of the state, may apply for and receive and accept grants of property, money, services and other assistance offered or made available to it by any person, government or agency whatever, which it may use to meet capital or operating expenses and for any other use within the scope of its powers,

and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable. In no event, however, shall the authority submit to the United States or to the state of New York, or any agency or instrumentality of them, an application for a federal or state project unless the application shall have been first approved by the commissioner as being part of or consistent with such statewide plan, regional plan or transportation development policy and planning concept.

7. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of transportation facilities, equipment or real property operated by or under contract, lease or other arrangement with the authority. Except as hereinafter specially provided, no municipality or political subdivision, including but not limited to a county, city, village, town or school or other district shall have jurisdiction over any facilities of the authority or any of its activities or operations. In the operation, maintenance and control of any facilities devoted to purposes other than direct transportation purposes, the authority shall be subject to all local laws, resolutions, ordinances, rules and regulations of a municipality or political subdivision. Each municipality or political subdivision, including but not limited to a county, city, village, town or district in which any facilities of the authority are located shall provide for such facilities police, fire and health protection services of the same character and to the same extent as those provided for residents of such municipality or political subdivision.

The authority may agree with the state department of transportation for the execution by such department of any grade crossing elimination project or any grade crossing separation reconstruction project along any railroad facility operated by the authority or by one of its subsidiary corporations or under contract, lease or other arrangement with the authority. Any such project shall be executed as provided in the grade crossing elimination act and the railroad law, respectively, and the costs of any such project shall be borne as provided in such laws.

8. The authority may accept unconditional grants of money or property as subsidy payments for expansion of service into areas where such service would not be self-supporting. The authority may accept unconditional grants of money or property from any city, village, town or county not wholly contained within a city the whole or any part of which shall be served or to be served by a transportation facility operated by the authority. Such grants of money or property would be for the purpose of assisting the authority in meeting its capital or operating expenses. The acceptance of any such grant shall not operate to make the authority an agency of the municipality making the grant. The provisions of this section are intended as enabling legislation only and shall not be interpreted as implying that absent their enactment an authority would lack the power to accept such grant or subsidy.

9. Notwithstanding any of the above provisions, no project may be undertaken by the authority unless such project is a part of or consistent with the action plan.

§ 1332-a. Restrictions. With respect to any statewide mass transportation operating assistance program established pursuant to section eighteen-a of the transportation law which by its terms makes available to the authority monies for operating expenses as mass transportation operating assistance service payments, no application therefor shall be made and no monies available under such program shall be accepted by the authority, notwithstanding the provision of any other law, unless the county legislature of any member county whose matching fund percentage for service payments under such section is at least eighty-five percent, authorizes the authority, by resolution adopted by a majority of the county legislature, to make such application.

§ 1333. Acquisition and disposition of real property. 1. In addition to the powers provided in section thirteen hundred thirty-one of this title to acquire transportation facilities, equipment and real property, the authority may acquire, by condemnation pursuant to the condemnation law and/or in accordance with the condemnation provisions of subdivision seven of this section, any real property it may deem necessary, convenient, or desirable to effectuate the purpose of this title, provided, however, that any such condemnation proceedings shall be brought only in the supreme court and the compensation to be paid shall be ascertained and determined by the court without a jury. Notwithstanding the foregoing provisions of this subdivision, no real property may be acquired by the authority by condemnation or by purchase for purposes other than a transportation facility unless the governing body of the city, village or town in which such real property is located shall first consent to such acquisition.

2. Nothing herein contained shall be construed to prevent the authority from bringing any proceedings to remove a cloud on title or such other proceedings as it may, in its discretion, deem proper and necessary or from acquiring any such property by negotiation or purchase.

3. Where a person entitled to an award in the proceedings to condemn any real property for any of the purposes of this title remains in possession of such property after the time of the vesting of title in the condemnor, the reasonable value of his use and occupancy of such property subsequent to such time as fixed by agreement or by the court in such proceedings or by any court of competent jurisdiction shall be a lien against such award subject only to the liens of record at the time of vesting of title in the condemnor.

4. Title to all property acquired under this act shall vest in the authority.

5. The authority may, whenever it determines that it is in the interest of the authority, dispose of any real property or property other than real property, which it determines is not necessary, convenient or desirable for its purposes.

6. The authority may, whenever it shall determine that it is in the interest of the authority, rent, lease or grant easements or other

rights in, any land or property of the authority.

7. The authority may adopt the following condemnation procedures. A certified copy of a resolution adopted by the authority authorizing the acquisition and identifying and describing the property and franchises, if any, sought to be acquired by condemnation shall be filed in the office of the county clerk of the county in which such property is situated, held or maintained. A petition for an order vesting title to such property and franchises, if any, sought to be acquired by condemnation shall set forth a description of the said property and franchises, if any, and a prayer that title be vested in the authority, shall be presented, upon notice of the application to condemn published in five successive issues of a publication of general circulation within the county where such property and franchises, if any, are located, to a special term of the supreme court held at the time and place specified in such notice, within the judicial district in which the property being acquired or some part thereof is situated. Such proceedings shall have precedence over all other cases on the calendar of such court, any other provision of the law to the contrary notwithstanding. Upon due proof to the satisfaction of the court of the filing of the resolution as hereinafter described, such court, not later than three days after the presentation of the petition, shall thereupon enter an order vesting title to such property and franchises, if any, in the authority. Upon such vesting of title the authority shall have the right to enter upon and take possession of such property. A notice of such acquisition shall be directed to the owners of the property and franchises, if any, so acquired and to any other person or persons having an estate, interest or easement in such property or a lien, charge or encumbrance thereon by personal service or by registered mail at the last known address within fifteen days after such vesting of title. Such notice shall set forth such resolution, the date of the submission to the court, the date of the order vesting title in such authority and such other matters as the authority may determine.

§ 1334. Cooperation and assistance of other agencies. In the interest of economy and to promote coordination of authority projects with state, local, county and regional plans and also to carry out the objective of full participation of all agencies in the development of a transportation system and facilities to meet the objectives of this act, the authority shall request and use existing studies, master plans, surveys, data and other materials completed by or under development by any state agency or any municipality or political subdivision of the state. The authority shall consult with and cooperate with the commissioner and with planning authorities in the areas of its operations and shall utilize local or state planning. When a project is contemplated by the authority, the authority shall submit a preliminary prospectus thereof to the commissioner for review and comment and shall consider the report of the commissioner in formulating detailed plans for such project. When a project is contemplated by the authority within the jurisdiction of any county planning board or the central New York regional planning and development board, the authority shall prepare and submit to such planning board or boards a preliminary prospectus thereof, describing the purpose, general location, and nature of the project contemplated, with such further data relative thereto that the authority shall consider pertinent. Within sixty days of receipt of such prospectus such planning board or boards shall prepare a report thereon, commenting on its conformity or lack of conformity with any related official plan of the state or region or any official planning agency within the region. Such report shall be considered by the authority in formulating detailed plans for such a project. At the request of the authority, each such agency, municipality or subdivision which is engaged in highway or other transportation activities or in land use or development planning, or which is charged with the duty of providing or regulating any transportation facility or any other public facility, is further authorized to provide the authority with information regarding its plans and programs affecting the transportation district so that the authority may have available to it current information with respect thereto. The officers and personnel of such agencies, municipalities or subdivisions, and of any other government or agency whatever, may serve at the request of the authority upon such advisory committees as the authority shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

§ 1335. Notes and bonds of the authority. 1. (a) The authority shall have power and is hereby authorized from time to time to borrow money and issue its negotiable bonds and notes in such principal amount, as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving its purposes, including the acquisition, establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any transportation facility, the payment of interest on bonds and notes of the authority, establishment of reserves to secure such bonds and notes, the provision of working capital and all other expenditures of the authority and its subsidiary corporations incident to and necessary or convenient to carry out their purposes and powers;

(b) The authority shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purposes. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded;

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues;

(d) Whether or not the notes or bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the notes or bonds shall be and hereby are made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

2. The notes and bonds shall be authorized by resolution approved by not less than a majority of the whole number of members of the authority then in office, shall bear such date or dates, and shall mature at such

time or times, as specified therein and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine. No notes or bonds of the authority may be sold by the authority at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the fares, tolls, rentals, rates, charges and other fees made or received by the authority or any of its subsidiary corporations, and other moneys received or to be received, to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the authority or of any of its subsidiary corporations to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use, and disposition of fares, tolls, rentals, rates, charges and other fees made or received by the authority or any of its subsidiary corporations;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of moneys to be expended by the authority or any of its subsidiary corporations for operating, administrative or other expenses of the authority or any of its subsidiary corporations;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

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

5. It is the intention hereof that any pledge, mortgage or security instrument made by the authority shall be valid and binding from the time when the pledge, mortgage or security instrument is made; that the

moneys or property so pledged, mortgaged and entrusted and thereafter received by the authority shall immediately be subject to the lien of such pledge, mortgage or security instrument without any physical delivery thereof or further act; and that the lien of any such pledge, mortgage or security instrument shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any mortgage, security instrument or other instrument by which a pledge, mortgage lien or other security is created need be recorded or filed and the authority shall not be required to comply with any of the provisions of the uniform commercial code.

6. Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

8. The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 1336. Reserve funds and appropriations. 1. The authority may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such debt service reserve funds (a) any moneys appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of notes or bonds to the extent provided in the resolution of the authority authorizing the issuance thereof, and (c) any other moneys which may be made available to the authority for the purpose of such funds from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this section, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such debt service reserve fund as the same mature, the purchase of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that the authority shall have power to provide that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on the bonds of the authority then outstanding and secured by such debt service reserve fund, except for the purpose of paying principal of and interest on such bonds of the authority secured by such debt service reserve fund maturing and becoming due and for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred by the authority to any other fund or account of the authority and the authority shall have power to provide that any such transfer shall not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on all bonds of the authority then outstanding and secured by such debt service reserve fund.

2. The authority shall have power to provide that it shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year or years not exceeding two such years on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such debt service reserve fund at the time of issuance, unless the

authority, at the time of the issuance of such bonds, shall deposit in such debt service fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such debt service reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any such succeeding calendar year or years not exceeding two such years on the bonds then to be issued and on all other bonds of the authority then outstanding and secured by such debt service reserve fund.

3. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

§ 1337. Agreement of the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this title, that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the authority is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 1338. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating in the counties of the transportation district, at least twice, the first publication to be at least thirty days before the date of redemption.

§ 1339. Remedies of noteholders and bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of any county in which the authority operates and has an office and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fares, tolls, rentals, rates, charges and other fees adequate to carry out any agreement as to, or pledge of, such fares, tolls, rentals, rates, charges and other fees and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

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

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

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceedings by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the instrument or instruments are filed in accordance with subdivision one of this section.

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the authority, to the comptroller and to the attorney general of the state.

§ 1340. Notes and bonds as legal investment. The notes and bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1341. Exemption from taxation. It is hereby found, determined and declared that the creation of the authority and the carrying out of its purposes is in all respects for the benefit of the people of the state of New York and for the improvement of their health, welfare and prosperity and is a public purpose, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. Without limiting the generality of the following provisions of this section, property owned by the authority and used for transportation purposes, property leased by the authority and used for transportation purposes, and property used for transportation purposes by or for the benefit of the authority exclusively pursuant to the provisions of a joint service arrangement or of a joint facilities agreement or trackage rights agreement shall all be exempt from taxation and special ad valorem levies. The authority shall be required to pay no fees, taxes or assessments, whether state or local, except special benefit assessments if said property is located in a special benefit district, including but not limited to fees, taxes or assessments on real estate, franchise taxes, sales taxes or other excise taxes, upon any of its property, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities or on any fares, tolls, rentals, rates, charges or other fees, revenues or other income received by the authority and the bonds of the authority and the income therefrom shall at all times be exempt from taxation, except for gift and estate taxes and taxes on transfers. This section shall constitute a covenant and agreement with the holders of all bonds issued by the authority. The terms "taxation" and "special ad valorem levy" shall have the same meanings as defined in section one hundred two of the real property tax law and the term "transportation purposes" shall have the same meaning as used in titles two-a and two-b of article four of such law.

§ 1342. Actions against the authority. 1. As a condition to the consent of the state to such suits against the authority, in every action against the authority for damages, for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority or other officer designated for such purpose and the authority has neglected or refused to make an adjustment or payment thereof.

2. An action against the authority founded on tort, except an action for wrongful death, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

3. The authority shall be liable, and shall assume the liability to the extent that it shall save harmless any duly appointed officer or employee of the authority, for the negligence of such officer or employee, in the operation of a vehicle or other facility of transportation owned or otherwise under the jurisdiction and control of the authority in the discharge of a duty imposed upon such officer or employee at the time of the accident, injury or damages complained of, while otherwise acting in the performance of his duties and within the scope of his employment.

4. The authority may require any person, presenting for settlement an account or claim for any cause whatever against the authority, to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose, concerning such account or claim and when so sworn to answer orally as to any facts relative to

such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable shall not exceed four per centum per annum.

6. The provisions of this section which relate to the requirement for service of a notice of claim shall not apply to a subsidiary corporation of the authority. In all other respects, each subsidiary corporation of the authority shall be subject to the provisions of this section as if such subsidiary corporation were separately named herein, provided, however, that a subsidiary corporation of the authority which is a stock corporation shall not be subject to the provisions of this section except with respect to those causes of action arising on and after the first of the twelfth calendar month following that calendar month in which such stock corporation becomes a subsidiary corporation of the authority.

§ 1343. Agreements relating to payment in lieu of taxes. To the end that municipal corporations, counties and school districts may not suffer undue loss of taxes or assessments:

If the authority acquires property for non-transportation purposes (e.g. for future transportation purposes but not to be so used immediately) the authority except as hereinafter provided, shall pay to the participating county and/or city, town or school district where the property is located, annually, in lieu of taxes, a sum equal to the sum last paid as taxes upon the property prior to the time of its acquisition by the authority. Should such property be subsequently developed and improved but still remain unused for transportation purposes, it shall during such period of disuse for transportation be subject to assessment, at the prevailing method of determining assessments, by the county and/or city and/or school district and the authority shall, based on such assessment, annually, in lieu of taxes, pay to the county and/or city and/or school district an amount fixed by it.

If the authority acquires property for transportation purposes but subsequently uses such property for non-transportation purposes, then the authority shall be required, except as hereinafter provided, to pay annually in lieu of taxes to the participating county and/or city and/or school district wherein such property is located, an amount equal to the sum which the said county and/or city and/or school district would ordinarily be imposed as taxes, pursuant to the prevailing method of determining assessments.

Properties acquired by the authority for transportation and used as such, shall not be subject to the payment of any taxes except that the authority shall pay such property special benefit assessments on the property if it is located in an existing special benefit district.

§ 1344. Interest of members or employees of authority in contracts prohibited. It shall be a misdemeanor for a member of the authority or an officer, agent, servant or employee employed by or appointed by the authority, to be in any way or manner interested, directly or indirectly, as principal, surety or otherwise, in a contract, the expense or consideration whereof is payable out of the funds of the authority.

§ 1345. Fiscal year. The fiscal year of the authority shall begin on the first day of April.

§ 1346. Consent by the state. The commissioner of general services shall have power, in his discretion, from time to time to transfer and convey to the authority, or to one or more participating counties for the use of the authority, and for such consideration as may be determined by him to be paid to the state, unappropriated state lands and lands under water which the authority shall certify to be necessary or desirable for the corporate purposes of the authority.

§ 1347. Separability. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.

§ 1348. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

ARTICLE 6

PORT AUTHORITIES

TITLE 2

PORT OF OSWEGO AUTHORITY

§ 1350. Short title. This title may be cited as the "port of Oswego authority act."

§ 1351. Definitions. As used in this title, unless a different meaning clearly appears from the context:

(1) The term "district" shall mean the Oswego port authority district created by section eighteen hundred twenty-seven of this title.

(2) The term "authority" shall mean the corporation created by section thirteen hundred fifty-three of this title.

(3) The term "board" shall mean the members of the authority.

(4) The term "bonds" shall mean bonds issued by the authority pursuant to this title.

(5) The term "city" shall mean the city of Oswego.

(6) The term "town" shall mean the town of Scriba, Oswego county.

(7) The term "port facilities" shall mean, among other things, wharfs, docks, piers, terminals, railroad tracks or terminals, cold storage and refrigerating plants, warehouses, elevators, freight-handling machinery and such equipment as is used in the handling of freight and the

establishment and operation of a port, and work of deepening parts of the Oswego river and Lake Ontario adjacent to the terminal exclusive of the harbor channel, within the port district, and any other works, properties, buildings, structures or other facilities necessary or desirable in connection with the development and operation of port facilities in the district.

(8) The term "common council" shall mean the common council of the city.

(9) The term "mayor" shall mean the mayor of the city.

(10) The term "town board" shall mean the town board of the town of Scriba.

(11) The term "industrial project" shall mean a project designed and intended for the purpose of providing facilities for manufacturing, warehousing, recreational opportunities, docking, historical appreciation, research, business or other industrial purposes, including but not limited to machinery and equipment deemed necessary for the operation thereof (excluding raw materials, work in process or stock in trade), on land acquired or to be acquired by the authority in the city of Oswego and the two parcels previously acquired by the authority in the town of Scriba.

§ 1352. Oswego port district. There is hereby created and established a district to be known as the "Oswego port district" which shall embrace the city of Oswego, the town of Scriba and all lands and water under and in the Oswego river and Lake Ontario lying or situated within the boundaries of the city of Oswego and/or the town of Scriba subject to the right, title, interest and control of the state under the constitution or any law of the state of New York and subject to the right, title, interest and control of the United States under any law of the United States of America.

§ 1353. Port of Oswego authority. The board heretofore created by this section and known as the Oswego port authority is hereby continued and shall hereafter be known and designated as the port of Oswego authority. Such board shall be a body corporate and politic, constituting a public benefit corporation. The board shall consist of nine members, seven of whom shall be residents of the city of Oswego and one of whom shall be a resident of the town of Scriba, with at least one thereof being a member of or recommended by the county planning board of the county of Oswego commencing with the expiration of the term occurring first after July first nineteen hundred seventy-five. The terms of office of all members of the authority heretofore appointed and in office on March thirty-first, nineteen hundred sixty, shall expire and terminate on such date, provided, however, that they shall continue in office as such until the members first to be appointed by the governor as hereinafter in this section provided shall have qualified. The members of said authority shall be appointed by the governor, by and with the advice and consent of the senate. Of the members first appointed by the governor two members shall be appointed for a term ending September first, nineteen hundred sixty-one, two for terms ending September first, nineteen hundred sixty-two, two for terms ending September first, nineteen hundred sixty-three, and one for a term ending September first, nineteen hundred sixty-four. Any member appointed by the governor to fill any newly created membership on the board shall be appointed for a term ending on the first day of September nineteen hundred seventy-six. Thereafter, upon the expiration of the term of a member, a successor shall be appointed by the governor for a term expiring four years after the expiration of the term of his predecessor. If a vacancy shall occur by reason of a death, disqualification, resignation or removal of a member, the successor shall be appointed by the governor for the unexpired term. The members of the authority shall, before entering upon the duties of their office, take the constitutional oath of office and file the same in the office of the secretary of state. The authority shall organize by the selection from its members of a chairman, vice chairman, and a secretary. It shall adopt such rules as it may deem necessary and proper for the government of its own proceedings and the regulation and use of port facilities and industrial projects in the district, and shall keep a record of its proceedings. Rules pertaining to the regulation and use of port facilities and industrial projects shall be fair, reasonable and impartial and shall be subject to any law, rule or regulation administered by the interstate commerce commission or the public service commission or the water resources commission, or any other department or commission of the United States of America or of the state of New York, which has the jurisdiction in such matters and shall not operate to deprive any person or corporation, private or public, of any property without due process of law. A majority of the members of the authority shall constitute a quorum for the transaction of business and the concurrence of a majority of all members shall be necessary to the validity of any order of the authority. A member may be removed by the governor for cause after giving such member a copy of the charges and an opportunity to be heard thereon. The members of the authority shall serve without compensation but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties.

§ 1354. Purposes and powers of the authority. The authority shall have power over the survey, development and operation of port facilities and industrial projects in such port district as hereinafter more specifically set forth, and the coordination of the same with existing or future agencies of transportation with a view to the increase and efficiency of all such facilities and projects and the furtherance of commerce and industry, environmental protection, aesthetics, health, welfare, safety, recreational opportunities, and historical appreciation in the district. It shall make a thorough investigation of port conditions in the district and such other places as it may deem proper and shall prepare after conducting public hearings a comprehensive plan for the development of port facilities, industrial projects, and other structures in such district and the furtherance of recreational opportunities and historical appreciation in the district. This comprehensive plan shall include the present use of the land and water in the district, the general capability thereof for development and use based on commercial, ecological, recreational and historic considerations, a statement of proposed development and/or preservation thereof which would accomplish a coordinated and economic use of the district in accordance with present and future needs and resources and best promote the health, safety, order, enjoyment, convenience, appreciation and welfare of the citizens of the district. It shall be provided with an office which shall be located by such authority within the port district and it shall have power to equip the same with suitable furniture and supplies for the performance of the work of the authority. The authority also shall have the power to:

(1) Sue and be sued.

(2) Have a seal and alter the same at pleasure.

(3) Confer with the governing body of the city, the town and with any other body or official having to do with port and harbor facilities within and without the district, and to hold public hearings as to such facilities.

(4) Confer with railroad, steamship, warehouse and other officials in the district with reference to the development of transportation facilities in such district and the coordination of the same.

(5) Confer with the proper state officials as to means and measures for stimulating use of the Barge canal.

(6) Determine upon the location, type, size and construction of requisite port facilities, subject, however, to the approval of any department, commission or official of the United States of America or the state of New York where federal or state statute or regulation requires it.

(7) Lease, erect, construct, make, equip and maintain port facilities in the district and for any such purpose to acquire in the name of the authority by purchase, grant, gift or condemnation, except as hereinafter limited, real property, including easements therein, lands under water and riparian rights.

(8) Make surveys, maps and plans for, and estimates of the cost of, the development and operation of requisite port facilities and other structures and for the coordination of such facilities and structures with existing agencies, both public and private, with the view of increasing the efficiency of all such facilities and the appropriateness of all such structures in the furtherance of commerce and industry, environmental protection, aesthetics, health, welfare, safety, recreational opportunities, historical appreciation in the city.

(9) Make contracts and leases and to execute all instruments necessary or convenient.

(10) Issue negotiable bonds within the provisions and limitations of this title and to provide for the rights of the holders thereof.

(11) Issue notes within the provisions and limitations of this act.

(12) Fix fees, rates, rentals or other charges for the purpose of all port facilities owned by the authority and collect such fees, rates, rentals and other charges for such facilities owned by the authority, which fees, rates, rentals or other charges shall at all times be sufficient to comply fully with all covenants and agreements with the holders of any bonds issued under the provisions of this act.

(13) Operate and maintain all port facilities owned by it; use the revenues therefrom for the corporate purposes of the authority, and in accordance with any covenants or agreements contained in the proceedings authorizing the issuance of any bonds hereunder.

(14) Have power to regulate and supervise the construction of all port facilities constructed or installed by any private individual or corporation commenced after this act takes effect, and the power to regulate the operation of all privately owned port facilities insofar as such operation may adversely affect the flow of transportation or the enforcement of approved plans for the development of port facilities. The power granted by this subdivision shall be subject to the rules, regulations or other directives of any federal or state department, commission or other agency having jurisdiction, and such grant of power shall not operate to deprive any person or corporation, private or public, of any property without due process of law.

(15) Accept gifts, grants, loans or contributions from the United States, the state of New York or an agency or instrumentality of either of them, the county of Oswego, the city of Oswego or the town of Scriba, or a person or corporation, by conveyance, bequest or otherwise, and to expend the proceeds for any purpose of the authority, and to enter into a contract with the United States, the state of New York, or an agency or instrumentality of either of them, to accept gifts, grants, loans or contributions on such terms and conditions as may be provided by law authorizing the same. The county of Oswego, the city of Oswego and the town of Scriba are hereby authorized to loan, donate or contribute any available fund to the port authority for any of its corporate purposes, and to appropriate such moneys for such purposes; but neither the county, the city nor the town may borrow money or otherwise pledge its faith and credit for the purpose of making any such loan, donation or contribution.

(16) Have power to grant and maintain a traffic bureau in connection

with the operation of port facilities.

(17) Use the officers, employees, facilities and equipment of the city, with the consent of the city, and of the town, with the consent of the town, paying a proper portion of the compensation or cost.

(18) Appoint officers, agents and employees and fix and determine their qualifications, duties and compensation subject to the provisions of the civil service law of the state of New York and such rules as the civil service commission of the city of Oswego may adopt and make applicable to such authority.

(19) Designate the depositories of its moneys.

(20) Have power to do all things necessary to make Oswego harbor and its port facilities useful and productive.

(21) Make application to the foreign-trade zones board established by an act of Congress, approved June eighteenth, nineteen hundred thirty-four, entitled "an act to provide for the establishment, operation and maintenance of foreign trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," for a grant to such authority of the privilege of establishing, operating and maintaining a foreign trade zone on premises owned by such authority within such city, pursuant to the provisions of such act, and if such application be granted, to accept such grant and to establish, operate and maintain such zone in accordance with law.

(22) With respect to industrial projects, to carry on any activities authorized for an industrial development agency as provided for in section eight hundred fifty-eight of the general municipal law as well as to provide for the financing of such projects pursuant to article eighteen-A of the general municipal law; provided, however, that where any of the provisions of this article are inconsistent with the provisions of section eight hundred fifty-eight of the general municipal law pertaining to industrial projects or, with respect to financing of such projects, article eighteen-A of the general municipal law, the provisions of this article shall be superceded and the provisions of such section eight hundred fifty-eight and such article eighteen-A shall apply.

§ 1354-a. Meetings and records of authority to be public. The regular meetings of the authority shall be public meetings open to the general public, except for executive sessions thereof. Subject to appropriate provisions of law and any reasonable regulations established by the authority, the records of the authority shall be public records.

§ 1355. Orders, service thereof and penalties. The authority may make, and cause to be served upon any corporation or individual, within the port district, excepting the city of Oswego and the town of Scriba, any reasonable order which it may determine to be necessary for the proper development, maintenance and use of the port, relating to the construction, equipment, repair, maintenance, use and rental of any dock, wharf, slip, terminal, warehouse or industrial project owned or leased by any such corporation or individual within the district. There shall be served with a copy of the order a notice specifying a day, not less than ten days after such service, when such corporation or individual may appear before the authority, present written objections to the making of the order and be heard on such objections. If no such objections are filed within the time stated, or if the order be sustained as the result of such hearing, either in its original or modified form, such order shall be final, subject only to review by a court of competent jurisdiction. When an order of the authority shall become final, including the termination of any court proceeding sustaining the order, or of the time for beginning such a proceeding if none be brought, if the corporation or individual shall fail to obey it, or if any corporation or individual shall violate a lawful rule of the authority, the authority may commence and maintain an action or proceeding in an appropriate court having jurisdiction, for the purpose of having such disobedience to an order or violation of a rule prevented or obedience enforced, either by mandamus or injunction.

§ 1356. Investigations. The authority, and any member thereof, when directed by the authority, may make any investigation which the authority may deem necessary to enable it effectually to carry out the provisions of this act, and for that purpose the authority, or such member, may take and hear proofs and testimony and compel the attendance of witnesses and the production of books, papers, records and documents, including public records. The authority, and its authorized agents, may enter upon any lands as in its judgment may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this act, the authority being liable for actual damage done.

§ 1357. Real estate and title thereto. 1. The authority may lease or acquire title to real and personal property including water front property, ferries, bridges, wharf property, land under water, public landings, wharves and docks in the name of "Oswego port authority" by purchase, grant or gift from the city of Oswego, town of Scriba, state of New York, United States of America, or from any corporation or individual for the development of port facilities and industrial projects in the district, and shall have the power to sell, subject to approval by order of the supreme court, lease or otherwise dispose of said real property and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes. Any instrument affecting real property shall be signed by the chairman of the authority, attested by its secretary and have the seal of the authority affixed thereto.

1-a. Authority is hereby conferred upon the city of Oswego and the town of Scriba to give, lease, sell, grant and convey real and personal property including water front property, ferries, bridges, wharf property, land under water, public landings, wharves and docks to the authority, with or without consideration as such city or town shall determine.

2. The authority shall have power to condemn real property located within its territorial limits and owned by any person or corporation, excepting a person or corporation subject to the jurisdiction, supervision and regulation of the Public Service Commission, which the authority deems necessary for the development of port facilities and industrial projects in the district. The authority shall exercise the power of condemnation hereby granted in the manner provided in the condemnation law.

3. The authority and the city of Oswego may enter into contracts for the acquisition by the city or the authority of real property for the benefit of and in the name of the city of Oswego for the purpose of widening existing streets, avenues, parkways, roads or highways or for new streets, avenues, parkways, roads or highways to port facilities within the port district, or partly for such purpose and partly for other city purposes. Such contracts may provide for the work of improvement by the city. The city may close such streets, avenues, parkways, roads or highways as may be necessary or convenient.

§ 1358. Grants from commissioner of general services. 1. The commissioner of general services shall have power, in his discretion, from time to time to transfer and convey to the authority for such consideration as may be determined by him to be paid to the state of New York, unappropriated state lands and lands under water which the authority shall certify to be necessary or desirable for the corporate purposes of the authority, and may, when the barge canal terminal and barge canal terminal lands in the city of Oswego become no longer necessary or useful for canal or terminal purposes, lease for a term or terms of years or convey said barge canal terminal and barge canal terminal lands as hereinafter described, to the authority for such consideration as may be determined by him to be paid to the people of the state of New York and upon the terms and conditions set forth in this act.

2. There is hereby ratified and confirmed in and to the authority title to the barge canal terminal and barge canal terminal lands described herein, conveyed to said authority by letters patent dated September tenth, nineteen hundred fifty-eight, pursuant to resolutions of the board of commissioners of the land office adopted July twenty-ninth, nineteen hundred fifty-eight, and September tenth, nineteen hundred fifty-eight, subject to the conditions set forth in said letters patent and in this title.

3. The authority shall establish and maintain a port facilities

development fund and shall cause all moneys received by it from the operation of such port facilities to be deposited in such fund for the payment of all costs of operation, maintenance and repair of the port facilities and the repayment to the people of the state of New York of any advance made by the state to the authority, which repayment to the people of the state of New York shall not exceed in any one year fifty per cent of the moneys received by the authority in excess of the costs of operation, maintenance and repair of said port facilities.

4. Upon the issuance of said lease or grant by the commissioner of general services pursuant to this act the authority shall assume all expense of or incidental to the operation, maintenance, repair and administration of said port facilities.

5. Except as to moneys and rates accrued thereunder at the time of vesting in the authority all the right, title and interest of the state in and to said port facilities as herein provided, and as incident thereto, there shall also vest in the authority all the right, title and interest of the state in and to and in connection with the following contracts, agreements and permits with third persons: (a) any and all executory contracts, agreements and permits for the use of said port facilities by third persons as tenants, licensees, or otherwise, or for the docking, mooring or anchorage thereat of vessels owned by third persons, or for the loading, unloading, handling, storage, processing or manipulation of grain, freight, or other property of third persons, or for the rendering of any other services to third persons at said pier properties as wharfinger or warehouseman or otherwise; (b) any and all executory contracts and agreements for the furnishing by third persons of electricity, gas, steam, water or telephone service at said port facilities.

6. The authority shall not grant or convey title to said port facilities to any person or legal entity other than the people of the state of New York.

7. If the authority shall violate any of the conditions herein set forth or such other conditions as the board of commissioners of the land

office heretofore included in any lease or grant of said port facilities or any other conditions as the office of general services may include in any lease or grant of said port facilities and such violation of any of said conditions shall not have been remedied by the authority within ninety days after the giving of notice of the existence of such violation by the commissioner of transportation of the state of New York, then at the option of the state such port facilities shall revert to the people of the state of New York.

8. If the port facilities revert to the people of the state of New York they shall be and shall be deemed to be unappropriated state lands.

9. Officers and employees of the state departments and agencies now employed at said port facilities may be transferred to the authority without loss of any civil service status or rights but no such transfer may be made except with the approval of the head of the state department or division thereof charged with the operation of such port facilities, the director of the budget, and in compliance with the rules and regulations of the state civil service commission.

10. a. The premises constituting the port facilities so to be transferred consist of:

All that tract or parcel or land situate, lying and being in the city of Oswego, county of Oswego and state of New York, bounded and described as follows:

Beginning at a monument in the west line of Water Street, said monument being 231 feet northerly along said street line from the center line of Van Buren Street; thence S 67 degrees -47' W along the Barge Canal Terminal Right of Way line 102 feet to a monument; thence N 22 degrees -13' W along a line parallel to the east line of West First Street and 2 feet distant westerly therefrom, a distance of 38 feet to its intersection with the original shore line of Lake Ontario (1838); thence westerly along said original shore line a distance of 100 feet to its intersection with the west line of West First Street; thence S 22 degrees -13' E along said west street line a distance of 126 feet to a monument set in the westerly line of W. First Street at a point therein 140' northerly from the center line of Van Buren Street, thence S 67 degrees -47' W along the division line between the property of the People of the State of New York on the north and the property of the Delaware, Lackawanna and Western Railroad Co. (reputed owner) on the south a distance of 193 feet to a monument; thence N 71 degrees -37' W along the aforementioned division line a distance of 9.22 feet to a monument set in the east line of West Second Street; thence N 22 degrees - 13' W along said street line and said street line extended into the waters of Lake Ontario a distance of 1430 feet to a point; thence N 67 degrees -47' E and for part of the distance along the line of the northerly wall of the New York State Lake Terminal Pier a distance of 425 feet to a point; thence S 22 degrees -13' E a distance of 888 feet to a point in line with the northerly line of Parcel No. T-88, Terminal Contract No. 33, appropriated by the State of New York on August 25, 1914 pursuant to Chapter 746, Laws of 1911; thence S 67 degrees -47' W a distance of 25 feet to the northeast corner of said Parcel No. T-88; thence S 22 degrees -13' E along the easterly line of said Parcel No. T-88 and for part of the distance along the westerly line of Water Street a distance of 485.8 feet to the point of beginning, containing 13.31 acres more or less.

All Bearings are referred to the true meridian.

The above described parcel constitutes all of Parcels Nos. T-86, T-87, T-88 and T-89, Terminal Contract No. 33, appropriated by the State of New York on August 25, 1914 pursuant to Chapter 746, Laws of 1911, and certain lands now or formerly under the waters of Lake Ontario.

b. It is hereby found and determined that the properties described in paragraph a hereof, heretofore constituting a portion of the barge canal terminal and barge canal terminal lands in the city of Oswego, are no longer necessary or useful for canal or terminal purposes and are hereby abandoned.

11. The commissioner of general services shall issue said lease or grant to said lands to the authority only upon the delivery to and

filing with said commissioner a certified copy of a resolution of the authority signifying its willingness to accept said port facilities on the conditions hereinabove set forth, all of which may be made a part of said lease or grant, which lease or grant may also contain such other and further conditions as the commissioner of general services may determine to be appropriate.

§ 1359. Right of entry upon streets. The authority, with the consent of the city, the town superintendent of highways or the county superintendent of highways, as the case may be, or of the state department of transportation, if required, may enter upon streets, avenues, parkways, roads, highways, bridges or other public places for the construction of a project or part thereof or of an addition, betterment or extension to facilities or industrial projects. Whenever the authority has entered upon and damaged a street, avenue, parkway, road, highway, bridge or other public place, the authority shall restore the same to its former condition.

§ 1360. Contracts; manner of letting. Where the expense of the construction of a project, or a part thereof, or an addition, betterment or extension to the port facilities or industrial projects, or the purchase of materials, supplies and equipment involves an expense exceeding two thousand dollars, the authority shall advertise for bids and shall award the contract to the lowest responsible bidder fully complying with the plans and specifications. Such advertisement shall be published once, not less than one week prior to the date fixed for the opening of bids, in one newspaper having a general circulation in the city of Oswego. The authority may make rules and regulations for the submission of bids and award of contract thereon and may provide in such rules and regulations that no performance, bond or undertaking need be furnished by the contractor for the purchase of materials, supplies and equipment in an amount not exceeding two thousand dollars. No contract shall be entered into for the construction of a project, or a part thereof, or for an addition, betterment or extension to the facilities or for the purchase of materials, supplies and equipment in an amount exceeding two thousand dollars unless the contractor shall give an undertaking with a sufficient surety or sureties approved by the authority and in the amount fixed by the authority for the faithful performance of the contract. As to a contract entered into for the construction, the undertaking shall provide, among other things, that the person or corporation entering into such a contract will pay for all materials furnished and services rendered in the performance of the contract and that a person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation were named therein, provided the action is brought within one year after the time the cause of action accrued. In case of public emergency involving accident or other damage by which the port facilities, or any part thereof, shall become disabled, the authority may cause all necessary repairs thereto to be made without advertisement, bidding and the letting of a formal contract therefor.

§ 1361. Fiscal year. The fiscal year of the authority shall be determined by resolution of the authority.

§ 1362. Special port development and improvement powers. 1. The port of Oswego authority shall have power to make rules and regulations for the development, improvement, promotion, preservation and utilization of the port improvement district and project and for the payment and collection of fees, charges, rentals and other receipts from the port improvement project hereinafter referred to as "port revenue." Until such time as the state of New York is fully reimbursed by the authority for the total amount of money advanced by the state to the authority no rule, regulation, schedule or rate in relation to or governing port revenue shall become effective or controlling unless approved by the director of the budget of the state of New York.

2. All port revenue received by the authority shall be paid to the state comptroller as agent of the authority and deposited in a separate account or accounts to be known as the "port of Oswego fund. " The

moneys in such fund shall be available subject to the approval of the director of the budget of the state of New York for the payment of any and all costs and expenditures incurred in relation to the acquisition of property, construction, equipment, maintenance, repair and operation of the port improvement project. The moneys of the port of Oswego fund when made available shall be paid from such fund on the audit and warrant of the state comptroller on vouchers approved solely by the chairman of the authority or his duly designated officer.

3. All moneys in the port of Oswego fund in excess of the sum of three hundred fifty thousand dollars shall on the first day of each month be paid by the authority to the state comptroller provided, however, that effective March thirty-one, nineteen hundred seventy-eight, the director of the budget and the authority shall establish within the provisions of a written agreement between the authority and the director providing for the repayment to the state by the authority of state advances the maximum amount of moneys which the authority may retain in the port of Oswego fund. The comptroller is hereby authorized to receive from the authority such amounts as shall be paid to the comptroller pursuant to the provisions of this section and to credit all such amounts to the capital construction fund. Upon certification by the state comptroller that all moneys due the state have been paid in full, the remaining balance of such fund shall be available to such authority and may be used by such authority for any corporate purpose. The accounts of the authority shall be subject to examination by the state comptroller.

4. The comptroller of the state and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs.

§ 1363. Bonds of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue negotiable bonds in conformity with applicable provisions of the uniform commercial code for any corporate purpose of the authority, including the paying, funding or refunding of any notes theretofore issued by the authority under the provisions of section one thousand eight hundred thirty-nine of this act. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Except as may be otherwise expressly provided by contract between the authority and the holders of its bonds, all bonds of the authority shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds the payment of which is secured by a pledge of particular moneys or revenues.

2. Such bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption prior to maturity, at par or a price, as such resolution or resolutions may provide. Such bonds may be sold, with or without advertisement, in such manner as the authority shall determine by resolution. If advertisement is made, a notice of sale shall be published at least once, not less than ten nor more than forty days before the date of sale, in a newspaper published and circulated in the city of Oswego and in a financial newspaper published and circulated in the city of New York and designated by the board. The notice shall call for the receipt of sealed bids and shall fix the date, time and place of sale. Bonds shall be sold at such price or prices as will yield to the purchasers income at a rate set forth in the resolution or resolutions to the maturity dates of said bonds, computed in accordance with standard tables of bond values.

3. Any resolutions authorizing the issuance of any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to:

a. Pledging all or any part of the gross or net revenues of the authority to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

b. The rentals, fees and other charges to be charged for the use of projects of the authority, and the amounts to be raised in each year thereby, and the use and disposition of revenues of the authority;

c. The setting aside of reserves or sinking funds and the regulation and disposition thereof;

d. The appointment of a bank or banks or trust company or trust companies as trustee or trustees for the custody and disposition of any moneys of the authority, including the proceeds of any bonds or other obligations and any revenues or income of the authority, and the execution of any trust agreements or indentures with such trustee or trustees with such provisions as may be deemed necessary or desirable in connection with the custody and disposition of such moneys of the authority and the rights and remedies of the holders of such bonds;

e. Limitations on the right of the authority to restrict and regulate the use of projects of the authority;

f. Limitations on the purpose to which the proceeds of the sale of any issue of bonds then or thereafter to be issued may be applied;

g. Limitations on the issuance of additional bonds, including the terms upon which additional bonds may be issued and secured.

h. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must give consent thereto, and the manner in which such consent may be given; and

i. Any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. Any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made. The revenues or other moneys so pledged and thereafter received by the authority shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability by reason of the issuance thereof, excepting solely for things willfully done or willfully omitted to be done with an intent to defraud.

6. The authority shall have power out of any funds available therefor to purchase any of its outstanding bonds at a price not more than the then redemption price of such bonds. All bonds so purchased shall be cancelled.

§ 1364. Notes of the authority. The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code whenever the board shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide moneys to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. Such notes may be renewed from time to time but such notes, including the renewals thereof, shall mature not later than three years from the date upon which such notes are issued. Such notes shall be issued in the same manner and subject to the same restrictions as to price and interest rate as bonds, except that the board may determine the manner in which such notes shall be sold. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

§ 1365. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Oswego and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name,

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Oswego.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part of parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercising of any functions specifically set forth herein or incident to the general

representation of bondholders in the enforcement and protection of their rights.

§ 1366. Exemption from taxation. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of Oswego and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this act and shall be required to pay no taxes or assessments upon any of the properties acquired by the authority or under its jurisdiction, control or supervision, or upon its activities. Bonds or notes issued pursuant to this act, together with the income therefrom, as well as the property of the authority shall be exempt from taxation except for transfer and estate taxes.

§ 1367. Agreement of state on authority rights. The state of New York does pledge to and with the bondholders that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate a project or projects, to establish and collect rates, fees, rentals and other charges, and to fulfill the terms of agreements made with the bondholders, or in any way impair the rights and remedies of the bondholders until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the bondholders are fully met and discharged. No provision of this title shall be deemed to limit the power of the legislature to authorize the state or a political subdivision thereof to acquire properties of the authority and pay the indebtedness thereof.

§ 1368. State, city and town not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York, of the city or of the town, and neither the state, the city, nor the town shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1369. Bond legal investments. The bonds of the authority are hereby made securities in which all public officers and bodies of the state of New York and all municipalities and municipal subdivisions thereof, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons, except as hereinafter provided, who are now, or may hereafter be, authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them, provided that, notwithstanding the provisions of any other general or special law to the contrary, the bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state of New York and all municipalities and municipal subdivisions thereof for any purpose for which the deposit of bonds or other obligations of the state is now, or may hereafter be, authorized.

§ 1370. No control by other boards or commissions. Except as herein otherwise expressly provided, the authority, in the issuance of its bonds or other obligations, and in the exercise of its powers provided in this act for the fixing, charging and collecting of fees, rentals, or other charges, shall not be subject to the jurisdiction, control or regulation of any commission, department, board, officer, or agency of the city, or of the state or any political subdivision thereof.

§ 1371. Punishment for irregular demeanor of members or employees of authority. It shall be a misdemeanor for a member of the authority or an officer, agent, servant or employee employed by or appointed by the authority, to be in any way or manner interested, directly or indirectly, as principal, surety or otherwise, in a contract, the expense or consideration whereof is payable out of the funds of the authority.

§ 1372. Actions against authority. In any case founded upon a tort, except an action for wrongful death, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority and the provisions of section fifty-e of the general municipal law shall apply. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

§ 1373. Separability. If any clause, sentence, paragraph, part or provision of this title shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional, ineffective or invalid, such judgment shall not affect, impair or invalidate the remainder of this title, but shall be confined in its operation to the clause, sentence, paragraph, part or provision thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1374. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

TITLE 3

OGDENSBURG PORT AUTHORITY

§ 1375. Short title. This title may be cited as the "Ogdensburg port authority act."

§ 1376. Definitions. As used in this title, unless a different meaning clearly appears from the context:

(1) The term "district" shall mean the Ogdensburg port authority district created by section thirteen hundred seventy-seven of this

title.

(2) The term "authority" shall mean the corporation created by section thirteen hundred seventy-eight of this title.

(3) The term "board" shall mean the members of the authority.

(4) The term "bonds" shall mean bonds issued by the authority pursuant to this title.

(5) The term "city" shall mean the city of Ogdensburg.

(6) The term "port facilities" shall mean, among other things, wharfs, docks, refrigerating plants, warehouses, elevators, freight-handling piers, terminals, railroad tracks or terminals, cold storage and machinery and such equipment as is used in the handling of freight and the establishment and operation of a port, and work of deepening parts of the St. Lawrence river within the port district, and any other works, properties, buildings, structures or other facilities necessary or desirable in connection with the development and operation of port facilities in the district.

(7) The term "common council" shall mean the common council of the city.

(8) The term "mayor" shall mean the mayor of the city.

(9) The term "Industrial Project" shall mean a project designed and intended for the purpose of providing facilities for manufacturing, warehousing, research, business or other industrial or commercial purposes, including but not limited to machinery and equipment deemed necessary for the operation thereof (excluding raw materials, work in process or stock in trade), on land acquired or to be acquired by the authority for the establishment of an industrial park.

§ 1377. Ogdensburg and Waddington port districts. There are hereby created and established two districts: the Ogdensburg port district and the Waddington port district. The Ogdensburg port district shall embrace the city of Ogdensburg and the town of Lisbon and the town of Oswegatchie; a strip of land five hundred feet in width in the towns of Madrid and Potsdam, in the county of St. Lawrence, being two hundred fifty feet on each side of the center line of that portion of the Rutland railway corporation right-of-way line extending from the city of Ogdensburg to the village of Norwood, town of Potsdam, which portion commences at the bounds of the said two-mile area and terminates at Rutland railway corporation chaining station 1325+48 and a further strip of land five hundred feet in width in the towns of Canton and DeKalb in the county of St. Lawrence, being two hundred fifty feet on each side of the center line of that portion of the Penn Central transportation company right-of-way extending from the city of Ogdensburg to the town of DeKalb which portion commences at the bounds of the said two mile area and terminates at Penn Central transportation company chaining station 0+0 (mile post 0.0) and all lands and water under and in the St. Lawrence river lying or situated within the boundaries of the city of Ogdensburg subject to the right, title, interest and control of the state under the constitution or any law of the state of New York and subject to the right, title, interest and control of the United States under any law of the United States of America. The Waddington port district should embrace the village of Waddington, and all lands and water under and in the St. Lawrence river and Little river bounded on the east by the northerly extension of the village of Waddington easterly bounds, on the west by the northerly extension of the village of Waddington westerly bounds and on the north by the international boundary line between Canada and the United States excluding therefrom Ogden island and all lands and water under and in the St. Lawrence river lying to the north of Ogden island; and a strip of land five hundred feet in width in the towns of Waddington, Madrid, Louisville and Norfolk being two hundred and fifty feet on each side of the center line of the Norwood and St. Lawrence railroad company extending from the village of Waddington, to and including the village of Norwood and an industrial site of approximately 40 acres adjacent to Norwood and St. Lawrence railroad company mile post number two, subject to the right, title, interest and control of the state under the constitution or any law of the state of New York and subject to the right, title, interest and control of the United States under any law of the United States of America.

§ 1378. Ogdensburg port authority. A board to be known as the Ogdensburg port authority is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation. The board shall consist of five members all of whom shall be residents of the city of Ogdensburg. The members of said authority shall be appointed by the mayor. One member shall be designated by the mayor to serve until December thirty-first, nineteen hundred fifty-eight; one to serve until December thirty-first, nineteen hundred fifty-nine; one to serve until December thirty-first, nineteen hundred sixty; one to serve until December thirty-first, nineteen hundred sixty-one; and one to serve until December thirty-first, nineteen hundred sixty-two. Upon the expiration of the term of a member, a successor shall be appointed by the mayor for a term expiring five years after the expiration of the term of his predecessor. If a vacancy shall occur by reason of a death, disqualification, resignation or removal of a member, the successor shall be appointed by the mayor for the unexpired term. The members of the authority shall, before entering upon the duties of their office, take the constitutional oath of office and file the same in the office of the clerk of the county of St. Lawrence. The authority shall organize by the selection from its members of a chairman, vice chairman, and a secretary. It shall adopt such rules as it may deem necessary and proper for the government of its own proceedings and the regulation and use of port facilities in the district, and shall keep a record of its proceedings. Rules pertaining to the regulation and use of port facilities shall be fair, reasonable and impartial and shall be subject to any law, rule or regulation administered by the interstate commerce commission or the public service commission or the water power and control commission, or any other department or commission of the United States of America or of the state of New York, which has the jurisdiction in such matters and shall not operate to deprive any person or corporation, private or public, of any property without due process of law. A majority of the members of the authority shall constitute a quorum for the transaction of business and the concurrence of a majority of all members shall be necessary to the validity of any order of the authority. A member may be removed by the appointing power for cause after giving such member a copy of the charges and an opportunity to be heard in his own defense in person or by counsel upon not less than ten days' notice. The decision of the appointing power shall be subject to review pursuant to article seventy-eight of the civil practice act. The members of the authority shall serve without compensation but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties.

§ 1379. Purposes and powers of the authority. The authority shall have power over the survey, development and operation of port facilities in such port district as hereinafter more specifically set forth, and the coordination of the same with existing or future agencies of transportation with a view to the increase and efficiency of all such facilities and the furtherance of commerce and industries in the district. It shall make a thorough investigation of port conditions in the district and such other places as it may deem proper and shall prepare a comprehensive plan for the development of port facilities in such district. It shall be provided with an office which shall be located by such authority within the port district and it shall have power to equip the same with suitable furniture and supplies for the performance of the work of the authority. The authority also shall have power to:

(1) Sue and be sued.

(2) Have a seal and alter the same at pleasure.

(3) Confer with the governing body of the city and with any other body or official having to do with port and harbor facilities within and without the district, and to hold public hearings as to such facilities.

(4) Confer with railroad, steamship, warehouse and other officials in the district with reference to the development of transportation facilities in such district and the coordination of the same, and assist and cooperate with the Ogdensburg bridge authority in the establishment, maintenance and operation of a public bus transportation system as authorized by subdivision eighteen of section seven hundred three of this chapter, including the payment of such financial assistance as may be required for the proper functioning of the said public bus transportation system.

(5) Confer with the proper state officials as to means and measures for stimulating use of the Ogdensburg port.

(6) Determine upon the location, type, size and construction of requisite port facilities, subject, however, to the approval of any department, commission or official of the United States of America or

the state of New York where federal or state statute or regulation requires it.

(7) Lease, erect, construct, make, equip and maintain port facilities in the district and for any such purpose to acquire in the name of the authority by purchase, grant, gift or condemnation, except as hereinafter limited, real property, including easements therein, lands under water and riparian rights.

(8) Make surveys, maps and plans for, and estimates of the cost of, the development and operation of requisite port facilities and for the coordination of such facilities with existing agencies, both public and private, with the view of increasing the efficiency of all such facilities in the furtherance of commerce and industry in the city.

(9) Make contracts and leases and to execute all instruments necessary or convenient.

(10) Issue negotiable bonds within the provisions and limitations of this title and to provide for the rights of the holders thereof.

(11) Issue notes within the provisions and limitations of this act.

(11-a) Issue notes or other indentures to the federal government or any agency thereof secured by mortgages on real or personal property acquired from the proceeds of loans or grants or a combination of both obtained from the federal government or any agency thereof.

(12) Fix fees, rates, rentals or other charges for the purpose of all port facilities owned by the authority and collect such fees, rates, rentals and other charges for such facilities owned by the authority, which fees, rates, rentals or other charges shall at all times be sufficient to comply fully with all covenants and agreements with the holders of any bonds issued under the provisions of this act.

(13) Operate and maintain all port facilities owned by it; use the revenues therefrom for the corporate purposes of the authority, and in accordance with any covenants or agreements contained in the proceedings authorizing the issuance of any bonds hereunder.

(14) Have power to regulate and supervise the construction of all port facilities constructed or installed by any private individual or corporation commenced after this act takes effect, and the power to regulate the operation of all privately owned port facilities in so far as such operation may adversely affect the flow of transportation or the enforcement of approved plans for the development of port facilities.

The power granted by this subdivision shall be subject to the rules, regulations or other directives of any federal or state department, commission or other agency having jurisdiction, and such grant of power shall not operate to deprive any person or corporation, private or public, of any property without due process of law.

(15) Accept gifts, grants, loans or contributions from the United States, the state of New York or an agency or instrumentality of either of them, the city of Ogdensburg, or a person or corporation, by conveyance, bequest or otherwise, and to expend the proceeds for any purpose of the authority, and to enter into a contract with the United States, the state of New York or an agency or instrumentality of either of them, to accept gifts, grants, loans or contributions on such terms and conditions as may be provided by law authorizing the same. The city of Ogdensburg is hereby authorized to loan, donate or contribute any available fund to the port authority for any of its corporate purposes, and to appropriate such moneys for such purposes; but the city may not borrow money or otherwise pledge its faith and credit for the purpose of making any such loan, donation or contribution.

(16) Have power to grant and maintain a traffic bureau in connection with the operation of port facilities.

(17) Use the officers, employees, facilities and equipment of the city, with the consent of the city, and of the town, with the consent of the town, paying a proper portion of the compensation or cost.

(18) Appoint officers, agents and employees and fix and determine their qualifications, duties and compensation subject to the provisions of the civil service law of the state of New York and such rules as the civil service commission of the city of Ogdensburg may adopt and make applicable to such authority.

(19) Designate the depositories of its moneys.

(20) Have power to do all things necessary to promote and to make Ogdensburg bridge, harbor and its port facilities and industrial projects useful and productive and to assist and cooperate with the Ogdensburg bridge authority and other public agencies for such purposes.

(21) Negotiate with the officials of the city of Ogdensburg for the acquisition of the Ogdensburg international airport, to acquire such airport, and when so acquired, to operate, maintain and improve such airport and to construct, extend, operate and maintain runways, hangars,

shops, passenger stations, control towers, and all facilities necessary or convenient in connection with a modern international airport; to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions; all on such terms and conditions as it may determine subject to all federal, state and local regulations.

(22) Proceed with the development of the port district and to improve, construct, develop, reconstruct and update such facilities as it may deem necessary including the leasing or rental of its properties and facilities for public or private purposes in order to make the development thereof economically feasible; provided, however, that no lease shall be made for a period of more than thirty years from the date of its execution.

(23) Make application to the Foreign-Trade Zones Board established by the act of Congress, approved June eighteenth, nineteen hundred thirty-four, entitled "an act to provide for the establishment, operation and maintenance of foreign trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," for a grant to such authority of the privilege of establishing, operating and maintaining a foreign trade zone on premises owned by such authority within the county of St. Lawrence, pursuant to the provisions of such act, and if such application be granted, to accept such grant and to establish, operate and maintain such zone in accordance with law.

(24) To develop and establish an industrial park on lands acquired or to be acquired by the authority for the purposes of building, constructing or causing the building or constructing of industrial projects thereon.

(25) To arrange or contract with a municipality for the planning, replanning, opening, grading or closing of streets, roads, roadways, alleys or other places or for the furnishing of facilities or for the furnishing of services in connection with an industrial project.

(26) To sell, lease, assign, transfer, convey, exchange, mortgage, or otherwise dispose of or encumber any industrial project, and in the case of the sale of any industrial project, to accept a purchase money mortgage in connection therewith; and to lease, repurchase or otherwise acquire and hold any industrial project which the authority has

theretofore sold, leased or otherwise conveyed, transferred or disposed of.

(27) To grant options to purchase any industrial project or to renew any leases entered into by it in connection with any industrial project, on such terms and conditions as it may deem advisable.

(28) To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration or repair of any industrial project, and from time to time to modify such plans, specifications, designs or estimates.

(29) In connection with any property on which it has made a mortgage loan, to foreclose on any such property or commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; and in such event the corporation may complete, administer, pay the principal of and interest on any obligations incurred in connection with such property, dispose of, and otherwise deal with such property, in such manner as may be necessary or desirable to protect the interests of the authority therein.

(30) To borrow money and to issue its negotiable bonds and notes in connection with any industrial project and to provide for the rights of the holders thereof.

(31) As security for the payment of the principal and interest on any bonds issued in connection with any industrial project and any agreements made in connection therewith, to mortgage and pledge any or all of its industrial projects and to pledge the revenues and receipts therefrom or from any industrial project thereof, and to assign or pledge the lease or leases on any portion or all of said industrial projects and to assign or pledge the income received by virtue of said lease or leases.

(32) To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement, at the discretion of the authority, in obligations of the state, or of the United States government, or obligations the principal and interest of which are guaranteed by the state or the United States government.

(33) The authority may acquire by purchase, gift, grant, transfer,

contract or lease any railroad transportation facility and may on such terms and conditions as the authority may determine necessary establish, construct, effectuate, operate, maintain, renovate, improve or repair such line of railroad.

(34) The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities through, and cause any one or more of its powers, duties, functions or activities to be exercised or performed by, one or more wholly owned subsidiary corporations of the authority and may transfer to or from any such corporation any moneys, real property or other property for any of the purposes of this title. The directors or members of each such subsidiary corporation shall be the same persons holding the offices of members of the authority. Each such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. Each such subsidiary corporation shall be subject to the restrictions and limitations to which the authority may be subject. Each such subsidiary corporation shall be subject to suit in accordance with section thirteen hundred sixteen of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

If the authority shall determine that one or more of its subsidiary corporations should be in the form of a public benefit corporation, it shall create each such public benefit corporation by executing and filing with the secretary of state a certificate of incorporation, which may be amended from time to time by filing, which shall set forth the name of such public benefit subsidiary corporation, its duration, the location of its principal office, and any or all of the purposes of acquiring, owning, leasing, establishing, constructing, effectuating, operating, maintaining, renovating, improving, extending or repairing one or more facilities of the authority. Each such public benefit subsidiary corporation shall be a body politic and corporate and shall have all those powers vested in the authority by the provisions of this title which the authority shall determine to include in its certificate of incorporation except the power to contract indebtedness.

Whenever any state, political subdivision, municipality, commission, agency, officer, department, board, division or person is authorized and empowered for any of the purposes of this title to cooperate and enter into agreements with the authority such state, political subdivision, municipality, commission, agency, officer, department, board, division or person shall have the same authorization and power for any of such purposes to cooperate and enter into agreements with a subsidiary corporation of the authority.

§ 1380. Orders, service thereof, and penalties. The authority may make, and cause to be served upon any corporation or individual, within the port district, excepting the city, any reasonable order which it may determine to be necessary for the proper development, maintenance and use of the port, relating to the construction, equipment, repair, maintenance, use and rental of any dock, wharf, slip, terminal or warehouse owned or leased by any such corporation or individual within the district. There shall be served with a copy of the order a notice specifying a day, not less than ten days after such service, when such corporation or individual may appear before the authority, present written objections to the making of the order and be heard on such objections. If no such objections are filed within the time stated, or if the order be sustained as the result of such hearing, either on its original or modified form, such order shall be final, subject only to review by a court of competent jurisdiction. When an order of the authority shall become final, including termination of any court proceeding sustaining the order, or of the time for beginning such a proceeding if none be brought, if the corporation or individual shall fail to obey it, or if any corporation or individual shall violate a lawful rule of the authority, the authority may commence and maintain an action or proceeding in an appropriate court having jurisdiction, for the purpose of having such disobedience to an order or violation of a rule prevented or obedience enforced, either by mandamus or injunction.

§ 1381. Investigations. The authority, and any member thereof, when directed by the authority, may make any investigation which the authority may deem necessary to enable it effectually to carry out the provisions of this act, and for that purpose the authority, or such member, may take and hear proofs and testimony and compel the attendance of witnesses and the production of books, papers, records and documents, including public records. The authority, and its authorized agents, may enter upon any lands as in its judgment may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this act, the authority being liable for actual damage done.

§ 1382. Real estate and title thereto. 1. The authority may lease or acquire title to real and personal property including water front property, ferries, bridges, wharf property, land under water, public landings, wharves and docks in the name of "Ogdensburg port authority" by purchase, grant or gift from the city of Ogdensburg, state of New York, United States of America, or from any corporation or individual for the development of port facilities in the district, and shall have the power to sell, subject to approval by order of the supreme court, lease or otherwise dispose of said real property and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes. Any instrument affecting real property shall be signed by the chairman of the authority, attested by its secretary and have the seal of the authority affixed thereto.

2. Authority is hereby conferred upon the city to give, lease, sell, grant and convey real and personal property including water front property, ferries, bridges, wharf property, land under water, public landings, wharves and docks to the authority, with or without consideration as such city shall determine.

3. The authority shall have power to condemn real property located within its territorial limits and owned by any person or corporation, excepting a person or corporation subject to the jurisdiction, supervision and regulation of the public service commission, which the authority deems necessary for the development of port facilities in the

district. The authority shall exercise the power of condemnation hereby granted in the manner provided in the condemnation law.

4. The authority and the city may enter into contracts for the acquisition by the city or the authority of real property for the benefit of and in the name of the city for the purpose of widening existing streets, avenues, parkways, roads or highways or for new streets, avenues, parkways, roads or highways to port facilities within the port district, or partly for such purpose and partly for other city purposes. Such contracts may provide for the work of improvement by the city. The city may close such streets, avenues, parkways, roads or highways as may be necessary or convenient.

§ 1383. Grants from commissioner of general services. 1. The commissioner of general services shall have power, in his discretion, from time to time to transfer and convey to the authority for such consideration as may be determined by him to be paid to the state of New York unappropriated state lands and lands under water which the authority shall certify to be necessary or desirable for the corporate purposes of the authority. The state hereby further authorizes the commissioner of general services, with the consent of the commissioner of mental hygiene and approval of the director of the budget, to grant to the authority a portion of the lands of the Saint Lawrence state hospital located in the county of Saint Lawrence, upon such terms and conditions, including consideration, as such commissioner may determine. The portion of such lands of such hospital herein authorized to be granted shall be taken from the southerly end of the hospital property adjacent to state highway route number thirty-seven, together with two parcels of land acquired by two deeds, one from Orville Cruikshank and Cora Cruikshank McEwen, dated October 11, 1945, and recorded in Saint Lawrence county clerk's office on November 8, 1945, in Liber 365 of deeds at page 47, containing 96.42 acres, more or less, and the other from Hubert Webb and Irene Webb, dated October 13, 1945, and recorded in the Saint Lawrence county clerk's office on November 8, 1945, in Liber 365 of deeds at page 45, containing 34 acres, more or less, such lands being former farm lands of such hospital. The department of transportation shall make an accurate survey of the parcels of such farm land to be granted and the grant to the authority may describe the land according to such survey. The land so conveyed by the state to the authority shall be utilized and developed by the authority for the establishment of an industrial park.

2. Actual payment of the consideration for the grant as determined by the commissioner of general services shall not be required as a condition precedent to the issuance of such grant, but the amount thereof shall be certified by the commissioner to the state comptroller and shall be deemed an advance to the authority by the state, to be repaid out of the port facilities development fund herein provided for unless the authority shall issue bonds for the development of such facilities, in which event the advance to the authority by the state shall be repaid to the state out of the first proceeds of such issue of bonds.

3. The authority shall establish and maintain a port facilities development fund and shall cause all moneys received by it from the operation of such port facilities to be deposited in such fund for the payment of all costs of operation, maintenance and repair of the port facilities and the repayment to the people of the state of New York of any advance made by the state to the authority, which repayment to the people of the state of New York shall not exceed in any one year fifty per centum of the moneys received by the authority in excess of the costs of operation, maintenance and repair of said port facilities.

4. Upon the issuance of said lease or grant by the commissioner of general services pursuant to this act the authority shall assume all expense of or incidental to the operation, maintenance, repair and administration of said port facilities.

5. Except as to moneys and rates accrued thereunder at the time of vesting in the authority all the right, title and interest of the state in and to said port facilities as herein provided, and as incident thereto, there shall also vest in the authority all the right, title and interest of the state in and to and in connection with the following

contracts, agreements and permits with third persons: (a) any and all executory contracts, agreements and permits for the use of said port facilities by third persons as tenants, licensees, or otherwise, or for the docking, mooring or anchorage thereat of vessels owned by third persons, or for the loading, unloading, handling, storage, processing or manipulation of grain, freight, or other property of third persons, or for the rendering of any other services to third persons at said pier properties as wharfinger or warehouseman or otherwise; (b) any and all executory contracts and agreements for the furnishing by third persons of electricity, gas, steam, water or telephone service at said port facilities.

6. The authority shall not grant or convey title to said port facilities to any person or legal entity other than the people of the state of New York.

7. If the authority shall violate any of the conditions herein set forth or such other conditions as the board of commissioners of the land office heretofore included in any lease or grant of said port facilities or any other conditions as the office of general services may include in any lease or grant of said port facilities and such violation of any of said conditions shall not have been remedied by the authority within ninety days after the giving of notice of the existence of such violation by the commissioner of transportation of the state of New York, then at the option of the state such port facilities shall revert to the people of the state of New York.

8. If the port facilities revert to the people of the state of New York they shall be and shall be deemed to be unappropriated state lands.

§ 1383-a. Sale or lease of industrial projects. Notwithstanding the provisions of any general, special or local law, subject to any agreement with noteholders or bondholders, the authority may sell or lease any industrial project, without public bidding or public sale, for such price or rental and upon such terms as may be agreed upon between the authority and such purchaser or lessee, either prior to, at the date of, or subsequent to the completion of the industrial project by the authority, provided, however, that in the case of a lease, the term thereof shall not exceed thirty years. Where such contract for sale or lease is entered into after the commencement of construction and prior to the physical completion of the improvement to be conveyed or leased, the authority may complete the construction and development of such improvement prior to the actual conveyance or lease.

§ 1384. Right of entry upon streets. The authority, with the consent of the city, or of the state department of transportation, if required, may enter upon streets, avenues, parkways, roads, highways, bridges or other public places for the construction of a project or part thereof or of an addition, betterment or extension to the port facilities. Whenever the authority has entered upon and damaged a street, avenue, parkway, road, highway, bridge, or other public place, the authority shall restore the same to its former condition.

§ 1385. Contracts; manner of letting. Where the expense of the construction of a project, of a part thereof, or an addition, betterment or extension to the port facilities, or the purchase of materials, supplies and equipment involves an expense exceeding two thousand dollars, the authority shall advertise for bids and shall award the contract to the lowest responsible bidder fully complying with the plans and specifications. Such advertisement shall be published once, not less than one week prior to the date fixed for the opening of bids, in one newspaper having a general circulation in the city of Ogdensburg. The authority may make rules and regulations for the submission of bids and award of contract thereon and may provide in such rules and regulations that no performance, bond or undertaking need be furnished by the contractor for the purchase of materials, supplies and equipment in an amount not exceeding two thousand dollars. No contract shall be entered into for the construction of a project, or part thereof, or for an addition, betterment or extension to the facilities or for the purchase of materials, supplies and equipment in an amount exceeding two thousand dollars unless the contractor shall give an undertaking with a sufficient surety or sureties approved by the authority and in the amount fixed by the authority for the faithful performance of the contract. As to a contract entered into for the construction, the undertaking shall provide, among other things, that the person or corporation entering into such a contract will pay for all materials furnished and services rendered in the performance of the contract and that a person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation were named therein, provided the action is brought within one year after the time the cause of action accrued. In case of public emergency involving accident or other damage by which the port facilities, or any part thereof, shall become disabled, the authority may cause all necessary repairs thereto to be made without advertisement, bidding and the letting of a formal contract therefor.

§ 1386. Fiscal year. The fiscal year of the authority shall be determined by resolution of the authority.

§ 1387. Special port development and improvement powers. 1. The authority shall have power to make rules and regulations: (a) for the development, improvement, promotion, preservation and utilization of the port district and projects, including the Ogdensburg municipal airport and the industrial park development on lands wholly or in part acquired pursuant to the provisions of subdivision one of section thirteen hundred eighty-three of this chapter; and (b) for the payment and collection of fees, charges, rentals and other receipts from its properties and facilities within the port district, including the Ogdensburg municipal airport and the industrial park development, which fees, charges, rentals and other receipts are hereinafter referred to as "port revenue." Until such time as the state of New York is fully reimbursed by the authority for the total amount of money advanced by the state to the authority no rule, regulation, schedule or rate in relation to or governing port revenue shall become effective or controlling unless approved by the director of the budget of the state of New York.

2. Until such time as the state of New York is fully reimbursed for the total amount of money advanced by the state to the authority all port revenue received by the authority shall be paid to the state comptroller as agent of the authority and deposited in a separate bank account or accounts to be known as the "Ogdensburg port fund." The moneys in such fund shall be available subject to the approval of the director of the budget of the state of New York for the payment of any and all costs and expenditures incurred in relation to the acquisition of property, construction, equipment, maintenance, repair, operation and improvement of the industrial park development, port and airport. The moneys of the Ogdensburg port fund when made available shall be paid from such fund on the audit and warrant of the state comptroller on vouchers approved solely by the chairman of the authority or his duly designated officer.

3. All moneys in the Ogdensburg port fund in excess of the sum of two hundred thousand dollars shall on the first day of each month be paid by the authority to the state comptroller provided, however, that effective June thirty, nineteen hundred seventy-eight, the director of the budget and the authority shall establish within the provisions of a written agreement between the authority and the director providing for the repayment to the state by the authority of state advances, the maximum amount of moneys which the authority may retain in the Ogdensburg port fund. The comptroller is hereby authorized to receive from the authority such amounts as shall be paid to the comptroller pursuant to the provisions of this section and to credit all such amounts to the capital construction fund. Upon certification by the state comptroller that all moneys due the state have been paid in full, the remaining balance of such fund shall be available to such authority and may be used by such authority for any corporate purpose. The accounts of the authority shall be subject to examination by the state comptroller. The state comptroller is hereby authorized and empowered to examine the accounts and books of the authority at such periods of time he may deem necessary, including its receipts, disbursements, contracts, leases and any other matters relating to its financial standing and fiscal affairs.

4. The provisions of this section and section thirteen hundred eighty-three shall not apply to the Waddington port district nor shall it apply to the acquisition, operation, utilization, management, promotion and improvement at Ogdensburg of the Rutland Railway Corporation dock terminal, facilities, appurtenances and the Rutland Railway Corporation right-of-way, facilities and appurtenances within the port district, in the event the authority obtains a federal loan or grant or a combination of both to finance the acquisition and development of such Rutland Railway Corporation property within the port district, provided, however, that the state of New York be fully reimbursed for any advances made for these specific purposes as defined in this subdivision, except that such right of reimbursement shall be subordinate to the rights of holders of any obligations issued by the authority pursuant to the terms and conditions applicable to any such federal loan or grant or combination of both.

5. Nothing in this section shall prevent the authority and the state from entering into an agreement for the establishment of a revolving fund to be used to pay part of or all of the authority's operating expenses. This revolving fund shall be initially funded with moneys advanced from the Ogdensburg port fund and shall be replenished from time to time from such funds upon the audit and warrant of the comptroller.

§ 1388. Bonds of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue negotiable bonds in conformity with applicable provisions of the uniform commercial code for any corporate purpose of the authority, including the paying, funding or refunding of any notes theretofore issued by the authority under the provisions of section thirteen hundred eighty-nine of this act. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Except as may be otherwise expressly provided by contract between the authority and the holders of its bonds, all bonds of the authority shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds the payment of which is secured by a pledge of particular moneys or revenues.

2. Such bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding five per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption prior to maturity, at par or a price not exceeding one hundred five per centum of the face value, as such resolution or resolutions may provide. Such bonds may be sold, with or without advertisement, in such manner as the authority shall determine by resolution. If advertisement is made, a notice of sale shall be published at least once, not less than ten nor more than forty days before the date of sale, in a newspaper published and circulated in the city of Ogdensburg and in a financial newspaper published and circulated in the city of New York and designated by the board. The notice shall call for the receipt of sealed bids and shall fix the date, time and place of sale. Bonds shall be sold at such price or prices as will yield to the purchasers income at a rate not exceeding five per centum per annum to the maturity dates of said bonds, computed in accordance with standard tables of bond values.

3. Any resolutions authorizing the issuance of any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to:

a. Pledging all or any part of the gross or net revenues of the authority to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

b. The rentals, fees and other charges to be charged for the use of projects of the authority, and the amounts to be raised in each year thereby, and the use and disposition of revenues of the authority;

c. The setting aside of reserves or sinking funds and the regulation and disposition thereof;

d. The appointment of a bank or banks or trust company or trust companies as trustee or trustees for the custody and disposition of any moneys of the authority, including the proceeds of any bonds or other obligations and any revenues or income of the authority, and the execution of any trust agreements or indentures with such trustee or trustees with such provisions as may be deemed necessary or desirable in connection with the custody and disposition of such moneys of the authority and the rights and remedies of the holders of such bonds;

e. Limitations on the right of the authority to restrict and regulate the use of projects of the authority;

f. Limitations of the purpose to which the proceeds of the sale of any issue of bonds then or thereafter to be issued may be applied;

g. Limitations on the issuance of additional bonds, including the terms upon which additional bonds may be issued and secured;

h. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must give consent thereto, and the manner in which such consent may be given; and

i. Any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. Any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made. The revenues or other moneys so pledged and thereafter received by the authority shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any

kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability by reason of the issuance thereof, excepting solely for things willfully done or willfully omitted to be done with an intent to defraud.

6. The authority shall have power out of any funds available therefor to purchase any of its outstanding bonds at a price not more than the then redemption price of such bonds. All bonds so purchased shall be cancelled.

7. Issuance by the authority of one or more series of bonds for one or more purposes in connection with any industrial project shall not preclude it from issuing other bonds in connection with the same industrial project or any other industrial project, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds unless in the proceedings authorizing such prior issue the right is reserved to issue subsequent bonds on a parity with such prior issue.

§ 1389. Notes of the authority. The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code whenever the board shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide moneys to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. Such notes may be renewed from time to time but such notes, including the renewals thereof, shall mature not later than five years from the date upon which such notes are issued. Such notes shall be issued in the same manner and subject to the same restrictions as to price and interest rate as bonds, except that the board may determine the manner in which such notes shall be sold. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

Issuance by the authority of one or more series of notes for one or more purposes in connection with any industrial project shall not preclude it from issuing other notes in connection with the same industrial project or any other industrial project, but the proceedings whereunder any subsequent notes may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of notes unless in the proceedings authorizing such prior issue the right is reserved to issue subsequent notes on a parity with such prior issue.

§ 1390. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of St. Lawrence and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name,

(a) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of St. Lawrence.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or

parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercising of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1391. Exemption from taxation. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of Ogdensburg and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this act and shall be required to pay no taxes or assessments upon any of the properties acquired by the authority or under its jurisdiction, control or supervision, or upon its activities. Bonds or notes issued pursuant to this act, together with the income therefrom, as well as the property of the authority shall be exempt from taxation except for transfer and estate taxes.

§ 1392. Agreement of state on authority rights. The state of New York does pledge to and with the bondholders that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate a project or projects, to establish and collect rates, fees, rentals and other charges, and to fulfill the terms of agreements made with the bondholders, or in any way impair the rights and remedies of the bondholders until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the bondholders are fully met and discharged. No provision of this title shall be deemed to limit the power of the legislature to authorize the state or a political subdivision thereof to acquire properties of the authority and pay the indebtedness thereof.

§ 1393. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1394. Bonds legal investments. The bonds of the authority are hereby made securities in which all public officers and bodies of the state of New York and all municipalities and municipal subdivisions thereof, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons, except as hereinafter provided, who are now, or may hereafter be, authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them, provided that, notwithstanding the provisions of any other general or special law to the contrary, the bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state of New York and all municipalities and municipal subdivisions thereof for any purpose for which the deposit of bonds or other obligations of the state is now, or may hereafter be, authorized.

§ 1395. No control by other boards or commissions. Except as herein otherwise expressly provided, the authority, in the issuance of its bonds or other obligations, and in the exercise of its powers provided in this act for the fixing, charging and collecting of fees, rentals, or other charges, shall not be subject to the jurisdiction, control or regulation of any commission, department, board, officer, or agency of the city, or of the state or any political subdivision thereof.

§ 1396. Punishment for irregular demeanor of members or employees of authority. It shall be a misdemeanor for a member of the authority or an officer, agent, servant or employee employed by or appointed by the authority, to be in any way or manner interested, directly or indirectly, as principal, surety or otherwise, in a contract, the expense or consideration whereof is payable out of the funds of the authority.

§ 1397. Actions against authority. In any case founded upon a tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority and the provisions of section fifty-e of the general municipal law shall apply. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

§ 1398. Separability. If any clause, sentence, paragraph, part or provision of this title shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional, ineffective or invalid, such judgment shall not affect, impair or invalidate the remainder of this title, but shall be confined in its operation to the clause, sentence, paragraph, part or provision thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1399. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

ARTICLE 7

PARKING AUTHORITIES

TITLE 2

WHITE PLAINS PARKING AUTHORITY

§ 1425. Short title. This title may be cited as the "White Plains parking authority act".

§ 1426. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section one thousand four hundred twenty-seven of this title;

2. The term "city" shall mean the city of White Plains;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate;

6. The term "project" shall mean any area or place operated or to be operated for the parking or storing of motor and other vehicles and shall, without limiting the generality of the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, machinery, apparatus and equipment, and all appurtenances and facilities either on, above or under the ground which are determined to be necessary or convenient in connection with the operation of any such area or place;

7. The term "projects" shall mean more than one project.

8. The term "bonds" shall mean bonds, notes or other obligations issued by the authority pursuant to this title;

9. The term "construction", as applied to any project, shall include the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension thereof, as the case may be, including the inspection and supervision thereof, and the engineering, architectural, legal, fiscal and economic investigations, studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto;

10. The term "cost", as used with reference to any project or other corporate purpose of the authority, shall include the cost of the construction, the cost of the acquisition of all property, including real and personal property, improved or unimproved, and the cost of demolishing, removing or relocating any buildings, structures or other improvements on lands acquired for the project, the cost of all

machinery, apparatus and equipment, the cost of all appurtenances and incidental facilities, financing charges, interest prior to and during construction, the cost of engineering and architectural surveys, plans and specifications, the cost of legal and other professional services, the cost of lease guarantee or bond insurance, other expenses necessary or incidental to the construction of the project and the financing thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of the project in operation, including reimbursement to the city, any state agency, the state, the United States government, or any other person, for expenditures made with the prior approval of the authority, that would be costs of the project hereunder had they been made directly by the authority;

11. The term "revenues" shall mean all rates, fees, rents, charges and all other income derived by the authority from its operations; and

12. The term "state" shall mean the state of New York.

§ 1427. White Plains parking authority. 1. A board to be known as "White Plains parking authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation. It shall consist of a chairman and six other members, who shall be appointed by the mayor of the city. On or before the first day of July, nineteen hundred eighty, the mayor shall appoint four members, two for terms of office expiring on the thirtieth day of June, nineteen hundred eighty-two, and two for terms of office expiring on the thirtieth day of June, nineteen hundred eighty-three. The two members appointed for terms of office expiring on the thirtieth day of June, nineteen hundred eighty-two, shall be deemed to have been appointed to fill two existing vacancies in such board occurring by the expiration of the terms of office of two members heretofore appointed for terms expiring on the thirtieth day of June, nineteen hundred seventy-nine. Each of three members whose term of office expires on the thirtieth day of June, nineteen hundred eighty-one, shall continue to serve until such date or until the appointment and qualification of his successor. The terms of office of all successor members shall be three years, so that the term of office of one-third of such members, as nearly as possible, shall expire on the thirtieth day of June in each year. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The mayor may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper.

2. It is hereby determined and declared that the authority and the carrying out of its powers, purposes, and duties are in all respects for the benefit of the people of the city of White Plains and the state of New York, for the improvement of their health, welfare and prosperity and that said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 1428. Purpose and powers of the authority. The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire by purchase, grant, lease, gift, condemnation or otherwise, and use real property necessary or convenient for its corporate purposes and to sell, convey, mortgage, lease, pledge, exchange, or otherwise dispose of such property in such manner as the authority may determine; provided that the location of the site of any project shall be subject to the prior approval of the planning board of the city. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the eminent domain procedure law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees, and facilities of the city, including the corporation counsel, paying to the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To make contracts and leases, and to execute all instruments necessary or convenient;

9. To construct such buildings, structures and facilities as may be necessary or convenient;

10. To construct, develop, maintain and operate the projects and to contract in relation thereto with the city and with other persons, and to sell, lease or otherwise dispose of any project or part thereof to

any person, provided such person shall undertake to operate and maintain any project or part thereof subject to such conditions and limitations as the authority may determine to be in the public interest and consistent with its public purposes;

11. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, and to expend the proceeds for any purposes of the authority;

12. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

13. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine.

14. To enter into agreements with one or more financing agencies to provide for the acceptance by the authority of credit cards as a means of payment of rentals, rates, fees and other charges owed by a person to the authority. Any such agreement shall govern the terms and conditions upon which a credit card proffered as means of payment of a fee, rate, rent or other charge shall be accepted or declined and the manner in and conditions upon which the financing agency shall pay to the authority the amount of fees, rates, rents or other charges paid by means of a credit card pursuant to such agreement. Any such agreement may provide for the payment by the authority to such financing agency of fees for the services provided by such financing agency pursuant to such agreement, which fees may consist of a discount deducted from or payable in respect to the amount of such fee, rate, rent or other charge or otherwise as the agreement may provide. If the authority has entered into an agreement pursuant to this subdivision, it may accept credit cards as a means of payment of fees, rates, rents or other charges, as provided in any such agreement and may pay such fees as are specified in

such agreement to such financing agency thereunder. The authority may promulgate any rules or regulations necessary to carry out the provisions of this subdivision. For the purposes of this subdivision, the terms "credit card," "financing agency" and "person" shall have the same meaning as provided in subdivision (a) of section five of the general municipal law.

§ 1429. Civil service status of officers and employees. Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

Notwithstanding the provisions of this chapter nor the provisions of any other law, rule or regulation, the position and title of director of the White Plains parking authority is hereby established. Such position shall be in the unclassified service as defined in the civil service law.

Notwithstanding the provisions of this chapter or the provisions of any other law, rule or regulation, the positions and titles of deputy director I and deputy director II of the White Plains parking authority are hereby established. The positions of deputy director I and deputy director II shall be in the exempt class of the classified civil service as defined in the civil service law.

§ 1430. Conveyance of property by the city to the authority; acquisition of property by the city. 1. The city may, by resolution or resolutions of the common council or by instruments authorized by such resolutions, convey, with or without consideration, to the authority title to real and personal property owned by the city for use by the authority as a project or projects or a part thereof.

2. The city may acquire real property to be conveyed to the authority pursuant to subdivision one of this section or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any of the projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. The city may close such streets, roads, parkways, avenues, or highways as may be necessary or convenient.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, parkways, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, parkway, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The common council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of

the city thereafter made, if and to the extent that they may appropriately be included therein.

4. In case the authority shall determine that real property acquired at the cost and expense of the city is no longer required for its corporate purposes, the authority shall have power, subject to such agreements with bondholders as may then exist, to reconveying such real property to the city without consideration.

§ 1431. Public work contracts. The authority shall let contracts for public work in the same manner, so far as practicable, as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed five thousand dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

§ 1432. Moneys of the authority. All moneys of the authority shall be paid to the commissioner of finance of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the commissioner of finance on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the commissioner of finance. All deposits of such moneys shall, if required by the commissioner of finance or the authority, be secured by direct or guaranteed obligations of the United States or its agencies or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The commissioner of finance and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

The accounts of the authority shall be subject to the supervision of the state comptroller.

§ 1433. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its bonds in conformity with applicable provisions of the uniform commercial code in such principal amounts as may be determined by the authority to be necessary to pay all or part of the cost of any project or any other corporate purpose. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or

registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at private sale subject to the approval of the state comptroller or at a public sale for such price or prices as the authority shall determine.

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

(a) pledging all or any part of the revenues derived by the authority from the ownership or operation of, or otherwise in connection with, any project or projects or any part or parts thereof to secure the payment of the bonds, or of any issue thereof, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of revenues;

(c) the creation and setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand four hundred thirty-nine hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other security instrument by which a pledge is created need be recorded or filed.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects, and the custody, safeguarding and

application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section one thousand four hundred thirty-two, the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section one thousand four hundred thirty-nine upon a trustee appointed by bondholders.

§ 1435. Agreements of the state. 1. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city of White Plains, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas or places except those constructed by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members of which are elected or are appointed by city

officials, until all bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or adequate provision has been made for the payment thereof.

§ 1436. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1437. Bonds legal investments for public officers and fiduciaries. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1438. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

§ 1439. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Westchester and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Westchester.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all revenues or other moneys and other property derived from or applicable to the construction, operation and maintenance of such part or parts of the project and proceed with the acquisition of any real property necessary or convenient in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate and maintain such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any

functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1440. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limit established by, and in compliance with all requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1441. Termination of the authority and disposition of properties. The authority and its corporate existence shall continue only to the thirtieth day of June, two thousand four, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

§ 1442. Title not affected if in part unconstitutional or ineffective.

If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1443. Inconsistent provisions in other acts superseded. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* TITLE 3-A

CITY OF ROME PARKING AUTHORITY

ineffective.

1470-s. Inconsistent provisions in other acts superseded.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470. Short title.** This title may be cited as the "City of Rome parking authority act".

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-a. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section fourteen hundred seventy of this title;

2. The term "city" shall mean the city of Rome;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other

vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles;

7. The term "projects" shall mean more than one project.
* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-b. City of Rome parking authority.** A board to be known as "City of Rome parking authority" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of five members appointed by the mayor with the approval of the common council. The appointment of the chairman shall be made by the mayor for a term of five years. Of the other members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, and one for a period of four years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of such term, shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The mayor may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only to the thirty-first day of December, two thousand, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city of Rome.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-c. Purpose and powers of the authority.** The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the city by purchase or condemnation, and use real property necessary or convenient. All real property acquired by condemnation by the authority shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees, and facilities of the city, including the corporation counsel, paying to the

city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To make contracts and leases, and to execute all instruments necessary or convenient;

9. To construct such buildings, structures and facilities as may be necessary or convenient;

10. To reconstruct, improve, maintain and operate the projects;

11. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them or the city, and to expend the proceeds for any purposes of the authority;

12. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

13. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city of Rome, or any agency of the authority or city, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title, and provided further that the location of sites of the projects shall be subject to the prior advice of the planning board of the city.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per §

1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-d. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-e. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority.** 1. The city may, by resolution or resolutions of the common council or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire by purchase or condemnation real property in the name of the city for any of the projects or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any of the projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. The city may close such streets, roads, parkways, avenues, or highways as may be necessary or convenient.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, parkways, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, parkway, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The authority may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the authority may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may itself acquire real property for a project in the name of the city at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the city. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such real property was acquired at the cost and expense of the city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell at public auction, lease or otherwise dispose of said real property and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-f. Construction contracts.** The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed twenty-five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-g. Moneys of the authority.** All moneys of the authority shall be paid to the treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer of the city on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the authority. All deposits of such moneys shall, if required by the city of Rome or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer of the city and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall render a complete account of its proceedings to the city at such time or times as requested to do so by said city.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-h. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purpose mentioned in section fourteen hundred seventy-c hereof, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding fifteen million dollars outstanding at any one time. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under article eight of the uniform commercial code the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times not exceeding thirty years from their respective dates, bear interest at such rate or rates payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine.

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

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers, and duties of the trustees appointed by the bondholders pursuant to section fourteen hundred seventy-o hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further

act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including convenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section fourteen hundred seventy-o of this title the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section fourteen hundred seventy-o

upon a trustee appointed by bondholders.
* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-i. Notes of the authority.** The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time seven hundred fifty thousand dollars, over and above the amount of bonds authorized by subdivision one of section 1470-h of this title, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.
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*** § 1470-j. Agreements of the state.** 1. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city of Rome, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas or spaces except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members of which are elected or are appointed by such officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

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*** § 1470-k. State and city not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

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*** § 1470-l. Bonds legal investments for public officers and fiduciaries.** The bonds are hereby made securities in which all public officers, and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

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*** § 1470-m. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Rome and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

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* **§ 1470-n. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

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* **§ 1470-o. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Oneida and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

(a) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Oneida.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any real property necessary or convenient in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the

trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per § 1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

*** § 1470-p. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limit established by, and in compliance with all requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB City of Rome Parking Authority ceased to exist 12/31/2000 per §

1470-b, and thereafter until all liabilities have been met/discharged, and all bonds paid/discharged

***§ 1470-q. Termination of the authority.** Whenever all of the bonds issued by the authority shall have been redeemed or canceled, and all its liabilities met or discharged, and the termination date of its corporate existence as set forth in section fourteen hundred seventy-b of this title shall have been reached, the authority shall cease to exist and all rights, titles and interests and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Rome.

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***§ 1470-r. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

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*** § 1470-s. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

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TITLE 4

SYRACUSE PARKING AUTHORITY

§ 1475-a. Short title. This title may be cited as the "Syracuse parking authority act".

§ 1475-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section fourteen hundred seventy-five-c of this title;

2. The term "city" shall mean the city of Syracuse;

3. The term "bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title relating to bonds and bondholders and shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires;

4. The term "board" shall mean the members of the authority;

5. The term "employee" or "employees" shall include employees of a contractor described in section fourteen hundred seventy-five-e of this title;

6. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within such term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the city;

7. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground, which are used or useable in connection with such parking or storing of such vehicles, in the area of the city; and

8. The term "projects" shall mean more than one project.

§ 1475-c. Syracuse parking authority. 1. A board to be known as "city of Syracuse parking authority" is hereby created. Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as provided in this section. It shall consist of a chair and four other members, who shall be appointed by the mayor of the city. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his or her successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice chair and may choose a secretary and treasurer who need not be members. The mayor may remove any member of the board for neglect of duty or misconduct in office, giving such member a copy of the charges against him or her and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of fifteen years, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

2. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public authority shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer or employee of the authority, nor shall service as such member, officer or employee be deemed incompatible or in conflict with such office, membership or employment.

3. The mayor shall file on or before December thirty-first of the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the mayor setting forth: (a) a name of the authority; (b) the names of the members appointed by the mayor and their terms of office; and (c) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

§ 1475-d. Purpose and powers of the authority. The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out such purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the city by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the eminent domain procedure law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees and facilities of the city, paying to the city its agreed proportion of the

compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of section fourteen hundred seventy-five-c of this title;

8. To appoint an attorney, who may be the corporation counsel, and to fix his or her compensation;

9. To make contracts and leases, and to execute all instruments necessary or convenient;

10. To construct such buildings, structures and facilities as may be necessary;

11. To reconstruct, improve, maintain and operate the projects;

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as provided in this title;

14. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city, nor any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title; and

15. To do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 1475-e. Contract for employees. 1. The authority is hereby authorized to enter into a contract under which the contractor would provide employees to the authority for the purpose of operation and maintenance of the projects of the authority. The authority shall not begin operation of any project until such a contract shall be in force. Such contract shall provide that all employees engaged in the operation and maintenance of any authority project shall be employees of the contractor and not employees of the authority, and such employees shall receive their total compensation and employee benefits directly from the contractor. Except for titles that would be determined to be management or confidential pursuant to title fourteen of the civil service law, the authority shall have no employees other than the employees of the contractor pursuant to the contract referred to in this section.

2. Every contract entered into under subdivision one of this section shall require that the wages to be paid to any employees engaged in the operation and maintenance of any authority project shall be not less than wages that are comparable to those paid to employees doing similar work in the city of Syracuse.

§ 1475-f. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority. 1. The city may, by ordinance or ordinances, local law or local laws or by instruments authorized by such ordinance or ordinances, local law or local laws, convey, with or without consideration, and upon appropriate conditions as to outstanding city bonds appertaining to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire in the name of the city by purchase or condemnation real property in the city for any of the projects or for the widening of existing roads, streets, avenues or highways or for new roads, streets, avenues or highways within a radius of one mile to any of the projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. For like purposes, the city may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which shall not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The city common council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the city common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may itself acquire real property for a project in the

name of the city at the cost and expense of the authority by purchase or condemnation pursuant to the eminent domain procedure law or pursuant to the laws relating to the condemnation of land by the city. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such real property was acquired at the cost and expense of the city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

§ 1475-g. Construction contracts. 1. The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed five thousand dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

2. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 1475-h. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the commissioner of finance of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the commissioner of finance on requisition of the chair of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by and upon the warrant of the commissioner of finance of the city. All deposits of such moneys shall, if required by the commissioner of finance or the authority, be secured by obligations of the United States or of the state of New York or of any municipality of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such moneys shall be deposited in interest bearing accounts. The city commissioner of finance and his or her legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested pursuant to section ninety-eight-a of the state finance law in accordance with guidelines established by the authority's board and amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

§ 1475-i. Bonds or notes of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in conformity with applicable provisions of the uniform commercial code to pay the cost of any project, the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed fifty million dollars, excluding bonds, notes or other obligations issued to refund or repay bonds, notes or other obligations therefor issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than three million dollars, only if the present value of the aggregate debt service of the refunding or repayment of bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purpose of this section, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and the aggregate debt service of the bonds, notes or other obligations refunded or repaid shall be calculated by utilizing the effective interest rate of the refunding or repayment of bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment of bonds, notes or other obligations from payment of dates thereof to the date of issue of the refunding or repayment of bonds, notes or other obligations and to the price bid including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee to any bonds.

2. The authority shall have the power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not

matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other purpose of the authority. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(d) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) No private of public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(f) The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(g) The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

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

(a) Pledging all or part of the revenues, together with any other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

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

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

(d) The rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) Limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

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

(h) The creation of special funds into which any revenues or monies may be deposited;

(i) The terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) Vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties and powers of such trustee;

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

(l) Limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof or other property;

(m) Limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;

(n) The payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) Any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of

any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments within the powers granted to the authority by this title and to perform such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

9. Neither the members nor the officers of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the

authority shall have power out of any funds available therefor to purchase bonds of the authority, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed two years from the date of issue of such original note.

§ 1475-j. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public authority with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 1475-k. Agreements of the city. 1. The city is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of this title that the city will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish, collect and adjust rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public authority or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more, provided that nothing herein contained shall be deemed to impair the right of the city to install and operate parking meters on the public

streets of the city.

§ 1475-l. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1475-m. Bonds; legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever, except as provided in this section, who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. Such bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1475-n. Tax exemptions and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

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

4. The authority may pay, or may enter into agreements with the county or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to the real property owned by the authority located within the county or such municipality.

§ 1475-o. Audit and annual reports. 1. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The authority shall annually submit to the governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter.

2. The authority shall render a complete annual account of its proceedings to the city common council at its first meeting in January of each and every year.

§ 1475-p. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

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

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

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

(b) bring suit upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Onondaga.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the aforegoing, have and possess

all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1475-q. Actions against the authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

3. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all

courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county of Onondaga.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the authority of whatever nature shall be brought in the supreme court of the county of Onondaga.

§ 1475-r. Defense and indemnification. The authority shall not execute any of its powers except as necessary to commence its corporate existence, until it has elected to make the provision of section eighteen of the public officers law applicable to its employees (as such term is defined in section eighteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the authority to extend the provisions of section eighteen of the public officers law upon any independent contractor.

§ 1475-s. Code of ethics. 1. Definition. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur

any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards. (a) No authority employee should accept other employment, which will impair his or her independence of judgment in the exercise of his or her official duties.

(b) No authority employee should accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority employee should disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

(e) No authority employee should engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor authority a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

(j) If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she should file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

§ 1475-t. Termination of the authority. Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city.

§ 1475-u. Severability. If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this title directly involved in the controversy in which the judgment shall have been rendered.

§ 1475-v. Inconsistent provisions in other laws superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general or special, or of any local law of the city, the provisions of this title shall be controlling.

TITLE 4-A
CITY OF ALBANY PARKING AUTHORITY

§ 1493-a. Short title. This title may be cited as the "City of Albany Parking Authority Act."

§ 1493-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section

fourteen hundred ninety-three-c of this title;

2. The term "city" shall mean the city of Albany;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interest, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the city;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles or any area or place which use is supported by the authority's parking or storing of such vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities proximate to, on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the city or which facilitates increased supply or demand for parking;

7. The term "projects" shall mean more than one project.

§ 1493-c. Albany parking authority. A board to be known as "Albany Parking Authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the mayor, with the advice and consent of the common council. The members shall serve at the pleasure of the mayor. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of fifteen years, and thereafter until all its liabilities have been met, and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

§ 1493-d. Purpose and powers of the authority. The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the city by purchase or condemnation, and

use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the eminent domain procedure law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees and facilities of the city, paying to the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To appoint an attorney, and to fix his compensation;

9. To make contracts and leases, and to execute all instruments necessary or convenient;

10. To construct such buildings, structures and facilities as may be necessary;

11. To reconstruct, improve, maintain and operate the projects;

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

14. To construct, operate or maintain in the projects all facilities

necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided however, that neither the authority, the city of Albany or any agency of the authority or city, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title, and provided further that the location of sites of the projects shall be subject to the prior advice of the planning commission of the city.

§ 1493-e. Civil service status of officers and employees. Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

§ 1493-f. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority. 1. The city may, by resolution or resolutions of the common council or by instruments authorized by such resolutions, convey, with or without consideration, and upon appropriate conditions as to outstanding city bonds appertaining thereto, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire in the name of the city by purchase or condemnation real property in the city for any of the projects or for the widening of existing roads, streets, avenues or highways, or for new roads, streets, avenues or highways within a radius of one mile to any of the projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. For like purposes, the city may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The common council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provisions therefor shall have first been made in the annual appropriations of the city. All contractual or other

obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each annual appropriation of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may, subject to the approval of the common council of the city of Albany, itself acquire real property for a project in the name of the city at the cost and expense of the authority by gift, purchase, or condemnation pursuant to the eminent domain procedure law or pursuant to the laws relating to the condemnation of land by the city. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such property was acquired at the cost and expense of the city, the authority shall have the power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have the power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

§ 1493-g. Construction and purchase contracts. The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed five thousand dollars, such contracts may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority. Contracts for the purchase of supplies, material and equipment shall be let in the same manner as is provided by law for contracts of the city.

§ 1493-h. Moneys of the authority. All moneys of the authority shall be paid to the treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The money in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such person or persons as the authority may authorize to make such requisitions after audit by and upon the warrant of the city comptroller. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or the state of New York at a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representative are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The account of the authority shall be subject to the supervision of the state comptroller and he or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings to the common council at its first meeting in January of each and every year.

§ 1493-i. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purpose mentioned in section fourteen hundred ninety-three-d hereof, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding seventy-five million dollars outstanding at any one time. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under article eight of the uniform commercial code the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates as such resolution may provide, be in such denominations, be in

such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine provided, however, that any private sale shall be subject to the approval of the state comptroller, where such sale is not to the comptroller, or the director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions, authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to (a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereof, and the manner in which such consent may be given;

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section fourteen hundred ninety-three-p hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims, of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and

insurance of the project or projects and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section fourteen hundred ninety-three-h of this title the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section fourteen hundred ninety-three-p upon a trustee appointed by bondholders.

§ 1493-j. Notes of the authority. The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time five million dollars, over and above the amount of bonds authorized by subdivision one of section fourteen hundred ninety-three-i of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

§ 1493-k. Agreements of the state. 1. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city of Albany to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more, provided that nothing herein contained shall be deemed to impair the right of the city to install and operate parking meters on the public streets of the city.

§ 1493-l. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1493-m. Bonds legal investments for public officers. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1493-n. Tax exemptions. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Albany and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for estate or gift taxes and taxes on transfers.

§ 1493-o. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate or gift taxes and taxes on transfers.

§ 1493-p. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with

bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1493-q. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least ninety days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for ninety days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limit established by, and in compliance with all requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1493-r. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1493-s. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

TITLE 5

CITY OF BUFFALO PARKING AUTHORITY

§ 1500-a. Short title. This title shall be known and may be cited as the "city of Buffalo parking authority act".

§ 1500-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section fifteen hundred-c of this title;

2. The term "city" shall mean the city of Buffalo;

3. The term "bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title relating to bonds and bondholders;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interest, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the city;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other

vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the city or which facilitates electric vehicle charging infrastructure;

7. The term "projects" shall mean more than one covered projects.

8. The term "covered project" shall mean a project located on a public parking facility owned by the city at the time this title shall take effect.

9. The term "Buffalo fiscal stability authority" shall mean the public benefit corporation established pursuant to title two of article ten-D of this chapter.

§ 1500-c. City of Buffalo parking authority. 1. A board to be known as the "city of Buffalo parking authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chair and four other members, who shall be appointed by the mayor of the city of Buffalo, with the advice and consent of the city of Buffalo common council. The mayor of the city may remove any member of the board for neglect of duty or misconduct in office, giving such member a copy of the charges against them and an opportunity of being heard in person, or by counsel, in their defense upon not less than ten days notice. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of a successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chair. The members of the board shall not be compensated for their services, however, members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of such member's official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper.

2. Notwithstanding any inconsistent provisions of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public authority shall forfeit such officer, member or employee's office or employment by reason of such acceptance of appointment as a member, officer or employee of the authority, nor shall service as such member, officer or employee be deemed incompatible or in conflict with such office, membership or employment.

3. (a) The mayor of the city shall file on or before December thirty-first of the year in which this title shall take effect, in the office of the secretary of state, a certificate signed by the mayor setting forth:

(i) the name of the authority;

(ii) the names of the members of the board and their terms of office; and

(iii) the effective date of this title.

(b) If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

4. The city of Buffalo parking authority shall not be authorized to exercise the powers, duties, and functions outlined in this article until all initial members and the initial chair are appointed.

§ 1500-d. Purpose and powers of the authority. The purpose of the authority shall be to aquire, reconstruct, operate and maintain one or more covered projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes;

4. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the covered projects;

5. With the consent of the city, to use agents, employees and facilities of the city, paying to the city its agreed proportion of the compensation or costs;

6. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

7. To appoint an attorney, who may be the corporation counsel of the city, and to fix such attorney's compensation;

8. To make contracts and leases, and to execute all instruments necessary for its corporate purpose;

9. To construct such buildings, structures and facilities as may be necessary for its corporate purpose;

10. To reconstruct, improve, maintain, repair and operate the covered projects;

11. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of

them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

12. To fix and collect rentals, fees and other charges for the use of the covered projects subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided; and

13. To construct, operate or maintain in the covered projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided however, that neither the authority, the city or any agency of the authority or city, or any other person, firm or corporation shall, within or on any property comprising a part of any covered project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title, and provided further that the location of sites of the covered projects shall be subject to the prior approval of the planning board and common council of the city.

§ 1500-e. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority. 1. The city may, by resolution or resolutions of the common council or by instruments authorized by such resolutions, convey, with or without consideration, and upon appropriate conditions as to outstanding city bonds appertaining thereto, to the authority real and personal property owned by the city for use by the authority as a covered project or covered projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire in the name of the city by purchase or condemnation real property in the city for any of the covered projects

or for the widening of existing roads, streets, avenues or highways, or for new roads, streets, avenues or highways within a radius of one mile to any of the covered projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. For like purposes, the city may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which shall not be closed without the consent of the New York state commissioner of transportation.

3. Subject to the approval of the common council, contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The common council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provisions therefor shall have first been made in the annual appropriations of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each annual appropriation of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may, subject to the approval of the common council of the city, itself acquire real property for a covered project in the name of the city at the cost and expense of the authority by purchase. The authority shall have the use and occupancy of such real property so long

as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a covered project then, if such property was acquired at the cost and expense of the city, the authority shall have the power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have the power to sell, lease or otherwise dispose of said real property at public or private sale, subject to applicable provisions of law, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

§ 1500-f. Construction and purchase contracts. The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city, including but not limited to section one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority. Contracts for the purchase of supplies, material and equipment shall be let in the same manner as is provided by law for contracts of the city.

§ 1500-g. Contract for employees. The authority is hereby authorized to enter into contracts under which such contractor would provide employees to the authority for the purpose of operation and maintenance of the projects of the authority. All employees currently employed by the city or by a contractor to support operations currently managed by the city shall be retained by any contractor retained pursuant to this section. The authority shall not begin operation of any project until such a contract shall be in force. Such contract shall provide that all employees engaged in the operation and maintenance of any authority project shall be employees of the contractor and not employees of the authority. Such employees shall receive their total compensation and any employee benefits directly from the contractor for whom they are employed provided any relevant local regulation, rule or ordinance related to wage shall apply. Except for roles considered to be management or confidential pursuant to article fourteen of the civil service law, including the board of the authority, established by section fifteen hundred-c of this title, the authority shall have no employees other than the employees of the contractor pursuant to any contract authorized by this section.

§ 1500-h. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The money in such accounts shall be paid out by the treasurer on requisition of the chair of the authority or of such person or persons as the authority may authorize to make such requisitions after audit by and upon the warrant of the city comptroller. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or the state of New York or of any municipality of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest bearing accounts. The treasurer and a legally authorized representative of the treasurer are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The account of the authority shall be subject to the supervision of the New York state comptroller, and such comptroller or legally authorized representatives of the comptroller are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing and fiscal affairs. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested pursuant to section ninety-eight-a of the state finance law in accordance with guidelines established by the board and amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the authority shall prescribe a system of accounts, provided however, the authority shall render a complete annual account of its proceedings to the common council at its first meeting in January of each and every year. The authority shall enter into agreement with the city to pay and transfer a certain portion of excess revenues of the authority to the city each fiscal year. Within ninety days after the end of each fiscal year, an annual financial and management audit of the authority's performance and operations shall be prepared by an independent certified public accountancy firm. Such firm shall be chosen from an approved list of auditors prescribed by the city comptroller, the expense of which shall be treated as an expense of the authority.

§ 1500-i. Bonds or notes of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes, or other obligations in conformity with applicable provisions of the uniform commercial code to: (a) pay the cost of acquisition of property in any covered project; (b) pay the cost of reconstructing, maintaining, improving or repairing any covered project; (c) pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing such covered project in operation; (d) establish reserves to secure the bonds; and (e) pay the principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed sixty-five million dollars, excluding bonds, notes or other obligations issued to refund or repay bonds, notes or other obligations therefore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than sixty-five million dollars, only if the present value of the aggregate debt service of the refunding or repayment of bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purpose of this section, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and the aggregate debt service of the bonds, notes or other obligations refunded or repaid shall be calculated by utilizing the effective interest rate of the refunding or repayment of bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment of bonds, notes or other obligations from payment of dates thereof to the date of issue of the refunding or repayment of bonds, notes or other obligations and to the price bid including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal law, rule or regulation to secure a federal guarantee to any bonds. With respect to any proposed borrowing by the authority, the authority shall notify the Buffalo fiscal stability authority of each proposed issue of bonds or notes to be issued to give the Buffalo fiscal stability authority an opportunity to review the terms of and comment on the prudence of each proposed issue of bonds or notes to be issued by the parking authority for a period of no less than ten days prior to issuing such bonds or notes.

2. The authority shall have the power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not

matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other purpose of the authority. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the authority be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner described above in this paragraph as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the board, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(d) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(f) The authority shall annually submit its bond sale report to the Buffalo fiscal stability authority and the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(g) The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

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

(a) pledging all or part of the revenues, together with any other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the covered project or part thereof in connection with which bonds are issued;

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

(g) the procedure, if any, by which the terms of any contract with

bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any covered project or any part thereof or other property;

(m) limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

6. In addition to the powers conferred by this section upon the authority to secure its bonds, the authority shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use

or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments within the powers granted to the authority by this title and to perform such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

9. Neither the members nor the officers of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have the power to purchase the bonds of the authority, in lieu of redemption, out of any funds available therefor, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall there upon be canceled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with the applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed two years from the date of issue of such original note.

§ 1500-j. Agreements of New York state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights vested in the authority by this title to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any covered project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rentals, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of the bonds, or with any person or public authority with reference to such covered project or part thereof, or in any way to impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, including interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 1500-k. Agreements of the city. 1. The city is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of this title that the city will not alter, limit or impair the rights hereby vested in the authority by this title to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any covered project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish, collect and adjust rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public authority or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and subject to approval by the common council and the mayor, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem to be in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be

overdue and unpaid for a period of three years or more, provided that nothing in this section shall be deemed to impair the right of the city to install and operate parking meters on the public streets of the city.

§ 1500-l. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1500-m. Bonds legal investments for public officers. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1500-n. Tax exemptions. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for estate or gift taxes and taxes on transfers.

§ 1500-o. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate or gift taxes and taxes on transfers.

§ 1500-p. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Erie and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of

twenty-five per centum in principal amount of such bonds then outstanding shall, in such trustee's own name:

(a) by action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Erie.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the covered project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the covered project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or

parts of the covered project and proceed with the acquisition of any necessary real property in connection with the covered project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the covered project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1500-q. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least ninety days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for ninety days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time

limit established by, and in compliance with all requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1500-r. Defense and indemnification. The authority shall not execute any of its powers, except as necessary to commence its corporate existence, until the authority confers upon its members the provisions of section eighteen of the public officers law, pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the authority to extend the provisions of section eighteen of the public officers law upon any independent contractor.

§ 1500-s. Code of ethics. 1. As used in this section, the term "authority employee" shall mean any member, officer, employee, or contracted employee of the authority.

2. No authority employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of such authority employee's duties in the public interest.

3. (a) No authority employee shall accept other employment, which will impair such authority employee's independence of judgment in the exercise of such employee's official duties.

(b) No authority employee shall accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which such employee has gained by reason of their official position or authority.

(c) No authority employee shall disclose confidential information acquired by the employee in the course of such employee's official duties nor use such information to further any personal interests.

(d) No authority employee shall use or attempt to use such employee's official position to secure unwarranted privileges or exemptions for personal gain or the personal gain of others.

(e) No authority employee shall engage in any transaction as representative or agent of the authority with any business entity in which such employee has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of such employee's official duties.

(f) An authority employee shall not by such employee's conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy such employee's favor in the performance of their official duties, or that such employee is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee shall abstain from making personal investments in enterprises which such authority employee has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between such employee's duty in the public interest and their private interest.

(h) An authority employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that such employee is likely to be engaged in acts that are in violation of public trust.

(i) No authority employee who is employed on a full-time basis by any firm, company, or association, is a member of such firm, company or, association, or owns or controls, directly or indirectly, a substantial portion of stock of such firm, company, or association which sells goods or services shall sell such goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

(j) If any authority employee shall have any financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, such authority employee shall file with the secretary of state a written statement that such employee has such a financial interest in such activity. Such statement shall be open to public inspection.

4. In addition to any applicable provision of law, any authority employee who shall knowingly and intentionally violate any of the

provisions of this section may be fined, suspended, or removed from office or employment.

§ 1500-t. Contracting for municipal services. In addition to any other general or special powers vested in public benefit corporations for the performance of their respective functions, powers or duties on an individual, cooperative, joint, or contract basis, the authority shall have power to enter into, amend, cancel, and terminate agreements with the city of Buffalo for the provision and reimbursement of services. Any agreement entered into hereunder shall be subject to prior approval of the common council of the city of Buffalo and the authority by a majority vote of the voting strength of its governing body.

§ 1500-u. Termination of authority. Whenever all bonds or notes issued by the authority shall have been redeemed or cancelled, and all transactions, debt, and such other obligations have been satisfied or otherwise terminated, the agency shall cease to exist and all rights, titles, interest, and assets thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Buffalo.

§ 1500-v. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1500-w. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* TITLE 7

TUCKAHOE PARKING AUTHORITY

* NB Dissolved December 1977

* NB There are 2 A7 T7's

*** § 1545. Short title.** This title may be cited as the "Tuckahoe parking authority act."

* NB Dissolved December 1977

*** § 1546. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section fifteen hundred forty-seven of this title;

2. The term "village" shall mean the village of Tuckahoe;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the village;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the village;

7. The term "projects" shall mean more than one project.

* NB Dissolved December 1977

*** § 1547. Tuckahoe parking authority.** A board to be known as "Tuckahoe parking authority" is hereby created. Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the mayor with the approval of the board of trustees of the village. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The board of trustees may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of five years, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the village.

* NB Dissolved December 1977

*** § 1548. Purpose and powers of the authority.** The purpose of the authority shall be to construct, operate and maintain one or more projects in the village. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire, in the name of the village by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the village;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the village to use agents, employees and facilities of the village, paying to the village its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To appoint an attorney, who may be the corporation counsel, and to fix his compensation;

9. To make contracts and leases, and to execute all instruments necessary or convenient;

10. To construct such buildings, structures and facilities as may be necessary;

11. To reconstruct, improve, maintain and operate the projects;

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the village, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

14. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the village of Tuckahoe, or any agency of the authority or village, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title.

* NB Dissolved December 1977

*** § 1549. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the village may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the village who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the village under the rules of the municipal civil service commission of the village shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the village civil service commission.

* NB Dissolved December 1977

*** § 1550. Conveyance of property by the village to the authority; acquisition of property by the village or by the authority.** 1. The village may, by resolution or resolutions of the board of trustees or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the village for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the village but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The village may acquire in the name of the village by purchase or condemnation real property in the village for any of the projects or for the widening of existing roads, streets, avenues or highways, or for new roads, streets, avenues or highways, within a radius of one mile to any of the projects, or partly for such purposes and partly for other village purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the village. For like purposes, the village may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the village and the authority providing for the property to be conveyed by the village to the authority, the additional property to be acquired by the village and so conveyed, the streets, roads, avenues, and highways to be closed by the village and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain convenants by the village as to the road, street, avenue and highway improvements to be made by the village. Any such contracts between the village and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The board of trustees may authorize such contracts between the village and the authority and no other authorization on the part of the village for

such contracts shall be necessary. Any such contracts may be so authorized and entered into by the village and in such manner as the board of trustees may determine, and the payments required to be made by the village may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the village. All contractual or other obligations of the village incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the village thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may itself acquire real property for a project in the name of the village at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the village. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such real property was acquired at the cost and expense of the village, the authority shall have power to surrender its use and occupancy thereof to the village, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

* NB Dissolved December 1977

* NB There are 2 § 1550's

*** § 1551. Construction contracts.** The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the village, except that where the estimated expense of a contract does not exceed five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB Dissolved December 1977

* NB There are 2 § 1551's

*** § 1552. Moneys of the authority.** All moneys of the authority shall be paid to the treasurer of the village as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such person or persons as the authority may authorize to make such requisitions after audit by the treasurer. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller and he or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings to the board of trustees at its first meeting in January of each and every year.

* NB Dissolved December 1977

* NB There are 2 § 1552's

*** § 1553. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any purpose mentioned in section fifteen hundred forty-eight hereof, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purposes, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding one million dollars outstanding at any one time. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding

thirty years from their respective dates, bear interest at such rate or rates, not exceeding five per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than five per centum per annum.

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

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the

authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section fifteen hundred sixty hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims, of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in

relation to the construction, maintenance, operation, repair and insurance of the project or projects and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section fifteen hundred fifty-two of this title the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section fifteen hundred sixty upon a trustee appointed by bondholders.

* NB Dissolved December 1977

* NB There are 2 § 1553's

*** § 1554. Notes of the authority.** The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of section fifteen hundred fifty-three of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

* NB Dissolved December 1977

* NB There are 2 § 1554's

*** § 1555. Agreements of the village.** 1. The village of Tuckahoe is authorized to pledge to and agree with the holders of the bonds that the village will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the village of Tuckahoe to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the village by the village, or by any public benefit or other corporation the members or some of which are elected or are appointed by village officials, until either

(a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or

(b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

* NB Dissolved December 1977

* NB There are 2 § 1555's

*** § 1556. State and village not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the village, and neither the state nor the village shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Dissolved December 1977

* NB There are 2 § 1556's

*** § 1557. Bonds legal investments for public officers.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them, provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Dissolved December 1977

* NB There are 2 § 1557's

*** § 1558. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the village of Tuckahoe and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

* NB Dissolved December 1977

* NB There are 2 § 1558's

*** § 1559. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Dissolved December 1977

* NB There are 2 § 1559's

*** § 1560. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Westchester and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by suit, action or special proceedings enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds:

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Westchester.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Dissolved December 1977

* NB There are 2 § 1560's

*** § 1561. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least ninety days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for ninety days after such presentment.

2. An action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such action and of the time when and place where the damages or personal injuries or death were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued.

* NB Dissolved December 1977
* NB There are 2 § 1561's

*** § 1562. Termination of the authority.** Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the village of Tuckahoe.

* NB Dissolved December 1977
* NB There are 2 § 1562's

*** § 1563. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Dissolved December 1977
* NB There are 2 § 1563's

*** § 1564. Inconsistent provisions in other acts superseded.** In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the village, the provisions of this title shall be controlling.
* NB Dissolved December 1977
* NB There are 2 § 1564's

* TITLE 7

ENDICOTT PARKING AUTHORITY

* NB Dissolved December 31, 1977

* NB There are 2 A7 T7's

*** § 1550. Short title.** This title may be cited as the Endicott parking authority act.

* NB Dissolved December 31, 1977
* NB There are 2 § 1550's

*** § 1551. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section entitled "Endicott parking authority";

2. The term "village" shall mean the village of Endicott;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate; in the area of the village;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such

vehicles in the area of the village;

7. The term "projects" shall mean more than one project.

* NB Dissolved December 31, 1977

* NB There are 2 § 1551's

*** § 1552. Endicott parking authority.** A board to be known as "Endicott parking authority" is hereby created. Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the board of trustees of the village. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled by the village board of trustees for the unexpired term. The members of the board shall choose from their number a vice-chairman. The village board of trustees may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of five years, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the village.

* NB Dissolved December 31, 1977
* NB There are 2 § 1552's

*** § 1553. Purpose and powers of the authority.** The purpose of the authority shall be to construct, operate and maintain one or more projects in the village. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the village by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the village;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the village to use agents, employees, and facilities of the village, paying to the village its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To appoint an attorney, who may be the corporation counsel, and to fix his compensation;

9. To make contracts and leases, and to execute all instruments necessary or convenient;

10. To construct such buildings, structures and facilities as may be necessary;

11. To reconstruct, improve, maintain and operate the projects:

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the village, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

14. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the village of Endicott, or any agency of the authority or village, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this section; provided further, that the location of sites of the projects shall be subject to the prior approval of the board of trustees of the village.

* NB Dissolved December 31, 1977

* NB There are 2 § 1553's

*** § 1554. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the village may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the village who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the village under the rules of the municipal civil service commission of the village shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the village civil service commission.

* NB Dissolved December 31, 1977

* NB There are 2 § 1554's

*** § 1555. Conveyance of property by the village to the authority; acquisition of property by the village or by the authority.** 1. The village may, by resolution or resolutions of the village board of trustees or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the village for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the village but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The village may acquire in the name of the village by purchase or condemnation real property in the village for any of the projects or for the widening of existing roads, streets, avenues or highways or for new roads, streets, avenues or highways, within a radius of one mile to any of the projects, or partly for such purposes and partly for other village purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the village. For like

purposes, the village may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the village and the authority providing for the property to be conveyed by the village to the authority, the additional property to be acquired by the village and so conveyed, the streets, roads, avenues, and highways to be closed by the village and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the village as to the road, street, avenue and highway improvements to be made by the village. Any such contracts between the village and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The village board of trustees may authorize such contracts between the village and the authority and no other authorization on the part of the village for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the village and in such manner as the village board of trustees may determine, and the payments required to be made by the village may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the village. All contractual or other obligations of the village incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the village thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may itself acquire real property for a project in the name of the village at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the village. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project

then, if such real property was acquired at the cost and expense of the village, the authority shall have power to surrender its use and occupancy thereof to the village, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

* NB Dissolved December 31, 1977

* NB There are 2 § 1555's

*** § 1556. Construction or purchase contracts.** The authority shall let contracts for construction or purchase in the same manner, so far as practicable, as is provided by law for contracts of the village, except that where a construction contract involves an expenditure of five thousand dollars or less or a purchase contract involves an expenditure of three thousand dollars or less, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB Dissolved December 31, 1977

* NB There are 2 § 1556's

*** § 1557. Moneys of the authority.** All moneys of the authority shall be paid to the treasurer of the village as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the village treasurer on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the village treasurer. All deposits of such moneys shall, if required by the village treasurer or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The village treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

The accounts of the authority shall be subject to the supervision of the state comptroller.

* NB Dissolved December 31, 1977

* NB There are 2 § 1557's

*** § 1558. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any purpose mentioned in section entitled, purpose and powers of the authority, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding one million dollars outstanding at any one time. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding five per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than five per centum per annum.

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

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues:

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand five hundred sixty-five hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section entitled moneys of the authority, the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section entitled remedies of bondholders upon a trustee appointed by bondholders.

* NB Dissolved December 31, 1977

* NB There are 2 § 1558's

*** § 1559. Notes of the authority.** The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of bonds of the authority, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

* NB Dissolved December 31, 1977

* NB There are 2 § 1559's

*** § 1560. Agreements of the village.** 1. The village of Endicott is authorized to pledge to and agree with the holders of the bonds that the village will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the village of Endicott to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the village by the village, or by any public benefit or other corporation the members or some of which are elected or are appointed by village officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

* NB Dissolved December 31, 1977

* NB There are 2 § 1560's

*** § 1561. State and village not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the village, and neither the state nor the village shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Dissolved December 31, 1977

* NB There are 2 § 1561's

*** § 1562. Bonds legal investments for public officers.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Dissolved December 31, 1977

* NB There are 2 § 1562's

*** § 1563. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the village of Endicott and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

* NB Dissolved December 31, 1977

* NB There are 2 § 1563's

***§ 1564. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Dissolved December 31, 1977

* NB There are 2 § 1564's

*** § 1565. Remedies of bondholders.** In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Broome and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name.

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bond;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul

such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Broome.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver, or any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their

rights.
  * NB Dissolved December 31, 1977

*** § 1566. Actions against the authority.** In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such action and of the time when and place where the damages or personal injuries were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.
  * NB Dissolved December 31, 1977

*** § 1567. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account

thereof be deemed invalid or ineffective.
* NB Dissolved December 31, 1977

*** § 1568. Inconsistent provisions in other acts superseded.** In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the village, the provisions of this title shall be controlling.
* NB Dissolved December 31, 1977

TITLE 8-A

HARRISON PARKING AUTHORITY

§ 1570. Short title. This title may be cited as the "Harrison parking authority act".

§ 1570-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section fifteen hundred seventy-b of this title;

2. The term "village" shall mean the village of Harrison;

3. The term "bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title relating to bonds and bondholders and shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises and interest in lands, and any and all things usually included within such term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the village;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting such definition, include all real and personal property, driveways, roads, approaches, structures,

terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the village;

7. The term "projects" shall mean more than one project.

§ 1570-b. Harrison parking authority. 1. A board to be known as "Harrison parking authority" is hereby created. Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as provided in this section. It shall consist of a chairperson, who shall be appointed by the mayor of the village and the village board of trustees, and four board members, who shall be appointed by the mayor of the village and the village board of trustees. Each member shall continue to serve until the appointment and qualification of his or her successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairperson. The mayor of the village may remove any member of the board for neglect of duty or misconduct in office, giving such member a copy of the charges against him or her and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue until December thirty-first, two thousand fifty-four, and thereafter until all its liabilities have been met and its bonds have been paid in full, or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the village.

2. Notwithstanding any inconsistent provisions of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public authority shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer or employee of the authority, nor shall service as such member, officer or employee be deemed incompatible or in conflict with such office, membership or employment.

3. The mayor of the village shall file on or before December thirty-first of the year in which this title shall take effect, in the office of the secretary of state, a certificate signed by the mayor setting forth:

(a) the name of the authority;

(b) the names of the members of the board and their terms of office; and

(c) the effective date of this title.

If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

§ 1570-c. Purpose and powers of the authority. The purpose of the authority shall be to construct, operate and maintain one or more projects in the village. To carry out such purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the village by purchase or condemnation,

and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the eminent domain procedure law or in the manner provided by law for the condemnation of land by the village;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the village to use agents, employees and facilities of the village, paying to the village its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as provided in this title;

8. To appoint an attorney, who may be the corporation counsel, and to fix his or her compensation;

9. To make contracts and leases, and to execute all instruments necessary or convenient;

10. To construct such buildings, structures and facilities as may be necessary;

11. To reconstruct, improve, maintain and operate the projects;

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the village, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as provided in this title;

14. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the village nor any agency of the authority or the village, nor any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title; and

15. To do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 1570-d. Civil service status of officers and employees. Officers and employees of any board, commission or department of the village may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the village who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are prescribed by law, and all such employees who have been appointed to positions in the service of the village under the rules of the municipal civil service commission or personnel officer of the county shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the municipal civil service commission or personnel officer of the county.

§ 1570-e. Conveyance of property by the village to the authority;

acquisition of property by the village or by the authority. 1. The village may, by resolution or resolutions of the board of trustees of the village or by instruments authorized by such resolutions, convey, with or without consideration, and upon appropriate conditions as to outstanding village bonds appertaining thereto, to the authority real and personal property owned by the village for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the village but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The village may acquire in the name of the village by purchase or condemnation real property in the village for any of the projects or for the widening of existing roads, streets, avenues or highways, or for new roads, streets, avenues or highways within a radius of one mile to any of the projects, or partly for such purposes and partly for other village purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the village. For like purposes, the village may close such streets, roads, avenues or highways as may be necessary or convenient, except as to state highways and arterial ways which shall not be closed without the consent of the commissioner of transportation.

3. Contracts may be entered into between the village and the authority providing for the property to be conveyed by the village to the authority, the additional property to be acquired by the village and so conveyed, the streets, roads, avenues and highways to be closed by the village, and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the village as to the road, street, avenue and highway improvements to be made by the village. Any such contracts between the village and the authority may be pledged by the authority to secure its bonds and shall not be modified thereafter except as provided by the terms of the pledge. The board of trustees of the village may authorize such contracts between the village and the authority and no other authorization on the part of the village for such contracts shall be necessary. Any such contracts

may be so authorized and entered into by the village and in such manner as the board of trustees of the village may determine, and the payments required to be made by the village may be made and financed notwithstanding that no provisions therefor shall have first been made in the capital budget of the village. All contractual or other obligations of the village incurred in carrying out the provision of this title shall be included in and provided for by each capital budget of the village thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may itself acquire real property for a project in the name of the village at the cost and expense of the authority by purchase or condemnation pursuant to the eminent domain procedure law or pursuant to the laws relating to the condemnation of land by the village. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such property was acquired at the cost and expense of the village, the authority shall have power to surrender its use and occupancy thereof to the village, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have the power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

§ 1570-f. Construction contracts. 1. The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the village, except that where the estimated expense of a contract does not exceed five thousand dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

2. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 1570-g. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the village, as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The money in such accounts shall be paid out by such treasurer on requisition of the chairperson of the authority or of such person or persons as the authority may authorize to make such requisitions after audit by and upon the warrant of the treasurer of the village. All deposits of such moneys shall, if required by such treasurer or the authority, be secured by obligations of the United States or the state of New York or of any municipality of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest bearing accounts. The treasurer of the village and his or her legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested pursuant to section ninety-eight-a of the state finance law in accordance with guidelines established by the board and amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

§ 1570-h. Bonds or notes of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in conformity with applicable provisions of the uniform commercial code to pay the cost of any project, or for any other corporate purpose, the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed twenty million dollars, excluding bonds, notes or other obligations issued to refund or repay bonds, notes or other obligations therefore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than twenty million dollars, only if the present value of the aggregate debt service of the refunding or repayment of bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purpose of this section, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and the aggregate debt service of the bonds, notes or other obligations refunded or repaid shall be calculated by utilizing the effective interest rate of the refunding or repayment of bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment of bonds, notes or other obligations from payment of dates thereof to the date of issue of the refunding or repayment of bonds, notes or other obligations and to the price bid including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal law, rule or regulation to secure a federal guarantee to any bonds.

2. The authority shall have the power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other purpose of the authority. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner described above in this paragraph as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the board, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(d) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(f) The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(g) The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

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

(a) Pledging all or part of the revenues, together with any other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

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

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

(d) The rates, rents, fees and other charges to be fixed and collected

by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) Limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

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

(h) The creation of special funds into which any revenues or monies may be deposited;

(i) The terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) Vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties and powers of such trustee;

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

(l) Limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof or other property;

(m) Limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;

(n) The payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) Any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

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

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds of the authority are of such form and

character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the members nor the officers of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have the power to purchase the bonds of the authority, in lieu of redemption, out of any funds available therefor, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with the applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed two years from the date of issue of such original note.

§ 1570-i. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights vested in the authority by this title to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public authority with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds. Nothing contained in this title shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees, or appropriations relating thereto. There shall not be included in any resolution, contract or agreement with holders of the bonds or other obligations any provision which provides that a default shall occur as a result of the state exercising its right to amend, repeal, modify or otherwise alter such laws, ordinances, resolutions or agreements.

§ 1570-j. Agreements of the village. 1. The village is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of this title that the village will not alter, limit or impair the rights hereby vested in the authority by this title to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish, collect and adjust rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public authority or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. Nothing contained in this title shall be deemed to restrict any right of the village to amend, modify, or otherwise alter local laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto. There shall not be included in any resolution, contract or agreement with the holders of its bonds or other obligations any provision which provides that a default shall occur as a result of the village exercising its right to amend, repeal, modify or otherwise alter such laws, ordinances, resolutions or agreements.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and subject to approval by the village board of trustees and the mayor, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem to be in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the village by the village, or by any public benefit or other corporation the members or some of which are elected or are appointed by village officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more, provided that nothing in this subdivision shall be deemed to impair the right of the village to install and operate parking meters on the public streets of the village.

§ 1570-k. State and village not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the village, and neither the state nor the village shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1570-l. Bonds; legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as otherwise provided in this section, who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. Such bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is authorized.

§ 1570-m. Tax exemptions and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

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

4. The authority may pay, or may enter into agreements with the county of Westchester or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to the real property owned by the authority located within such county or any such municipality.

§ 1570-n. Audit and annual reports. 1. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The authority shall annually submit to the county legislature of the county of Westchester, governor, state comptroller, chairperson of the senate finance committee and chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of such county legislature.

2. The authority shall render a complete annual account of its proceedings to the board of trustees of the village at its first meeting in January of each and every year.

§ 1570-o. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

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

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

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

(b) bring suit upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or

proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Westchester.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

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

§ 1570-p. Actions against the authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) notice of claims shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, and (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

3. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the

authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county of Westchester.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the authority of whatever nature shall be brought in the supreme court of the county of Westchester.

§ 1570-q. Defense and indemnification. The authority shall not execute any of its powers except as necessary to commence its corporate existence, until it has elected to make the provision of section eighteen of the public officers law applicable to its employees (as such term is defined in such section) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the authority to extend the provisions of section eighteen of the public officers law upon any independent contractor.

§ 1570-r. Code of ethics. 1. Definition. As used in this section, the term "authority employee" shall mean any member, officer or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards. (a) No authority employee shall accept other employment,

which will impair his or her independence of judgment in the exercise of his or her official duties.

(b) No authority employee shall accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority employee shall disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for him or herself or others.

(e) No authority employee shall engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority employee shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee shall abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor authority a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

(j) If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she shall file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law, any authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

§ 1570-s. Equal employment opportunity. The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 1570-t. Termination of the authority. Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the village.

§ 1570-u. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1570-v. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other provision of law, or of any local law of the village, the provisions of this title shall be controlling.

TITLE 11

CITY OF YONKERS PARKING AUTHORITY

§ 1596-a. Short title. This title may be cited as the "City of Yonkers parking authority act".

§ 1596-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section fifteen hundred ninety-six-c of this title;

2. The term "city" shall mean the city of Yonkers;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles;

7. The term "projects" shall mean more than one project.

§ 1596-c. City of Yonkers parking authority. A board to be known as "City of Yonkers parking authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman, appointed by the mayor of the city of Yonkers, and four other members, who shall also be appointed by the mayor. The appointment of the chairman shall be for a term of five years and of each of the other members for terms of one, two, three and four years from the first day of April, nineteen hundred sixty-four. At the expiration of such terms, the terms of office of their successors shall be five years so that the term of office of one-fifth of such members shall expire on the thirty-first day of March in each year. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of such term, shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The mayor may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only to the thirty-first day of December, nineteen hundred ninety-nine, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

§ 1596-d. Purpose and powers of the authority. The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the city by purchase or condemnation, and use real property necessary or convenient. All real property acquired by condemnation by the authority shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees, and facilities of the city, including the corporation counsel, paying to the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

7-a. To designate officers and employees, appointed or used by the authority, as hereinabove specified, who shall be empowered to issue appearance tickets as provided for in article one hundred fifty of the criminal procedure law. Persons so designated are hereby authorized to issue and serve such tickets for traffic infractions relating to parking within project areas as defined herein, in accordance with law and when authorized by local law of the city to issue and serve such tickets for traffic infractions committed anywhere in the city at parking spaces controlled by parking meters.

8. To make contracts and leases, and to execute all instruments necessary or convenient;

9. To construct such buildings, structures and facilities as may be necessary or convenient;

10. To reconstruct, improve, maintain and operate the projects;

11. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, and to expend the proceeds for any purposes of the authority;

12. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

13. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city of Yonkers, or any agency of the authority or city, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title, and provided further that the location of sites of the projects shall be subject to the prior advice of the planning board of the city.

§ 1596-e. Civil service status of officers and employees. Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

§ 1596-f. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority. 1. The city may, by resolution or resolutions of the common council or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire by purchase or condemnation real property in the name of the city for any of the projects or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any of the projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. The city may close such streets, roads, parkways, avenues, or highways as may be necessary or convenient, except as to state highways and arterial highways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, parkways, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to

the road, street, parkway, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The common council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may itself acquire real property for a project in the name of the city at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the city. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such real property was acquired at the cost and expense of the city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

§ 1596-g. Construction contracts. The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed twenty-five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

§ 1596-h. Moneys of the authority. All moneys of the authority shall be paid to the comptroller of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the comptroller of the city on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the comptroller of the city. All deposits of such moneys shall, if required by the comptroller of the city or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The comptroller of the city and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall render a complete account of its proceedings to the common council at such time or times as requested to do so by said common council.

§ 1596-i. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any purpose mentioned in section fifteen hundred ninety-six-d of this title, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding sixty million dollars. Said bonds must be issued no later than June thirtieth, two thousand thirty-one. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds, including the unpaid balance of the authority's revenue bonds, Series 1999A, dated June twenty-ninth, nineteen hundred ninety-nine, the issuance of which is hereby ratified and confirmed, by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or

rates, payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine; provided, however, that any private sale shall be subject to the approval of the state comptroller where such sale is not to the comptroller, or the director of the budget where such sale is to the comptroller.

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

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the

authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section fifteen hundred ninety-six-o of this title hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in

relation to the construction, maintenance, operation, repair and insurance of the project or projects, and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section fifteen hundred ninety-six-h of this title, the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section fifteen hundred ninety-six-o of this title upon a trustee appointed by bondholders.

§ 1596-j. Notes of the authority. The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time seven hundred fifty thousand dollars, over and above the amount of bonds authorized by subdivision one of section fifteen hundred ninety-six-i of this title, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

§ 1596-k. Agreements of the state. 1. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city of Yonkers, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas or spaces except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members of which are elected or are appointed by city officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

§ 1596-l. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1596-m. Bonds legal investments for public officers and fiduciaries. The bonds are hereby made securities in which all public officers, and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for investment of funds, including capital of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1596-mm. Exemptions from taxation. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Yonkers and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

§ 1596-n. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

§ 1596-o. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Westchester and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Westchester.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any real property necessary or convenient in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement

with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1596-p. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limit established by and in compliance with all requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1596-q. Termination of the authority. Whenever all of the bonds issued by the authority shall have been redeemed or canceled, and all its liabilities met or discharged, and the termination date of its corporate existence as set forth in section fifteen hundred ninety-six-c of this title shall have been reached, the authority shall cease to exist and all rights, titles and interests and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Yonkers.

§ 1596-r. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1596-s. Inconsistent provisions in other acts superseded. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* TITLE 14

CITY OF BINGHAMTON PARKING AUTHORITY

* NB Authority ceased to exist 12/31/99
* NB There are 4 A7 T14's

*** § 1599-a. Short title.** This title may be cited as the "City of Binghamton parking authority act".
* NB Authority ceased to exist 12/31/99
* NB There are 4 § 1599-a's

*** § 1599-b. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section one of this article;

2. The term "city" shall mean the city of Binghamton;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within

the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles;

7. The term "projects" shall mean more than one project.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-b's

*** § 1599-c. City of Binghamton parking authority.** A board to be known as "City of Binghamton parking authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman, appointed by the mayor of the city of Binghamton, and four other members, who shall also be appointed by the mayor. The appointment of the chairman shall be for a term of five years and of each of the other members for terms of one, two, three and four years from the first day of July, nineteen hundred sixty-nine. At the expiration of such terms, the terms of office of their successors shall be five years so that the term of office of one-fifth of such members shall expire on the thirtieth day of June in each year. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of such term, shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The mayor may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only to the thirty-first day of December, nineteen hundred ninety-nine, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-c's

*** § 1599-d. Purpose and powers of the authority.** The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the city by purchase or condemnation, and use real property necessary or convenient. All real property acquired by condemnation by the authority shall be acquired in the manner provided

in the condemnation law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees, and facilities of the city, including the corporation counsel, paying to the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To make contracts and leases, and to execute all instruments necessary or convenient;

9. To construct such buildings, structures and facilities as may be necessary or convenient;

10. To reconstruct, improve, maintain and operate the projects;

11. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, and to expend the proceeds for any purposes of the authority;

12. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

13. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however,

that neither the authority, the city of Binghamton, or any agency of the authority or city, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title, and provided further that the location of sites of the projects shall be subject to the prior advice of the planning board of the city.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-d's

*** § 1599-e. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-e's

*** § 1599-f. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority.** 1. The city may, by ordinance or ordinances or resolutions of the common council or by instruments authorized by such ordinances, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In the case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire by purchase or condemnation real property in the name of the city for any of the projects or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any of the projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. The city may close such streets, roads, parkways, avenues, or highways as may be necessary or convenient.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, parkways, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, parkway, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The common council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may itself acquire real property for a project in the name of the city at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the city. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such real property was acquired at the cost and expense of the city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-f's

*** § 1599-g. Construction contracts.** The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed twenty-five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-g's

*** § 1599-h. Moneys of the authority.** All moneys of the authority shall be paid to the comptroller and treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts.

The moneys in such accounts shall be paid out by the comptroller and treasurer of the city on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the comptroller of the city. All deposits of such moneys shall, if required by the comptroller and treasurer of the city or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The comptroller and the mayor and the members of the common council of the city and their legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall render a complete account of its proceedings to the common council at such time or times as requested to do so by said common council.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-h's

*** § 1599-i. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purpose mentioned in section fifteen hundred ninety-nine-d of this title, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding twenty million dollars outstanding at any one time. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded; provided, however, that bonds issued or to be issued shall be excluded from such limitation if such bonds are issued to refund bonds of the authority issued in connection with such purposes and the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby. For purposes hereof, the present value of the aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior to the issuance thereof. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the general obligations law (constituting chapter twenty-four-a of the consolidated laws) the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the general obligations law, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding twenty years from their respective dates, bear interest at such rate or rates, not exceeding the rate of interest prescribed for serial bonds by the local finance law, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than the rate of interest prescribed for serial bonds by the local finance law.

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

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section fifteen hundred ninety-nine-o of this title hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a

trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects, and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section fifteen hundred ninety-nine-h of this title, the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section fifteen hundred ninety-nine-o of this title upon a trustee appointed by bondholders.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-i's

*** § 1599-j. Notes of the authority.** The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one million dollars, over and above the amount of bonds authorized by subdivision one of section fifteen hundred ninety-nine-i of this title, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-j's

*** § 1599-k. Agreements of the state.** 1. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city of Binghamton, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas or spaces except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members of which are elected or are appointed by city

officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-k's

*** § 1599-l. State and city not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-l's

*** § 1599-m. Bonds legal investments for public officers and fiduciaries.** The bonds are hereby made securities in which all public officers, and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-m's

*** § 1599-n. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-n's

*** § 1599-o. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Broome and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

(a) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carrying out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Broome.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any real property necessary or convenient in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the

direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-o's

*** § 1599-p. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such an action and of the time when and place where the damages or personal injuries were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued. An

action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-p's

*** § 1599-q. Termination of the authority.** Whenever all of the bonds issued by the authority shall have been redeemed or canceled, and all its liabilities met or discharged, and the termination date of its corporate existence as set forth in section fifteen hundred ninety-nine-c of this title shall have been reached, the authority shall cease to exist and all rights, titles and interests and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Binghamton.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-q's

*** § 1599-r. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-r's

*** § 1599-s. Inconsistent provisions in other acts superseded.** In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* NB Authority ceased to exist 12/31/99

* NB There are 4 § 1599-s's

* TITLE 14

CITY OF COHOES PARKING AUTHORITY

* NB Authority terminated 07/01/1974

* NB There are 4 A7 T14's

*** § 1599-a. Short title.** This title may be cited as the "City of Cohoes Parking Authority Act."

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-a's

*** § 1599-b. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section fifteen hundred ninety-nine-c of this title;

2. The term "city" shall mean the city of Cohoes;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interest, such as easements, rights of way, uses, leases, licenses, and all other incorporated hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the city;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the city;

7. The term "projects" shall mean more than one project.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-b's

*** § 1599-c. Cohoes parking authority.** A board to be known as "Cohoes Parking Authority" is hereby created. Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided.

It shall consist of a chairman and four other members, who shall be appointed by the mayor, with the advice and consent of the common council. The members shall serve at the pleasure of the mayor. Of the members first appointed, one shall be appointed for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of five years, and thereafter until all its liabilities have been met, and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-c's

*** § 1599-d. Purpose and powers of the authority.** The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative

awards in connection with the condemnation of real property;

4. To acquire in the name of the city by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees and facilities of the city, paying to the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To appoint an attorney, and to fix his compensation;

9. To make contracts and leases, and to execute all instruments necessary or convenient;

10. To construct such buildings, structures and facilities as may be necessary;

11. To reconstruct, improve, maintain and operate the projects;

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such

agreements with bondholders as may be made as hereinafter provided;

14. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided however, that neither the authority, the city of Cohoes or any agency of the authority or city, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title, and provided further that the location of sites of the projects shall be subject to the prior advice of the planning commission of the city.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-d's

*** § 1599-e. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-e's

*** § 1599-f. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority.** 1. The city may, by resolution or resolutions of the common council or by instruments authorized by such resolutions, convey, with or without consideration, and upon appropriate conditions as to outstanding city bonds appertaining thereto, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire in the name of the city by purchase or condemnation real property in the city for any of the projects or for the widening of existing roads, streets, avenues or highways, or for new roads, streets, avenues or highways within a radius of one mile to any of the projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. For like purposes, the city may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The common council may authorize

such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provisions therefor shall have first been made in the annual appropriations of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each annual appropriations of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may, subject to the approval of the common council of the city of Cohoes, itself acquire real property for a project in the name of the city at the cost and expense of the authority by gift, purchase, or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the city. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such property was acquired at the cost and expense of the city, the authority shall have the power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have the power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-f's

*** § 1599-g. Construction contracts.** The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed five hundred dollars, such contracts may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-g's

*** § 1599-h. Moneys of the authority.** All moneys of the authority shall be paid to the treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The money in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such person or persons as the authority may authorize to make such requisitions after audit by and upon the warrant of the city comptroller. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representative are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The account of the authority shall be subject to the supervision of the state comptroller and he or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings to the common council at its first meeting in January of each and every year.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-h's

*** § 1599-i. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purpose mentioned in section fifteen hundred ninety-nine-d hereof, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding three hundred thousand dollars outstanding at any one time. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under article eight of the uniform commercial code the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding five per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than five per centum per annum.

3. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to (a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereof, and the manner in which such consent may be given;

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section fifteen hundred ninety-nine-p hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims, of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds,

subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section fifteen hundred ninety-nine-h of this title the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section fifteen hundred ninety-nine-p upon a trustee appointed by bondholders.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-i's

*** § 1599-j. Notes of the authority.** The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of section fifteen hundred ninety-nine-i of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-j's

*** § 1599-k. Agreements of the state.** 1. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city of Cohoes to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those

acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more, provided that nothing herein contained shall be deemed to impair the right of the city to install and operate parking meters on the public streets of the city.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-k's

*** § 1599-l. State and city not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-l's

*** § 1599-m. Bonds legal investments for public officers.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-m's

*** § 1599-n. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Cohoes and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-n's

*** § 1599-o. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-o's

*** § 1599-p. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name;

(a) by action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Authority terminated 07/01/1974
* NB There are 4 § 1599-p's

*** § 1599-q. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least ninety days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for ninety days after such presentment.

2. An action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such action and of the time when and place where the damages or personal injuries or death were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued.
* NB Authority terminated 07/01/1974
* NB There are 4 § 1599-q's

*** § 1599-r. Termination of the authority.** Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Cohoes.
* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-r's

*** § 1599-s. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Authority terminated 07/01/1974

* NB There are 4 § 1599-s's

*** § 1599-t. Inconsistent provisions in other acts superseded.** In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* NB Authority terminated 07/01/1974

* NB There are 2 § 1599-t's

* TITLE 14

CITY OF NIAGARA FALLS PARKING AUTHORITY

* NB Authority ceased to exist 07/01/1974
* NB There are 4 A7 T14's

*** § 1599. Short title.** This title may be cited as the "City of Niagara Falls Parking Authority Act."
* NB Authority ceased to exist 07/01/1974

*** § 1599-a. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section fifteen hundred ninety-nine-b of this title;

2. The term "city" shall mean the City of Niagara Falls, New York;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interests in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interest, such as easements, rights of way, uses, leases, licenses and all other incorporated hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also

claims for damage to real estate, in the area of the city;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the city;

7. The term "projects" shall mean more than one project.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-a's

*** § 1599-b. Niagara Falls parking authority.** A board to be known as "Niagara Falls Parking Authority" is hereby created. Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members by the City Council. The board shall consist of the Mayor of the City of Niagara Falls who shall serve as Chairman; the City Manager; the Comptroller; Chief Planning Officer and Traffic Engineer. Each member of the board shall continue to serve so long as he shall serve in his city position. The members of the board shall choose from their number a vice-chairman. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of five years, and thereafter until all its liabilities have been met, and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-b's

*** § 1599-c. Purpose and powers of the authority.** The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the city by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees and facilities of the city, paying to the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To appoint an attorney, the Corporation Counsel and to fix his compensation;

9. To make contracts and leases, and to execute all instruments necessary or convenient;

10. To construct such buildings, structures and facilities as may be necessary;

11. To reconstruct, improve, maintain and operate the projects;

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

14. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, including the air space and air rights over such premises or portions thereof and and sub-surface areas or portions thereof; provided further that the location of sites of the projects shall be subject to the prior advice of the planning commission of the city.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-c's

*** § 1599-d. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-d's

*** § 1599-e. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority.** 1. The city may, by resolution or resolutions of the common council or by instruments authorized by such resolutions, convey, with or without consideration, and upon appropriate conditions as to outstanding city bonds appertaining thereto, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire in the name of the city by purchase or condemnation real property in the city for any of the projects or for the widening of existing roads, streets, avenues, or highways, or for new roads, streets, avenues or highways within a radius of one mile to any of the projects, or partly for such purposes and partly for other city purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. For like purposes, the city may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The common council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provisions therefor shall have first been made in the annual budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each annual budget of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may, subject to the approval of the common council of the city of Niagara Falls, itself acquire real property for a project in the name of the city at the cost and expense of the authority by gift, purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the city. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such property was acquired at the cost and expense of the city, the authority shall have the power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have the power to sell, lease or otherwise dispose of said real property at public or

private sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-e's

*** § 1599-f. Construction contracts.** The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed one thousand dollars, such contracts may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-f's

*** § 1599-g. Moneys of the authority.** All moneys of the authority shall be paid to the treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The money in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such person or persons as the authority may authorize to make such requisitions after audit by and upon the warrant of the city comptroller. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representative are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The account of the authority shall be subject to the supervision of the state comptroller. The authority shall render a complete annual account of its proceedings to the common council at its first regular meeting in January of each and every year.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-g's

*** § 1599-h. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purpose mentioned in section 1599-c hereof, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding twenty million dollars outstanding at any one time. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under article eight of the uniform commercial code the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding five per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than five per centum per annum.

3. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to (a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereof, and the manner in which such consent may be given;

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section 1599-o hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims, of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section 1599-g of this title the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section 1599-o upon a trustee appointed by bondholders.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-h's

*** § 1599-i. Notes of the authority.** The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of section 1599-h of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-i's

*** § 1599-j. Agreements of the state.** 1. The city of Niagara Falls does pledge to and agree with the holders of the bonds that the city will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city of Niagara Falls to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more, provided that nothing herein contained shall be deemed to impair the right of the city to install and operate parking meters on the public streets of the city.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-j's

*** § 1599-k. State and city not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-k's

*** § 1599-l. Bonds legal investments for public officers.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Authority ceased to exist 07/01/1974
* NB There are 4 § 1599-l's

*** § 1599-m. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Niagara Falls and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

* NB Authority ceased to exist 07/01/1974
* NB There are 4 § 1599-m's

*** § 1599-n. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-n's

*** § 1599-o. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the County of Niagara and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to or, pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five percentum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Niagara.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-o's

*** § 1599-p. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least ninety days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for ninety days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such action and of the time when and place where the damages or personal injuries were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-p's

*** § 1599-q. Termination of the authority.** Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Niagara Falls.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-q's

*** § 1599-r. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-r's

*** § 1599-s. Inconsistent provisions in other acts superseded.** In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* NB Authority ceased to exist 07/01/1974

* NB There are 4 § 1599-s's

* TITLE 14

CITY OF SCHENECTADY PARKING AUTHORITY

* NB Authority ceased to exist 08/05/2002
* NB There are 4 A7 T14's

*** § 1599-a. Short title.** This title may be cited as the "City of Schenectady Parking Authority Act."
* NB Authority ceased to exist 08/05/2002
* NB There are 4 § 1599-a's

*** § 1599-b. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section

fifteen hundred ninety-nine-c of this title;

2. The term "city" shall mean the city of Schenectady;

3. The term "bonds" shall mean the bonds and notes authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "comptroller" shall mean the comptroller of the state;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the city;

7. The term "projects" shall mean more than one project;

8. The term "property" shall mean the project or projects of the authority, including all real and personal property or any other property incidental to and included in such project or projects or part thereof, and any improvements, extensions and betterments;

9. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interest, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the city;

10. The term "state" shall mean the state of New York.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-b's

*** § 1599-c. Schenectady parking authority.** 1. A board to be known as "Schenectady Parking Authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the mayor, with the advice and consent of the city council. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. A member may be removed at will by the mayor with the approval of the city council, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten day's notice. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term by the mayor, with the advice and consent of the city council. The members of the board shall choose from their number a vice-chairman and such other officers deemed desirable by the board. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of fifteen years, and thereafter until all its liabilities and duties have been met, and its bonds have been paid in full or such liabilities and duties or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

2. No public officer or employee shall be ineligible for appointment

as a member or officer of the authority and any public officer or employee may accept such appointment and serve as a member or officer without forfeiture of any other public office or position of public employment by reason thereof. Any one or more members or officers of the authority may be an officer or employee of the city. In the event that an officer or employee of the city shall be appointed as a member or officer of the authority, acceptance or retention of such appointment shall not be deemed a forfeiture of his city office or employment, or incompatible therewith or affect his tenure or compensation in any way.

3. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the city of Schenectady and the state of New York, and that said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-c's

*** § 1599-d. Purpose and powers of the authority.** The purpose of the authority shall be to provide, construct, operate and maintain, or any combination thereof, one or more projects in the city. To carry out said purpose, the authority shall have the power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the acquisition of real property by the exercise of the power of eminant domain;

4. To acquire in the name of the authority by purchase, eminant domain or gift, and use necessary real property. All real property acquired by the authority by eminant domain shall be acquired in the manner provided

in the eminent domain procedure law or in the manner provided by law for the acquisition of land through eminant domain by the city;

5. To determine its fiscal year, and to make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees and facilities of the city, paying to the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents employees and such clerical, engineering and other professional assistants and consultants as it may deem necessary for the purposes of this title to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

8. To appoint an attorney, and to fix his compensation;

9. To borrow money, make contracts and leases, and to execute all instruments necessary or convenient;

10. To acquire, construct, reconstruct, improve, equip and furnish any project as may be necessary and convenient;

11. To maintain and operate the projects;

12. To apply for and to accept gifts or grants or contributions or loans of funds or property or financial or other aid in any form from the United States, the state of New York, or any agency or instrumentality thereof, or the city, or an individual, by bequest or otherwise, or from any other source, and to expend the proceeds for any purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them and to pledge the same, all subject to and

in accordance with such agreements with bondholders as may be made as hereinafter provided;

14. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine;

15. To do whatever may be necessary to give effect to the purposes of this title, and in general to have and exercise all other powers necessary or incidental to the purposes of this title.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-d's

*** § 1599-e. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-e's

*** § 1599-f. Advances on behalf of the authority; conveyance of**

property by the city to the authority; acquisition of property by the city or by the authority.

1. In addition to any powers granted to it by law, the city from time to time may appropriate sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, the city may determine if the moneys so appropriated shall be subject to repayment by the authority to the city and, in such event, the manner and time or times for such repayment.

2. The city may, by resolution or resolutions of the city council or by instruments authorized by such resolutions, convey, with or without consideration, and upon appropriate conditions as to outstanding city bonds appertaining thereto, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In the case of real and/or personal property so conveyed, the title shall pass to the authority.

3. The city may acquire in the name of the city by gift, purchase or eminant domain real property in the city for any of the projects or for the widening of existing roads, streets, avenues or highways, or for new roads, streets, avenues or highways within a radius of one mile to any of the projects, or partly for such purposes and partly for other city purposes, by gift, purchase or eminent domain in the manner provided by law for the acquisition of real property by the city. For like purposes, the city may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

4. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road,

street, avenue and highway improvements to be made by the city and as to such matters which pertain to any conveyance of property to the authority. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of such contract and such pledge. The city council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the city council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provisions therefor shall have first been made in the annual appropriations of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each annual appropriation of the city thereafter made, if and to the extent that they may appropriately be included therein.

5. The authority may itself acquire real property necessary or convenient in connection with any project in the name of the authority at the cost and expense of the authority by gift, purchase, or eminent domain pursuant to the eminent domain procedure law or pursuant to the laws relating to the acquisition of land by eminant domain by the city.

6. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such property was acquired at the cost and expense of the city, the authority shall have the power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have the power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-f's

*** § 1599-g. Construction and purchase contracts.** The authority shall let contracts for construction in the same manner as is provided by law for contracts of the city, except that where the estimated expense of a contract does not exceed five thousand dollars, such contracts may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority. Contracts for the purchase of supplies, material and equipment shall be let in the same manner as is provided in this section. If the authority shall deem it in the public interest or necessary or desirable to effectuate the purposes of this chapter or the economy and efficiency in construction and operation of a project, the authority by majority vote of its members may either reject all bids or readvertise for bids or by two-thirds vote of its members may accept a bid other than the lowest bid; provided however that the reasons for any such vote shall be stated in the authority's official minutes.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-g's

*** § 1599-h. Moneys of the authority.** All moneys of the authority shall be paid to the director of finance of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The money in such accounts shall be paid out by the director of finance on requisition of the chairman of the authority or of such person or persons as the authority may authorize to make such requisitions after audit by and upon the warrant of the director of finance. All deposits of such moneys shall, to the extent required by section two thousand nine hundred twenty-five of this chapter be secured by obligations of the United States or the state of New York at a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The director of finance and his legally authorized representative are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The account of the authority shall be subject to the supervision of the state comptroller and he or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings to the Mayor and the city council at or prior to its first meeting of the city council in March of each and every year and at such other times as may reasonably be requested by the city council.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-h's

*** § 1599-i. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purpose mentioned in section fifteen hundred ninety-nine-d hereof, as well as to pay such expenses, premiums and commissions as may be deemed by the board necessary or desirable to or in connection with the acquisition, construction, reconstruction, improving, equipping and furnishing of any project and the financing thereof, including surveys, planning, provisions for capitalized interest, reserve funds and appropriate feasibility studies, and for the placing of the project or projects in operation and to secure the payment of the same by, including but not limited to, a pledge of the revenues of the authority or by a lien on the property of the authority. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase, payment or redemption of the bonds to be refunded. The amount of bonds issued by the authority shall not exceed twenty-five million dollars outstanding at any one time. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of any particular bonds pledging any particular moneys or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under article eight of the uniform commercial code the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or any nongovernmental insurer or financial institution any insurance, guaranty or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest of principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds of the authority.

3. The bonds shall be authorized by resolution of the board and shall

bear such date or dates, mature at such time or times, except that bonds and any renewal thereof shall mature within thirty years of the date of their original issuance, bear interest at such rate or rates as such resolution or resolutions may provide, be payable at such times, be in such denominations, be in such form, either coupon or registered, carry such privileges, be executed in a manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine provided, however, that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by (i) the comptroller, where such sale is not to such comptroller, or (ii) the state director of the budget, where such sale is to the comptroller. The foregoing provisions shall be applicable to bonds issued by the authority notwithstanding the provisions of any other general, special or local law to the contrary.

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

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

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the earnings and the other revenues;

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

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) the creation of special funds into which any revenues or other moneys of the authority may be deposited;

(j) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which bonds may be issued;

(k) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section fifteen hundred ninety-nine-p hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

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

(m) limitations on the power of the authority to sell or otherwise dispose of its properties or any part thereof;

(n) limitations on the amount of moneys or revenues to be expended for operating, administrative or other expenses of the authority;

(o) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depositary, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(p) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

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

6. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims, of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

7. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority shall have power out of any funds available therefor to purchase bonds upon such terms and conditions as the authority may determine. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

9. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee,

which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section fifteen hundred ninety-nine-h of this title the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section fifteen hundred ninety-nine-p upon a trustee appointed by bondholders.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-i's

*** § 1599-j. Notes of the authority.** The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes), maturing not later than five years from their respective original dates in an amount not exceeding at any time the amount of bonds authorized by subdivision one of section fifteen hundred ninety-nine-i of this title minus the amount of bonds outstanding on the date of calculation, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-j's

*** § 1599-k. Agreements of the city and the state.** 1. The city is authorized to, and the state does hereby pledge to and agree with the holders of the bonds that the city will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct, improve, equip, furnish and operate any project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes, or in any way impair the rights and remedies of the bondholders or noteholders, until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders, are fully met and discharged.

2. The authority is hereby authorized, subject to approval of the city council to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest and in the interests of the authority's bondholders and noteholders, that no public parking areas except those acquired and operated by the authority

will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more, provided that nothing herein contained shall be deemed to impair the right of the city to install and operate parking meters on the public streets of the city.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-k's

*** § 1599-l. State and city not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-l's

*** § 1599-m. Bonds and notes legal investments for public officers and fiduciaries.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-m's

*** § 1599-n. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Schenectady and its environs, and is a public purpose, and the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes, special ad valorem levies or special assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority, including improvements thereon, by any person or public benefit corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-n's

*** § 1599-o. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-o's

*** § 1599-p. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Schenectady and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Schenectady.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any real property necessary or convenient in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-p's

*** § 1599-q. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least ninety days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for ninety days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such action and of the time when and place where the damages or personal injuries were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-q's

*** § 1599-r. Officers and employees not to be interested in transactions.** It shall be a misdemeanor for any of the members of the authority, or any officer, agent, servant or employee thereof, employed or appointed by them to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-r's

*** § 1599-s. Termination of the authority.** Whenever all of the bonds and notes issued by the authority shall have been redeemed or cancelled, and all its liabilities and duties met or discharged, and the termination date of its corporate existence as set forth in section fifteen hundred ninety-nine-c of this title shall have been reached, the authority shall cease to exist and all rights, title and interests and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city.

* NB Authority ceased to exist 08/05/2002

* NB There are 4 § 1599-s's

*** § 1599-t. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Authority ceased to exist 08/05/2002

* NB There are 2 § 1599-t's

*** § 1599-u. Limited liability.** Neither the members of the authority, nor any officer or employee of the authority acting in behalf thereof, while acting within the scope of his authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or any project financed with the assistance of the authority, carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

* NB Authority ceased to exist 08/05/2002

*** § 1599-v. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* NB Authority ceased to exist 08/05/2002

*** § 1599-w. Equal employment opportunity.** The authority shall ensure that, where possible, all employees or applicants for employment are afforded equal employment opportunity without discrimination.

* NB Authority ceased to exist 08/05/2002

* TITLE 16

VILLAGE OF MOUNT KISCO PARKING AUTHORITY

* NB Authority ceased to exist 06/01/1976
* NB There are 2 A7 T16's

*** § 1599-aaa. Short title.** This title may be cited as the "Mount Kisco Parking Authority Act."
* NB Authority ceased to exist 06/01/1976
* NB There are 2 § 1599-aaa's

*** § 1599-bbb. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

(a) The term "authority" shall mean the corporation created by section three of this title;

(b) The term "village" shall mean the village of Mount Kisco;

(c) The term "bonds" shall mean the bonds authorized in this title;

(d) The term "board" shall mean the members of the authority;

(e) The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the village;

(f) The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the village;

(g) The term "projects" shall mean more than one project.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-bbb's

*** § 1599-ccc. Mount Kisco parking authority.** A board to be known as "Mount Kisco parking authority" is hereby created. Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the mayor with the approval of the board of trustees of the village. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The board of trustees may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of five years, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the village.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-ccc's

*** § 1599-ddd. Purpose and powers of the authority.** The purpose of the authority shall be to construct, operate and maintain one or more projects in the village. To carry out said purpose, the authority shall have power:

(a) To sue and be sued;

(b) To have a seal and alter the same at pleasure;

(c) To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

(d) To acquire, in the name of the village by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the village, and further provided, that the authority shall give the board of trustees of the village written notice of its intent to acquire any land by condemnation, whereupon said board of trustees, within a period of forty-five days after the giving of such notice, by resolution voted upon affirmatively by at least four members of such board of trustees, may determine that such land shall not be so acquired, in which event the authority shall be without further power to so acquire the same by condemnation;

(e) To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

(f) With the consent of the village to use agents, employees and facilities of the village, paying to the village its agreed proportion of the compensation or costs;

(g) To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided; to designate officers and employees, appointed or used by the authority, as hereinabove specified, who shall be empowered to issue appearance tickets as provided for in article one hundred fifty of the criminal procedure law. Persons so designated are hereby authorized to issue and serve such tickets for traffic infractions relating to parking within "project" areas as defined herein, in accordance with law and when authorized by local law of the town of Mount Kisco or the village to issue and serve such tickets for traffic infractions committed anywhere in such town or such village including at parking spaces controlled by parking meters;

(h) To appoint an attorney, who may be the village attorney, and to fix his compensation;

(i) To make contracts and leases, and to execute all instruments necessary or convenient;

(j) To construct such buildings, structures and facilities as may be necessary;

(k) To reconstruct, improve, maintain and operate the projects;

(l) To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the village, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

(m) To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

(n) To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the village of Mount Kisco, or any agency of the authority or village, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title.

* NB Authority ceased to exist 06/01/1976
* NB There are 2 § 1599-ddd's

*** § 1599-eee. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the village may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the village who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the village under the rules of the municipal civil service commission of the village shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the village civil service commission.

* NB Authority ceased to exist 06/01/1976
* NB There are 2 § 1599-eee's

*** § 1599-fff. Conveyance of property by the village to the authority; acquisition of property by the village or by the authority.** (a) The village may, by resolution or resolutions of the board of trustees or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the village for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the village but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

(b) The village may acquire in the name of the village by purchase or condemnation real property in the village for any of the projects or for the widening of existing roads, streets, avenues or highways, or for new roads, streets, avenues or highways, within a radius of one mile to any of the projects, or partly for such purposes and partly for other village purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the village. For like purposes, the village may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

(c) Contracts may be entered into between the village and the authority providing for the property to be conveyed by the village to the authority, the additional property to be acquired by the village and so conveyed, the streets, roads, avenues, and highways to be closed by the village and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the village as to the road, street, avenue and highway improvements to be made by the village. Any such contracts between the village and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The board of trustees may authorize such contracts between the village and the authority and no other authorization on the part of the village for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the village and in such manner as the board of trustees may determine, and the payments required to be made by the village may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the village. All contractual or other obligations of the village incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the village thereafter made, if and to the extent that they may appropriately be included therein.

(d) Subject to the provisions of subsection (d) of section fifteen hundred ninety-nine-ccc hereof, the authority may itself acquire real property for a project in the name of the village at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the village. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

(e) In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such real property was acquired at the cost and expense of the village, the authority shall have power to surrender its use and occupancy thereof to the village, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-fff's

*** § 1599-ggg. Construction contracts.** The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law, for contracts of the village, except that where the estimated expense of a contract does not exceed twenty-five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-ggg's

*** § 1599-hhh. Moneys of the authority.** All moneys of the authority shall be paid to the treasurer of the village as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such person or persons as the authority may authorize to make such requisitions after audit by the treasurer. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller and he or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings to the board of trustees at its second meeting in September of each and every year.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-hhh's

*** § 1599-iii. Bonds of the authority.** (a) The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any purpose mentioned in section fifteen hundred ninety-nine-ddd hereof, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purposes, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding twenty-five per cent of the bonded indebtedness limitation from time to time imposed by section 104.00 of the local finance law upon bonded indebtedness of the village outstanding at any one time. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

(b) The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding six per centum per annum payable annually or semiannually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than five per centum per annum.

(c) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to

(1) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(2) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(3) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(4) limitations on the right of the authority to restrict and regulate the use of a project;

(5) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(6) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(8) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(9) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section fifteen hundred ninety-nine-ppp hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(10) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

(d) It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims, of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(e) Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

(g) In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section fifteen hundred ninety-nine-hhh of this title the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section fifteen hundred ninety-nine-ppp upon a trustee appointed by bondholders.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-iii's

*** § 1599-jjj. Notes of the authority.** The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of section fifteen hundred ninety-nine-iii of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-jjj's

*** § 1599-kkk. Agreements of the village.** (a) The village of Mount Kisco is authorized to pledge to and agree with the holders of the bonds that the village will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

(b) The authority is hereby authorized, in its discretion, for and on behalf of itself and the village of Mount Kisco to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the village by the village, or by any public benefit or other corporation the members or some of which are elected or are appointed by village officials, until either

(1) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or

(2) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-kkk's

*** § 1599-lll. State and village not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the village, and neither the state nor the village shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-lll's

*** § 1599-mmm. Bonds legal investments for public officers.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them, provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-mmm's

*** § 1599-nnn. Tax exemptions.** Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-nnn's

*** § 1599-ooo. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-ooo's

* **§ 1599-ppp. Remedies of bondholders.** (a) In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Westchester and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

(b) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(1) by suit, action or special proceedings enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(2) bring suit upon such bonds;

(3) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(4) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;

(5) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

(c) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Westchester.

(d) Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

(e) Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

(f) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-ppp's

*** § 1599-qqq. Actions against the authority.** (a) In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least ninety days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for ninety days after such presentment.

(b) Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such action and of the time when and place where the damages or personal injuries were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-qqq's

*** § 1599-rrr. Termination of the authority.** Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the village of Mount Kisco.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-rrr's

*** § 1599-sss. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-sss's

*** § 1599-ttt. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the village, the provisions of this title shall be controlling.

* NB Authority ceased to exist 06/01/1976

* NB There are 2 § 1599-ttt's

* TITLE 16

JAMESTOWN PARKING AUTHORITY

1599-rrr*2. Termination of the authority.
1599-sss*2. Title not affected if in part unconstitutional or ineffective.
1599-ttt*2. Inconsistent provisions in other acts superseded.

* NB Authority ceased to exist 04/01/1977
* NB There are 2 A7 T16's

*** § 1599-aaa. Short title.** This title may be cited as the "Jamestown parking authority act".

* NB Authority ceased to exist 04/01/1977
* NB There are 2 § 1599-aaa's

*** § 1599-bbb. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section one thousand five hundred ninety-nine-ccc of this title;

2. The term "city" shall mean the city of Jamestown;

3. The term "bonds" shall mean the bonds authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate; in the area of the city;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other

vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground, which are used or usable in connection with such parking or storing of such vehicles in the area of the city.

7. The term "projects" shall mean more than one project.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-bbb's

*** § 1599-ccc. Jamestown parking authority.** A board to be known as "Jamestown parking authority" is hereby created. Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the mayor with the approval of the city council of the city. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman. The city council may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of five years, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-ccc's

*** § 1599-ddd. Purpose and powers of the authority.** The purpose of the authority shall be to construct, operate and maintain one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire in the name of the city by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the city;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees, and facilities of the city, paying to the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their

qualifications and to fix their compensation; subject, however to the provisions of the civil service law, as hereinafter provided;

8. To appoint attorneys, including the corporation counsel, and to fix their compensation;

9. To make contracts and leases, and to execute all instruments necessary or convenient;

10. To construct such buildings, structures and facilities as may be necessary;

11. To reconstruct, improve, maintain and operate the projects;

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of the projects or any of them subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

14. To construct, operate or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city of Jamestown, or any agency of the authority or city, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this title.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-ddd's

*** § 1599-eee. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-eee's

*** § 1599-fff. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority.** 1. The city may, by resolution or resolutions of the council or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire in the name of the city by purchase or condemnation real property in the city for any of the projects or for the widening of existing roads, streets, avenues or highways or for new roads, streets, avenues or highways within a radius of one mile to any of the projects, or partly for such purposes and partly for other city

purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. For like purposes, the city may close such streets, roads, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, avenue and highway improvements to be made by the city. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by such capital budget of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. The authority may itself acquire real property for a project in the name of the city at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the city. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project

then, if such real property was acquired at the cost and expense of the city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-fff's

*** § 1599-ggg. Construction contracts.** The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of the city except that where the estimated expense of a contract does not exceed five thousand dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-ggg's

*** § 1599-hhh. Moneys of the authority.** All moneys of the authority shall be paid to the city comptroller of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the city comptroller on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the city comptroller. All deposits of such moneys shall, if required by the city comptroller or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The city comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

The accounts of the authority shall be subject to the supervision of the state comptroller.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-hhh's

*** § 1599-iii. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purposes mentioned in section one thousand five hundred ninety-nine-ddd of this title, including the acquisition, construction, reconstruction and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation in the aggregate principal amount of not exceeding three million dollars outstanding at any one time. The authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under the terms of the negotiable instruments law (constituting chapter thirty-seven of the consolidated laws) the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the negotiable instruments law, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding seven per centum per annum payable annually or semi-annually, be in such denominations, be in such forms, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine.

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

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds or sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bond or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section one thousand five hundred ninety-nine-ppp of this title hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties

have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects, and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section one thousand five hundred ninety-nine-hhh of this title, the authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section one thousand five hundred ninety-nine-ooo of this title upon a trustee appointed by bondholders.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-iii's

*** § 1599-jjj. Notes of the authority.** The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time two million dollars, over and above the amount of bonds authorized by subdivision one of section one thousand five hundred ninety-nine-iii of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

* NB Authority ceased to exist 04/01/1977
* NB There are 2 § 1599-jjj's

*** § 1599-kkk. Agreements of the city.** 1. The city of Jamestown is authorized to pledge to and agree with the holders of the bonds that the city will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of bonds or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and the city of Jamestown, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, except that meters may be installed and operated on public streets of the city, until either (a) the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged or (b) principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-kkk's

*** § 1599-lll. State and city not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-lll's

*** § 1599-mmm. Bonds legal investments for public officers.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other person carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other person carrying on a banking business, and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-mmm's

*** § 1599-nnn. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Jamestown and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-nnn's

*** § 1599-ooo. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-ooo's

*** § 1599-ppp. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Chautauqua and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Chautauqua.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and any pledge thereof or agreement thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee,

counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the aforegoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-ppp's

*** § 1599-qqq. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have lapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such action and of the time when and place where the damages or personal injuries were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued. An action against the authority for wrongful death shall be commenced in

accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-qqq's

*** § 1599-rrr. Termination of the authority.** Whenever all of the bonds issued by the authority shall have been redeemed or canceled, the authority shall cease to exist and all rights, titles and interests and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Jamestown.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-rrr's

*** § 1599-sss. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-sss's

*** § 1599-ttt. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* NB Authority ceased to exist 04/01/1977

* NB There are 2 § 1599-ttt's

* TITLE 18

TARRYTOWN PARKING AUTHORITY

Section 1600-a. Short title.

* NB Ceased to exist December 31, 1999

*** § 1600-a. Short title.** This title may be cited as the "Tarrytown Parking Authority Act".
* NB Ceased to exist December 31, 1999

*** § 1600-b. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section sixteen hundred-c of this title;

2. The term "village" shall mean the village of Tarrytown;

3. The term "bonds" and "notes" shall mean the bonds and notes, respectively, authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, air rights, sub-surface rights, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate in the area of the village;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the village;

7. The term "projects" shall mean more than one project.
* NB Ceased to exist December 31, 1999

*** § 1600-c. Tarrytown parking authority.** A board to be known as "Tarrytown parking authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, all of whom shall be appointed by the mayor with the approval of the board of trustees of the village. The appointment of the chairman shall be for a term of five years. Of the other members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of such term, shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman and such other officers deemed desirable by the board. The board of trustees may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only to the thirty-first day of December, nineteen hundred ninety-nine, and thereafter until all its liabilities and duties have been met and its bonds and notes have been paid in full or such liabilities, bonds and notes have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the village.

* NB Ceased to exist December 31, 1999

*** § 1600-d. Purpose and powers of the authority.** The purpose of the authority shall be to provide, operate or maintain or any combination thereof one or more projects in the village. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire real property subject to the approval of at least four members of the board of trustees in the name of the village by purchase or condemnation or gift, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by the village, and further provided, that the authority shall give the board of trustees of the village written notice of its intent to acquire any land by condemnation, whereupon said board of trustees, within a period of forty-five days after the giving of such notice, by resolution voted upon affirmatively by at least four members of such board of trustees, may determine that such land shall not be so acquired, in which event the authority shall be without further power to so acquire the same by condemnation.

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the village to use agents, employees, and facilities of the village, including the village attorney, paying to the village its agreed proportion of the compensation or costs;

7. To appoint an attorney, and to fix his compensation;

8. To appoint officers, agents, employees, and consultants, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

9. To make contracts, leases, as lessor or lessee, and any operating agreement, and to execute all instruments necessary or convenient;

10. To acquire, construct, reconstruct, improve, equip and furnish any project as may be necessary or convenient;

11. To maintain and operate any project;

12. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the village, or any person, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

13. To fix and collect rentals, fees and other charges for the use of any project and to pledge the same, all subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

14. To construct, operate or maintain in the projects all facilities and equipment necessary or convenient in connection therewith; and to contract for the providing, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the village, or any agency of the authority or village, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facilities authorized by this title.

* NB Ceased to exist December 31, 1999

*** § 1600-e. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the village may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the village who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the village shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and all employees of the authority may have the same rights and benefits as village employees.

* NB Ceased to exist December 31, 1999

*** § 1600-f. Conveyance of property by the village to the authority; acquisition of property by the village or by the authority.** 1. The village may, by resolution or resolutions of the village board or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the village for use by the authority as a project or projects or a part thereof or in connection therewith and pledge and pay to the authority, as security for its bonds, notes or other liabilities, certain revenues and income of the village from parking facilities owned or operated by the village. In case of real property so conveyed, the title thereto shall remain in the village but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue, unless otherwise provided for by the authority and the village. In the case of personal property so conveyed, the title shall pass to the authority.

2. The village may acquire by gift, purchase or condemnation real property in the name of the village for any of the projects or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any of the projects, or partly for such purposes and partly for other village purposes, by gift, purchase or condemnation in the manner provided by law for the acquisition of real property by the village. For like purposes, the village may close such streets, roads, parkways, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent

of the state commissioner of transportation.

3. Contracts may be entered into between the village and the authority providing for the property to be conveyed or pledged and paid by the village to the authority, the additional property to be acquired by the village and so conveyed, the streets, roads, parkways, avenues, and highways to be closed by the village and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the village as to the road, street, parkway, avenue and highway improvements to be made by the village and as to such matters which pertain to any conveyance or pledge and payment of moneys or property to the authority. Any such contracts between the village and the authority may be pledged by the authority to secure its bonds and notes and may not be modified thereafter except as provided by the terms of such contract and such pledge. The village board of trustees may authorize such contracts between the village and the authority and no other authorization on the part of the village for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the village and in such manner as the village board of trustees may determine, and the payments required to be made by the village may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the village. All contractual or other obligations of the village incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the village thereafter made, if and to the extent that they may appropriately be included therein.

4. Subject to subsection (4) of section sixteen hundred-d hereof, the authority may itself, subject to prior approval of the village board of trustees, acquire, in the name of the village, real property necessary or convenient in connection with any project at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by the village. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real

property which it shall determine is no longer required for a project, then, if such real property was acquired at the cost and expense of the village, the authority shall have power to surrender its use and occupancy thereof to the village, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

* NB Ceased to exist December 31, 1999

*** § 1600-g. Construction contracts.** The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts for the village, except that where the estimated expense of a contract does not exceed twenty-four hundred dollars such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

* NB Ceased to exist December 31, 1999

*** § 1600-h. Moneys of the authority.** All moneys of the authority shall be paid to the village treasurer of the village as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the village treasurer of the village on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the village treasurer of the village. All deposits of such moneys shall, if required by the village treasurer of the village or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer of the village and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall render a complete account of its proceedings to the village board of trustees at such time or times as required to do so by said village board of trustees.

* NB Ceased to exist December 31, 1999

*** § 1600-i. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds, without limitation as to amount, for any of its corporate purposes and to pay such expenses, costs and payments as may be deemed by the board necessary or desirable to or in connection with the acquisition, construction, reconstruction, improving, equipping and furnishing of any project and the financing thereof, including surveys, planning, provisions for capitalized interest, reserve funds and appropriate feasibility studies, and for the placing of the project or projects in operation. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase, payment or redemption of the bonds to be refunded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds shall be, and are hereby made, negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine.

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

(a) pledging all or any part of the revenues of a project or projects and revenues and income of the authority to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section sixteen hundred-p of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. Notwithstanding any other provision of law, it is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to protect the security interest granted.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any

personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds upon such terms and conditions as the authority may determine. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company, bank or national banking association having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects, and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects or other revenues of the authority to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section sixteen hundred-p of this title upon a trustee appointed by bondholders.

* NB Ceased to exist December 31, 1999

*** § 1600-j. Notes of the authority.** The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. The authority may pledge such moneys or revenues or source thereof (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be sold and issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchaser shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

* NB Ceased to exist December 31, 1999

*** § 1600-k. Agreements of the village and the state.** 1. The village is authorized to, and the state of New York does hereby pledge to and agree with the holders of the bonds or notes that neither the village nor the state, respectively, will limit or alter the rights hereby vested in the authority to acquire, construct, reconstruct, improve, equip, furnish, maintain or operate any project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes, or in any way impair the rights and remedies of the bondholders or noteholders, until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and, subject to approval by the village board of trustees and mayor, the village of Tarrytown, to covenant and agree with the holders of the bonds or notes, with such exceptions and limitations

as it may deem in the public interest and in the interests of the authority's bondholders and noteholders, that no public parking areas or spaces, including the installation and operation of parking meters on the public streets of the village, except those acquired and operated by the authority will be constructed or operated in the village by the village (except as hereinafter provided), or by any public benefit or other corporation, the members of which are elected or appointed by the village officials, until either (a) the bonds or notes, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged; or (b) principal or interest of any of the bonds or notes shall be overdue and unpaid for a period of three years or more; provided, however, nothing herein contained shall be deemed to impair the right of the village to continue to operate the presently existing municipal parking facilities and any replacements thereof.

* NB Ceased to exist December 31, 1999

*** § 1600-l. State and village not liable on bonds.** The bonds, notes and other obligations of the authority shall not be a debt of the state of New York or of the village, and neither the state nor the village shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Ceased to exist December 31, 1999

*** § 1600-m. Bonds and notes legal investments for public officers and fiduciaries.** The bonds and notes are hereby made securities in which all public officers, and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Ceased to exist December 31, 1999

*** § 1600-n. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the village of Tarrytown and its environs, and is a public purpose, and the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

* NB Ceased to exist December 31, 1999

*** § 1600-o. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds or notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

* NB Ceased to exist December 31, 1999

*** § 1600-p. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Westchester and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

(a) by mandamus or other suit, action or proceeding, at law or in equity, enforce all rights to the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any

such suit, action or proceedings shall be laid in the county of Westchester.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any real property necessary or convenient in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Ceased to exist December 31, 1999

*** § 1600-q. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of intention to commence such an action and of the time when and place where the damages or personal injuries were incurred or sustained, together with a verified statement showing in detail the property alleged to have been damaged or destroyed and the value thereof, or the personal injuries alleged to have been sustained and by whom, shall have been filed with the secretary of the authority in the principal office of the authority within six months after such cause of action shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB Ceased to exist December 31, 1999

*** § 1600-r. Termination of the authority.** Whenever all of the bonds and notes issued by the authority shall have been redeemed or cancelled, and all its liabilities and duties met or discharged, and the termination date of its corporate existence as set forth in section sixteen hundred-c of this title shall have been reached, the authority shall cease to exist and all rights, titles and interests and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the village of

Tarrytown.
  * NB Ceased to exist December 31, 1999

*** § 1600-s. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.
  * NB Ceased to exist December 31, 1999

*** § 1600-t. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the village, the provisions of this title shall be controlling.
  * NB Ceased to exist December 31, 1999

* TITLE 21

MIDDLETOWN PARKING AUTHORITY

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-a. Short title.** This title shall be known and may be cited as the "Middletown parking authority act."
* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-b. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section sixteen hundred twenty-one-c of this title;

2. The term "city" shall mean the city of Middletown;

3. The term "bonds" and "notes" shall mean the bonds and notes, respectively, authorized in this title;

4. The term "board" shall mean the board established pursuant to section sixteen hundred twenty-one-c of this title;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, and rights, sub-surface rights, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments,

mortgages or otherwise, and also claims for damage to real estate, in the area of the city; and

6. The term "project" or "projects" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the city.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-c. Middletown parking authority.** 1. A board to be known as the "Middletown parking authority" is hereby created. The board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as provided in this section.

2. (a) The board shall consist of a chairperson and four other members, all of whom shall be appointed by the mayor with the approval of the common council of the city. The appointment of the chairperson shall be for a term of four years. Of the other members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, and one for a period of four years. At the expiration of such terms, the terms of office of the successors of the board members shall be four years. Each member shall continue to serve until the appointment and qualification of his or her successor. A board member may be appointed for additional terms.

(b) Vacancies on the board occurring otherwise than by the expiration of term, shall be filled for the unexpired term by the mayor with the approval of the common council.

(c) The members of the board shall choose from their number a vice-chairperson and such other officers deemed desirable by the board.

3. The common council may remove any member of the board for

inefficiency, neglect of duty or misconduct in office, giving the board member a copy of the charges against the board member and an opportunity of being heard in person, or by counsel, in his or her defense, upon not less than ten days' notice.

4. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

5. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office.

6. The board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-d. Purpose and powers of the authority.** The purpose of the authority shall be to provide, operate or maintain, or any combination thereof, one or more projects in the city. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire real property subject to the approval of at least four members of the common council in the name of the city by purchase or condemnation or gift, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the eminent domain procedure law, and further

provided, that the authority shall give the common council of the city written notice of its intent to acquire any land by condemnation, whereupon said common council, within a period of forty-five days after the giving of such notice, by resolution voted upon affirmatively by at least two members of such common council, may determine that such land shall not be so acquired, in which event the authority shall be without further power to so acquire the same by condemnation;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the city to use agents, employees, and facilities of the city, including the corporation counsel, paying to the city its agreed proportion of the compensation or costs;

7. To appoint an attorney, and to fix his or her compensation;

8. To appoint officers, agents, employees, and consultants, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as provided in this section;

9. To designate officers and employees, appointed or used by the authority, as specified in this section, who shall be empowered to issue appearance tickets as provided for in article one hundred fifty of the criminal procedure law. Persons so designated are hereby authorized to issue and serve such tickets for traffic infractions relating to parking within "project" areas as defined herein, in accordance with law and when authorized by local law of the city to issue and serve such tickets for traffic infractions committed anywhere in such city including at parking spaces controlled by parking meters;

10. To make contracts, leases, as lessor or lessee, and any operating agreement, and to execute all instruments necessary or convenient;

11. To acquire, construct, reconstruct, improve, equip and furnish any

project as may be necessary or convenient;

12. To maintain and operate any projects;

13. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the city, or any person, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

14. To fix and collect rentals, fees and other charges for the use of any project and to pledge the same, all subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

15. To construct, operate or maintain in the projects all facilities and equipment necessary or convenient in connection therewith; and to contract for the providing, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city, or any agency of the authority or city, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facilities authorized by this title.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-e. Civil service status of officers and employees.** Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and all employees of the authority shall have the same rights and benefits as city employees.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-f. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority.** 1. The city may, by resolution or resolutions of the common council or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project or projects or a part thereof or in connection therewith and pledge and pay to the authority, as security for its bonds, notes or other liabilities, certain revenues and income of the city from parking facilities owned or operated by the city. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue, unless otherwise provided for by the authority and the city. In the case of personal property so conveyed, the title shall pass to the authority.

2. The city may acquire by gift, purchase or condemnation real property in the name of the city for any of the projects or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any of the projects, or partly for such purposes and partly for other city purposes, by gift, purchase or condemnation in the manner provided by law for the acquisition of real property by the city. For like purposes, the city may close such streets, roads, parkways, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the city and the authority providing for the property to be conveyed or pledged or paid by the city to the authority, the additional property to be acquired by the city and so conveyed, the streets, roads, parkways, avenues, and highways to be closed by the city and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the city as to the road, street, parkway, avenue and highway improvements to be made by the city and as to such matters which pertain to any conveyance or pledge and payment of moneys or property to the authority. Any such contracts between the city and the authority may be pledged by the authority to secure its bonds and notes and may not be modified thereafter except as provided by the terms of such contract and such pledge. The common council may authorize such contracts between the city and the authority and no other authorization on the part of the city for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the city and in such manner as the common council may determine, and the payments required to be made by the city may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the city. All contractual or other obligations of the city incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the city thereafter made, if and to the extent that they may appropriately be included therein.

4. Subject to subdivision four of section sixteen hundred twenty-one-d of this title, the authority may itself, subject to prior approval of the common council, acquire, in the name of the city, real property necessary or convenient in connection with any project at the cost and expense of the authority by purchase or condemnation pursuant to the eminent domain procedure law. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project, then, if such real property was acquired at the cost and expense of the

city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property at public sale, and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-g. Construction and purchase contracts.** 1. The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts for the city, except that where the estimated expense of a contract does not exceed five thousand dollars such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority. Contracts for the purchase of supplies, materials and equipment shall be let in the same manner as is provided by law for contracts of the city.

2. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency, as the term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-h. Moneys of the authority.** All moneys of the authority shall be paid to the city treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the city treasurer of the city on requisition of the chairperson of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the city treasurer of the city. All deposits of such moneys shall be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer of the city and his or her legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall render a complete account of its proceedings to the common council at its first meeting of each year and at such other times as may reasonably be requested by the common council.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-i. Bonds of the authority.** 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any of its corporate purposes and to pay such expenses, costs and payments as may be deemed by the board necessary or desirable to or in connection with the acquisition, construction, reconstruction, improving, equipping and furnishing of any project and the financing thereof, including surveys, planning, provisions for capitalized interest, reserve funds and appropriate feasibility studies, and for the placing of the project or projects in operation. The aggregate principal amount of such bonds outstanding at any one time shall not exceed twenty-five percent of the bonded indebtedness limitation from time to time imposed by section 104.00 of the local finance law. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured and may issue bonds partly to refund bonds then outstanding and partly for any other purpose described in this subdivision. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase, payment or redemption of the bonds to be refunded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds shall be, and are hereby made, negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine; provided, however, that any private sale shall be subject to the approval of the state comptroller where such sale is not to the comptroller, or the director of the budget where such sale is to the comptroller.

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

(a) pledging all or any part of the revenues of a project or projects and revenues and income of the authority to secure the payment of the

bonds, subject to such agreements with bondholders as may then exist;
(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;
(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;
(d) limitations on the right of the authority to restrict and regulate the use of a project;
(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;
(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;
(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;
(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all, the rights, powers and duties of the trustee appointed by the bondholders pursuant to section sixteen hundred twenty-one-p of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;
(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. Notwithstanding any other provision of law, it is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge

without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to protect the security interest granted.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds upon such terms and conditions as the authority may determine. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company, bank or national banking association having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects, and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects or other revenues of the authority to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the

bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section sixteen hundred twenty-one-p of this title upon a trustee appointed by bondholders.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-j. Notes of the authority.** The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (hereafter "notes"), maturing not later than five years from their respective original dates in an amount not exceeding at any one time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of section sixteen hundred twenty-one-i of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. The authority may pledge such moneys or revenues or source thereof (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be sold and issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchaser shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-k. Agreements of the city and the state.** 1. The city is authorized to, and the state of New York does hereby pledge to and agree with the holders of the bonds or notes that neither the city nor the state, respectively, will limit or alter the rights hereby vested in the authority to acquire, construct, reconstruct, improve, equip, furnish, maintain or operate any project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes, or in any way impair the rights and remedies of the bondholders or noteholders, until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and, subject to approval by the common council and the mayor of the city of Middletown, to covenant and agree with the holders of the bonds or notes, with such exceptions and limitations as it may deem in the public interest and in the interests of the authority's bondholders and noteholders, that no public parking areas or spaces, including the installation and operation of parking meters on the public streets of the city, except those acquired and operated by the authority will be constructed or operated in the city by the city (except as hereinafter provided), or by any public benefit or other corporation, the members of which are elected or appointed by city officials, until either: (a) the bonds or notes, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged; or (b) principal or interest of any of the bonds or notes shall be overdue and unpaid for a period of three years or more; provided, however, nothing contained in this section shall be deemed to impair the right of the city to continue to operate the presently existing municipal parking facilities and any replacements thereof.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-l. State and city not liable on bonds.** The bonds, notes and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-m. Bonds and notes legal investments for public officers and fiduciaries.** The bonds and notes are hereby made securities in which all public officers, and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-n. Tax exemptions.** 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Middletown and its environs, and is a public purpose, and the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be

exempt from taxation, except for transfer and estate taxes.
* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-o. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds or notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.
* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-p. Remedies of bondholders.** 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Orange and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes provided in this section.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in the trustee's own name:
(a) by mandamus or other suit, action or proceeding, at law or in equity, enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the

authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Orange.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any real property necessary or convenient in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and

carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

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

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-q. Actions against the authority.** 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least ninety days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for ninety days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limit established by and in compliance with all requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-r. Termination of the authority.** Whenever all of the bonds and notes issued by the authority shall have been redeemed or cancelled, and all its liabilities and duties met or discharged, the authority shall cease to exist and all rights, title and interests and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Middletown.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-s. Severability.** If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this article would have been enacted even if such invalid provisions had not been included herein.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

*** § 1621-t. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* NB Repealed per § 1621-r (see chapter 597 of 2023 § 2 for specifics)

TITLE 22

VILLAGE OF NYACK PARKING AUTHORITY

§ 1622-a. Short title. This title may be cited as the "Village of Nyack Parking Authority Act".

§ 1622-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section sixteen hundred twenty-two-c of this title;

2. The term "village" shall mean the village of Nyack;

3. The term "bonds" and "notes" shall mean the bonds and notes, respectively, authorized in this title;

4. The term "board" shall mean the members of the authority;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, air rights, sub-surface rights, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate in the area of the village;

6. The term "project" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the village;

7. The term "projects" shall mean more than one project.

§ 1622-c. Village of Nyack parking authority. A board to be known as "Village of Nyack parking authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, all of whom shall be appointed by the mayor with the approval of the board of trustees of the village. The appointment of the chairman shall be for a term of five years. Of the other members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of such term, shall be filled for the unexpired term. The members of the board shall choose from their number a vice-chairman and such other officers deemed desirable by the board. The board of trustees may remove any member of the board for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. Such board and its corporate existence shall continue only to the thirty-first day of December, twenty hundred fifteen, and thereafter until all its liabilities and duties have been met and its bonds and notes have been paid in full or such liabilities, bonds and notes have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the village.

§ 1622-d. Purpose and powers of the authority. The purpose of the authority shall be to provide, operate or maintain or any combination thereof one or more projects in the village. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;

4. To acquire real property subject to the approval of at least four

members of the board of trustees in the name of the village by purchase or condemnation or gift, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the eminent domain procedure law or in the manner provided by law for the condemnation of land by the village, and further provided, that the authority shall give the board of trustees of the village written notice of its intent to acquire any land by condemnation, whereupon said board of trustees, within a period of forty-five days after the giving of such notice, by resolution voted upon affirmatively by at least four members of such board of trustees, may determine that such land shall not be so acquired, in which event the authority shall be without further power to so acquire the same by condemnation;

5. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;

6. With the consent of the village to use agents, employees, and facilities of the village, including the village attorney, paying to the village its agreed proportion of the compensation or costs;

7. To appoint an attorney, and to fix his compensation;

8. To appoint officers, agents, employees, and consultants, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

9. To make contracts, leases, as lessor or lessee, and any operating agreement, and to execute all instruments necessary or convenient;

10. To designate officers and employees, appointed or used by the authority, as hereinabove specified, who shall be empowered to issue appearance tickets as provided for in article one hundred fifty of the criminal procedure law. Persons so designated are hereby authorized to issue and serve such tickets for traffic infractions relating to parking

within "project" areas as defined herein, in accordance with law and when authorized by local law of the village to issue and serve such tickets for traffic infractions committed anywhere in such village including at parking spaces controlled by parking meters.

11. To acquire, construct, reconstruct, improve, equip and furnish any project as may be necessary or convenient;

12. To maintain and operate any project;

13. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the village, or any person, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

14. To fix and collect rentals, fees and other charges for the use of any project and to pledge the same, all subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

15. To construct, operate or maintain in the projects all facilities and equipment necessary or convenient in connection therewith; and to contract for the providing, operation or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the village, or any agency of the authority or village, or any other person, firm or corporation shall, within or on any property comprising a part of any project authorized by this title, sell, dispense or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facilities authorized by this title.

§ 1622-e. Civil service status of officers and employees. Officers and employees of any board, commission or department of the village may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. All such employees who have been appointed to positions in the service of the village shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and all employees of the authority may have the same rights and benefits as village employees.

§ 1622-f. Conveyance of property by the village to the authority; acquisition of property by the village or by the authority. 1. The village may, by resolution or resolutions of the village board or by instruments authorized by such resolutions, convey, with or without consideration, to the authority real and personal property owned by the village for use by the authority as a project or projects or a part thereof or in connection therewith and pledge and pay to the authority, as security for its bonds, notes or other liabilities, certain revenues and income of the village from parking facilities owned or operated by the village. In case of real property so conveyed, the title thereto shall remain in the village but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue, unless otherwise provided for by the authority and the village. In the case of personal property so conveyed, the title shall pass to the authority.

2. The village may acquire by gift, purchase or condemnation real property in the name of the village for any of the projects or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any of the projects, or partly for such purposes and partly for other village purposes, by gift, purchase or condemnation in the manner provided by law for the acquisition of real property by the village. For like purposes, the village may close such streets, roads, parkways, avenues, or highways as may be necessary or convenient, except as to state highways and arterial ways which may not be closed without the consent of the state commissioner of transportation.

3. Contracts may be entered into between the village and the authority providing for the property to be conveyed or pledged and paid by the village to the authority, the additional property to be acquired by the village and so conveyed, the streets, roads, parkways, avenues, and highways to be closed by the village and the amounts, terms and conditions of payment to be made by the authority. Such contracts may also contain covenants by the village as to the road, street, parkway, avenue and highway improvements to be made by the village and as to such matters which pertain to any conveyance or pledge and payment of moneys or property to the authority. Any such contracts between the village and the authority may be pledged by the authority to secure its bonds and notes and may not be modified thereafter except as provided by the terms of such contract and such pledge. The village board of trustees may authorize such contracts between the village and the authority and no other authorization on the part of the village for such contracts shall be necessary. Any such contracts may be so authorized and entered into by the village and in such manner as the village board of trustees may determine, and the payments required to be made by the village may be made and financed notwithstanding that no provision therefor shall have first been made in the capital budget of the village. All contractual or other obligations of the village incurred in carrying out the provisions of this title shall be included in and provided for by each capital budget of the village thereafter made, if and to the extent that they may appropriately be included therein.

4. Subject to subdivision four of section sixteen hundred twenty-two-d hereof, the authority may itself, subject to prior approval of the village board of trustees, acquire, in the name of the village, real property necessary or convenient in connection with any project at the cost and expense of the authority by purchase or condemnation pursuant to the eminent domain procedure law or pursuant to the laws relating to the condemnation of land by the village. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case the authority shall have the use and occupancy of any real

property which it shall determine is no longer required for a project, then, if such real property was acquired at the cost and expense of the village, the authority shall have power to surrender its use and occupancy thereof to the village, or, if such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

§ 1622-g. Construction and purchase contracts. 1. The authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts for the village, except that where the estimated expense of a contract does not exceed twenty-four hundred dollars such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority. Contracts for the purchase of supplies, materials and equipment shall be let in the same manner as is provided by law for contracts of the village.

2. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency, as the term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 1622-h. Moneys of the authority. All moneys of the authority shall be paid to the village treasurer of the village as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the village treasurer of the village on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the village treasurer of the village. All deposits of such moneys shall, if required by the village treasurer of the village or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer of the village and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall render a complete account of its proceedings to the village board of trustees at such time or times as required to do so by said village board of trustees.

§ 1622-i. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds, in the aggregate principal amount not to exceed ten million dollars outstanding at one time, for any of its corporate purposes and to pay such expenses, costs and payments as may be deemed by the board necessary or desirable to or in connection with the acquisition, construction, reconstruction, improving, equipping and furnishing of any project and the financing thereof, including surveys, planning, provisions for capitalized interest, reserve funds and appropriate feasibility studies, and for the placing of the project or projects in operation. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase, payment or redemption of the bonds to be refunded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds shall be, and are hereby made, negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine; provided, however, that any private sale shall be subject to the approval of the state comptroller, where such sale is not to the comptroller, or the director of the budget, where such sale is to the comptroller.

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

(a) pledging all or any part of the revenues of a project or projects and revenues and income of the authority to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section sixteen hundred twenty-two-p of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. Notwithstanding any other provision of law, it is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien

of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to protect the security interest granted.

5. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase bonds upon such terms and conditions as the authority may determine. The authority may hold, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company, bank or national banking association having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project or projects, and the custody, safeguarding and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects or other revenues of the authority to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to

represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section sixteen hundred twenty-two-p of this title upon a trustee appointed by bondholders.

§ 1622-j. Notes of the authority. The authority shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes), in an amount not exceeding at any time one million dollars, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. The authority may pledge such moneys or revenues or source thereof (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be sold and issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchaser shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1622-k. Agreements of the village and the state. 1. The village is authorized to, and the state of New York does hereby pledge to and agree with the holders of the bonds or notes that neither the village nor the state, respectively, will limit or alter the rights hereby vested in the authority to acquire, construct, reconstruct, improve, equip, furnish, maintain or operate any project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes, or in any way impair the rights and remedies of the bondholders or noteholders, until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders, are fully met and discharged.

2. The authority is hereby authorized, in its discretion, for and on behalf of itself and, subject to approval by the village board of trustees and mayor, the village of Nyack, to covenant and agree with the holders of the bonds or notes, with such exceptions and limitations as it may deem in the public interest and in the interests of the authority's bondholders and noteholders, that no public parking areas or spaces, including the installation and operation of parking meters on the public streets of the village, except those acquired and operated by the authority will be constructed or operated in the village by the village (except as hereinafter provided), or by any public benefit or other corporation, the members of which are elected or appointed by the village officials, until either (a) the bonds or notes, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged; or (b) principal or interest of any of the bonds or notes shall be overdue and unpaid for a period of three years or more; provided, however, nothing herein contained shall be deemed to impair the right of the village to continue to operate the presently existing municipal parking facilities and any replacements thereof.

§ 1622-l. State and village not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York or of the village, and neither the state nor the village shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1622-m. Bonds and notes legal investments for public officers and fiduciaries. The bonds and notes are hereby made securities in which all public officers, and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1622-n. Tax exemptions. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the village of Nyack and its environs, and is a public purpose, and the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation.

§ 1622-o. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds or notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be exempt from taxation.

§ 1622-p. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Rockland and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

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

(a) by mandamus or other suit, action or proceeding, at law or in equity, enforce all rights to the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders. The venue of any such suit, action or proceedings shall be laid in the county of Rockland.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any real property necessary or convenient in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1622-q. Actions against the authority. 1. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limit established by and in compliance with all requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1622-r. Termination of the authority. Whenever all of the bonds and notes issued by the authority shall have been redeemed or cancelled, and all its liabilities and duties met or discharged, and the termination date of its corporate existence as set forth in section sixteen hundred twenty-two-c of this title shall have been reached, the authority shall cease to exist and all rights, titles and interests and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the village of Nyack.

§ 1622-s. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1622-t. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the village, the provisions of this title shall be controlling.

ARTICLE 8

MISCELLANEOUS AUTHORITIES

(§§ 1940--1949-k).
11. Troy Industrial Development Authority (§§ 1950-1969).
12. Battery Park City Authority (§§ 1970-1988).
13. Onondaga County Solid Waste Disposal Authority (§§ 2015-2037).
13-AA. Montgomery, Otsego, Schoharie Solid Waste Management Authority (§§ 2041--2041-x).
13-B. Onondaga County Resource Recovery Agency (§§ 2045-a--2045-x).
13-C. Town of Islip Resource Recovery Agency (§§ 2046-a--2046-u).
13-D. Dutchess County Resource Recovery Agency (§§ 2047-a--2047-x).
13-F. Town of North Hempstead Solid Waste Management Authority (§§ 2049-a--2049-x).
13-FF. Oneida-Herkimer Solid Waste Management Authority (§§ 2049-aa--2049-yy).
13-G. Ulster County Resource Recovery Agency (§§ 2050-a--2050-z).
13-H. Eastern Rensselaer County Solid Waste Management Authority (§§ 2050-aa--2050-yy).
13-I. County of Franklin Solid Waste Management Authority (§§ 2051-a--2051-x).
13-L. Oneida County Sports Facility Authority Act (§§ 2052-a--2052-s).
13-M. Rockland County Solid Waste Management Authority (§§ 2053-a--2053-z).
14. *Broome County Sports Center Authority (§§ 2050-2069).
* NB Authority dissolved September 1, 1977
15. Auburn Industrial Development Authority (§§ 2300-2338).
17. State of New York Mortgage Agency Act (§§ 2400--2429-f).
18. State of New York Municipal Bond Bank Agency Act (§§ 2430-2454).
19. New York Sports Authority (§§ 2460-2488).
21. Saratoga Springs City Center Authority

TITLE 4

DORMITORY AUTHORITY

§ 1675. Short title. This title may be cited as the "Dormitory Authority Act."

§ 1676. Definitions. As used or referred to in this title, unless a different meaning appears from the context,

1. The term "authority" shall mean the corporation created by section sixteen hundred seventy-seven of this chapter;

2. The term "dormitory" shall mean any of the following: (a) a housing unit, including an emergency temporary dormitory constructed pursuant to section sixteen hundred seventy-nine of this title, or any other emergency temporary housing operated by the authority, including all necessary and usual attendant and related facilities and equipment, acquired, designed, constructed, reconstructed, rehabilitated and improved, or otherwise provided under the jurisdiction of the dormitory authority for the use of students at a state-operated institution or statutory or contract college under the jurisdiction of the State University of New York, as defined in section three hundred fifty of the education law.

(b) It shall also include a housing unit for the use of students, married students, faculty, staff and the families of such married students, faculty and staff, an academic building, administration building, library, laboratory, classroom, health facility or other building or structure essential, necessary or useful in the academic, cultural, health or research program, including all necessary and usual attendant and related facilities and equipment at any institution for higher education located in this state and authorized to confer degrees by law or by the board of regents, other than a state-operated institution or statutory or contract college under the jurisdiction of the State University of New York, as defined in section three hundred fifty of the education law, or at any non-profit institution or hospital at which the training of nurses is provided by a program approved by the department of education of the state of New York, or for New York Academy of Sciences, or for any of the following:

Lincoln Center for the Performing Arts, Incorporated.

Center for the Arts at Ithaca, Incorporated.

Affiliated Colleges and Universities, Inc.

Brookdale Hospital Center.

Albany Medical Center Hospital.

St. Vincent's Hospital and Medical Center of New York.

Mount Vernon Hospital.

New York Medical College of New York, Incorporated.

Cortland Memorial Hospital.

Highland Hospital of Rochester, Incorporated.

Onondaga County Historical Museum.

Columbia Memorial Hospital.

St. Peter's Hospital of the city of Albany.

The department of health of the state of New York.

Beekman-Downtown Hospital.

Geneva General Hospital.

Optometric Center of New York.

Brookhaven Memorial Association, Incorporated, doing business as the Brookhaven Memorial Hospital.

Calvary Hospital, Inc.

Montefiore Hospital and Medical Center.

The Saratoga Hospital.

Booth Memorial Medical Center, Queens, New York.

Manhattan Eye, Ear and Throat Hospital.

The improvement and modernization of the Dazian, Silver, Karpas and Linsky buildings of the Beth Israel Medical Center and the vertical expansion above the said Silver Building located between East sixteenth and East seventeenth streets and between First Avenue and Nathan D. Perlman Place in New York city; nothing in the foregoing shall be deemed to authorize the said Beth Israel Medical Center to apply any funds or credit obtained pursuant to this title toward the development of any other property or properties it presently owns or controls or may own or control in the future.

Our Lady of Lourdes Memorial Hospital, Inc.

St. Francis Hospital, Poughkeepsie.

The Staten Island Hospital.

Carthage Area Hospital, Inc.

Mount Sinai Hospital.

Hospital for Joint Diseases and Medical Center.

Catholic Medical Center of Brooklyn and Queens, Incorporated.

The Clifton Springs Sanitarium Company.

Children's Hospital of Buffalo.

St. Joseph's Hospital Health Center.

General Hospital of Saranac Lake.

The Church Charity Foundation of Long Island.

Buffalo General Hospital.

Crouse-Irving Memorial Hospital, Inc.

Misericordia Hospital Medical Center.

Samaritan Hospital of Brooklyn.

Benedictine Hospital.

The Society of the Home for Incurables.

The White Plains Hospital Association.

The Cornwall Hospital.

Memorial Hospital, Albany, New York.

The Rochester General Hospital.

Our Lady of Victory Hospital of Lackawanna.

Mercy Hospital Association.

The Hebrew Home for the Aged at Riverdale, Inc.

Charles S. Wilson Memorial Hospital.

Aurelia Osborn Fox Memorial Hospital Society.

Retirement Home of Central New York Conference of the United Methodist Church, Inc.

The Trustees of the Jones Fund for the Support of the Poor.

St. Mary's Hospital of Troy.

The Roosevelt Hospital in relation to the Smithers Alcoholism Treatment and Training Center on a site known as 516 West 59th Street and the Arthur J. Antenucci Research Building on a site known as 432 West 58th Street in New York City, nothing in the foregoing shall be deemed to authorize the said Roosevelt Hospital to apply any funds or credit obtained pursuant to this title toward the development of any other property or properties it presently owns or controls or may own or control in the future.

Queens Hospital Center of the borough of Queens, city of New York.

Franklin General Hospital.

St. Vincent's Medical Center of Richmond.

Long Island Jewish-Hillside Medical Center.

Eastman Dental Center.

United Hospital.

The Brooklyn Educational and Cultural Alliance (B.E.C.A.) when and if incorporated by the Board of Regents of the University of the state of New York.

St. Mary's Hospital at Amsterdam.

The New York Public Library, Astor, Lenox and Tilden Foundations.

The Village Nursing Home, Inc. for the acquisition, improvement and modernization of the Village Nursing Home, located on the southwest corner of the intersection of Twelfth Street and Hudson Street on a site known as 607 Hudson Street in New York City; nothing in the foregoing shall be deemed to authorize the said Village Nursing Home, Inc. to apply any funds or credit obtained pursuant to this title toward the development of any other property or properties it presently owns or controls or may own or control in the future.

The Elizabeth A. Horton Memorial Hospital.

The Community Hospital of Brooklyn, Inc.

Methodist Hospital, Brooklyn.

Maimonides Medical Center.

Lutheran Medical Center, Brooklyn.

The Faxton Hospital in the city of Utica.

Lawrence Hospital.

The New Rochelle Hospital Medical Center.

Putnam Community Hospital.

New York Blood Center, Inc.

South Nassau Communities Hospital, in Oceanside, New York.

St. Joseph's Hospital, Yonkers, New York.

St. Elizabeth's Hospital at Utica.

Arden Hill Hospital, Goshen, New York

St. Luke's Hospital of Newburgh, New York.

Vassar Brothers Hospital

The Nyack Hospital, North Midland Avenue, Nyack, New York.

Yonkers General Hospital.

Nassau Hospital, Mineola, Long Island, New York.

Sheehan Memorial Emergency Hospital, Buffalo.

Good Samaritan Hospital, West Islip, New York.

The Community Hospital at Glen Cove.

Flushing Hospital and Medical Center.

St. John's Riverside Hospital at Yonkers.

Jamaica Hospital of Jamaica, New York

Ellis Hospital, Schenectady, New York.

The Moses Ludington Hospital.

Society of New York Hospital.

Jewish Board of Family and Children's Services, Inc.

Dobbs Ferry Hospital, Dobbs Ferry, New York.

The Metropolitan Museum of Art in relation to any construction within the area bounded by the perimeter and elevation described by the plans for the museum building and the new wings and courts contained in the

Metropolitan Museum of Art Master Plan Report dated July fifteenth, nineteen hundred seventy-one prepared for the Department of Parks, Recreation and Cultural Affairs of the city of New York.

New York state teachers' retirement system.

F.I.T. student housing corporation.

Community Memorial Hospital, Inc., Hamilton, New York.

The College Entrance Examination Board.

Museum of American Folk Art.

The Human Resources Center.

The Museums at Stony Brook.

Memorial Sloan-Kettering Cancer Center.

Associated Universities, Inc.

New York Zoological Society

International House, Inc.

YM and YWHA of Mid-Westchester of the Associated YM-YWHA's of Greater New York.

The New York Foundling Charitable Corporation located on the southeast corner of the intersection of the Avenue of the Americas, formerly Sixth Avenue, and Seventeenth Street on a site known as 578-590 Avenue of the Americas in New York City; nothing in the foregoing shall be deemed to authorize the said New York Foundling Charitable Corporation to apply any funds or credit obtained pursuant to this title toward the development of any other property or properties it presently owns or controls or may own or control in the future.

New York State Association for Retarded Children, Inc., Albany County Chapter for the financing, construction and development of a day programming facility and necessary ancillary and related facilities in Albany county to replace the existing day programming facility now operated by the New York State Association for Retarded Children, Inc., Albany County Chapter at 155 Washington Avenue, Albany, New York.

March of Dimes Birth Defects Foundation.

Association for the Help of Retarded Children, Suffolk Chapter, for the financing, construction and development of a seventy-five thousand square foot adult training and treatment center for the severely developmentally disabled on five acres of agency owned land located on Scouting Blvd. (formerly Industrial Blvd.), West Yaphank, N.Y.

United Cerebral Palsy of Ulster County, Inc., for the construction of a forty-six thousand square foot program services building at Lake Road and Tuytenbridge Road in the Town of Ulster, Ulster County.

Hillside Children's Center for the financing, construction, and equipping of a residential facility and an educational facility for children with handicapping conditions, as such term is defined in subdivision one of section forty-four hundred one of the education law, on County House Road in the town of Sennett, county of Cayuga, New York; and for the upgrading of the facilities and equipment owned and controlled by the Hillside Children's Center, located at 1183 Monroe Avenue in the city of Rochester, county of Monroe, New York.

United Way of Tri-State, Inc. for the acquisition and improvement of office space and related facilities in New York county for use by the following entities: United Way of Tri-State, United Way of New York City, Greater New York Fund/United Way, and the United Way of America, Northeast Regional Office.

New Dimensions in Living, Inc., as a real estate holding company operated in conjunction with the New York State Association for Retarded

Children, Inc., Montgomery County Chapter, for the financing, construction and development of a thirty-five thousand square foot day treatment facility on land owned by New Dimensions in Living, Inc. on Route 5-S in Amsterdam to replace an existing day treatment facility in the former Tribes Hill School.

Associated Residential Centers, Inc., as a real estate holding company operated in conjunction with the New York State Association for Retarded Children, Inc. Rensselaer County Chapter, for the financing, construction and development of a twenty-one thousand square foot day treatment facility and necessary ancillary and related facilities in Rensselaer county to replace existing day treatment facilities now operated by the New York State Association for Retarded Children, Inc., Rensselaer County Chapter in Pittstown and North Greenbush, New York.

New York Society for the Deaf for the financing, construction and development of a six-story expansion of residential facilities for the deaf and deaf-blind at Tanya Towers located at 620 East 13 Street, New York city.

The Devereux Foundation for the financing, construction and equipping of facilities subject to the approval of the commissioner of education, the commissioner of social services and the commissioner of the office for people with developmental disabilities for a residential and educational program for children with handicapping conditions, as such term is defined in subdivision one of section forty-four hundred one of the education law, including, but not limited to, those students who were publicly placed at the Rhinebeck Country School during the nineteen hundred eighty-six--eighty-seven school year and in furtherance of the state's overall goal of reducing the number of children with handicapping conditions requiring out-of-state placements: nothing in the foregoing shall be deemed to authorize The Devereux Foundation to apply any funds or credit obtained pursuant to this section toward the financing, construction or equipping of facilities on any other property or properties it presently owns or controls or owns or controls in the future.

New Hope Community, Inc., a not-for-profit corporation, for the financing, construction and development of residences for adults with a developmental disability on forty acres of land purchased from Leon and Dave Scharf, d.b.a. New Hope Rehabilitation Center, located on State Route 52 in the Town of Fallsburg, to replace existing residential facilities operated by New Hope Rehabilitation Center.

For the financing, construction, reconstruction, improvement, renovation of or otherwise provided for United Cerebral Palsy of New York City, Inc., for (1) an intermediate care facility for the developmentally disabled at Avenue S and Lake Street, Brooklyn; (2) a pre-school program service facility at Mason and Seaview Avenues, Staten Island; (3) a children and adult program service facility at Stillwell Avenue, Bronx; (4) a children and adult program service facility at Lawrence Avenue, Brooklyn; (5) a pre-school program service building at Lawrence Avenue, Brooklyn; (6) an adult program service building at Port Richmond Avenue, Staten Island; (7) children's program services building at Lawrence Avenue, Brooklyn; and for the leasehold improvements to Manhattan and adult programs services sites.

Special act school districts listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended.

State-supported schools for the instruction of deaf and blind students and children with other handicapping conditions pursuant to article eighty-five of the education law and chapter one thousand sixty of the laws of nineteen hundred seventy-four.

Westchester School for Special Children, Westchester county, for the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for a new school building, provided that the location within Westchester County is designated and bonds are issued on or before July first, two thousand eight.

Guided Growth, Inc. of Hawthorne, Westchester county, for the financing, construction and development of a new school building and attendant facilities to be located at five Bradhurst Avenue, Hawthorne, Westchester county.

Saint Christopher-Ottilie, Nassau County, for the renovation and expansion of its Ottilie Campus Residential Treatment Facility on one hundred forty-eighth street in Jamaica, County of Queens.

Snug Harbor Cultural Center, Inc., a not-for-profit corporation, for the financing, construction and renovation of such center's existing buildings at 1000 Richmond Terrace, Staten Island, New York, 10301, into residences for artists.

The education department of the state of New York, including the New York state school for the blind, the New York state school for the deaf, and schools established by the commissioner of education pursuant to section forty-one hundred one of the education law, for facilities owned, operated by, or provided by the state for the use of, the education department of the state of New York, including, but not limited to, the premises commonly known as the state education building, located at 89 Washington Avenue in the city of Albany, New York, the New York state school for the blind, located at Richmond Avenue in the city of Batavia, New York, the New York state school for the deaf, located at 401 Turin Street in the city of Rome, New York, schools established by the commissioner of education pursuant to the provisions of subdivision one of section four thousand one hundred one of the education law, and the premises commonly known as the cultural education center located in the empire state plaza in the city of Albany, New York, and attendant and related facilities.

The National Center for the Study of Wilson's Disease, Inc., a not-for-profit corporation for the financing, construction and equipping of replacement laboratories, offices and clinical out-patient facilities for the center at the Antenucci Institute of the Roosevelt St. Luke's Hospital, 432 W. 58th Street, New York, New York, 10019; provided that the location is designated and bonds are issued on or before July first, nineteen hundred ninety-two.

Vesta Community Housing Development Board, Inc. of Altamont for the financing, construction and equipping of facilities for persons recovering from an addiction to alcohol or a controlled substance.

The Utica College Foundation, for the financing, refinancing, reimbursement and development of student dormitory and academic facilities at its Utica campus, including Burrstone House to serve as a dormitory for students residing at the college; provided, however, that the aggregate sum of such issuance of bonds shall not exceed thirty-five million dollars.

Gateway Youth and Family Services for the financing, construction and development of new facilities for a diagnostic and evaluation program and a pre-independent living program, and to expand existing facilities in a special education school on real property located on Main Street, Williamsville, county of Erie.

Orleans County Chapter-New York State Association for Retarded Children, Inc. for the financing, construction and development, of a preschool facility and necessary ancillary and related facilities in Orleans county to replace the existing preschool facility now operated by the Orleans County Chapter-New York State Association for Retarded Children, Inc. at 151 Platt Street, Albion, N.Y. 14411.

New York State Association for Retarded Children, Inc., Westchester County Chapter for the financing, construction and development, of a preschool facility and necessary ancillary and related facilities in Westchester county to replace the existing preschool facilities now operated by the New York State Association for Retarded Children, Inc., Westchester County Chapter at 12 Green Street, Mt. Kisco, New York and 50 Washington Avenue, New Rochelle, New York.

New York State Association for Retarded Children, Inc.-Livingston-Wyoming County Chapter for the financing, acquisition and rehabilitation, of a preschool facility and necessary ancillary and related facilities in Livingston county to expand existing preschool facilities now operated by the New York State Association for Retarded

Children, Inc.-Livingston-Wyoming County Chapter located at 18 Main Street, Mount Morris, N.Y. 14510.

Orange County Cerebral Palsy Association, Inc. for the improvement of its headquarters facilities on Fletcher Street in the village of Goshen.

New York Association for the Learning Disabled, Capital District Chapter, Inc., renamed Wildwood Programs, Inc., for the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for facilities for Wildwood Programs, Inc.

AMDA INC./The American Musical and Dramatic Academy, for the financing, refinancing, reimbursement and development of a dormitory for students residing at the academy and an academic facility.

Private not-for-profit schools.

For the financing, construction, reconstruction, improvement, renovation of or otherwise provide for United Cerebral Palsy of Westchester County, Inc., for (1) a twelve bed intermediate care facility for the developmentally disabled and (2) for expansion of the day program service facility at Rye Brook, New York.

Hospice, Buffalo, for the financing, construction and development of new and renovated facilities for the care and treatment of terminally ill individuals.

The National Sports Academy at Lake Placid, for the financing, refinancing, reimbursement and development of a dormitory for students residing at the academy and an academic facility.

Ferncliff Manor as a not-for-profit residential school serving children who are severely mentally disabled and medically involved, who will also on a not-for-profit basis operate an intermediate care facility, for the financing, construction, reconstruction, improvement, renovation and development of five twelve bed dormitories in Westchester

County for such children.

The Leake and Watts Children's Home (Incorporated), Yonkers, New York for the financing, construction, reconstruction, improvement, renovation or otherwise for (1) a new school building for the junior high and high school vocational programs including a field house; (2) a new children's cottage and renovation and reconstruction of eight existing children's cottages to provide more efficient heating and cooling systems, more secure supervision and to increase the number of beds; (3) renovation and reconstruction of the main building to provide new electrical and plumbing systems and internal rehabilitation; and (4) renovation and reconstruction of the old school building for multiple use.

Oxford University and the Oxford University Press, Incorporated; or either of them for the financing, acquisition, construction, reconstruction, renovation and rehabilitation of facilities to be located in the borough of Manhattan, in the city of New York.

Berkshire Farm Center and Services for Youth, Canaan, New York for the financing, construction, reconstruction, improvement, renovation, equipping or otherwise providing for a dining facility on the existing campus of Berkshire Farm Center and Services for Youth in Canaan, New York.

A public library.

South Street Seaport Museum, Inc.

United Cerebral Palsy Association of the Capital District, Inc., for the financing, construction, reimbursement, and development of residences and program facilities on lands owned by the Center, at locations within Albany county.

Phoenix House Foundation, Inc., New York, New York, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of facilities, excluding general hospitals as defined in article twenty-eight of the public health law, located in the county of New York, or at sites owned, leased or operated by Phoenix House at the following locations: 34-01, 34-11 and 34-25 Vernon Boulevard, Long Island City, New York; 480 East 185th Street and 2329 Bassford Avenue, Bronx, New York; 43-44 and 46-50 Jay Street, Brooklyn, New York; and Shrub Oak, Westchester county, New York; for the provision of drug abuse prevention and treatment, medical, psychiatric and clinic services, remedial education, secondary education, vocational training and recreational facilities for adolescent and adult substance and polysubstance abusers, mentally ill chemical abusers, and their families, and related administrative and support services.

Irish American Heritage Museum, a not-for-profit corporation, for the acquisition, financing, refinancing, design, construction, improvement, renovation, equipping, furnishing or otherwise providing for facilities within the city of Albany, New York.

The Crown Heights Jewish Community Council, Inc. a not-for-profit corporation, for the financing, refinancing, acquisition, construction, reconstruction, renovation, rehabilitation of, furnishing, equipping and otherwise providing for buildings to serve as dormitories for students enrolled in various professional or post-secondary educational institutions.

The Rosalind and Joseph Gurwin Jewish Geriatric Center of Long Island, Inc., a not-for-profit corporation, for the financing, refinancing, construction, reconstruction, furnishing, equipping, improvement, renovation or otherwise providing for facilities to serve the aged, disabled and chronically impaired persons.

Staten Island Institute of Arts & Sciences.

The DePaul Group, Inc. and its affiliates and subsidiaries, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of certain educational, administrative and residential facilities, to be located in the state of New York.

The Roswell Park Cancer Institute corporation and its subsidiary corporations.

University Heights Association, Inc.

Little Flower Children's Services of New York, Brooklyn, New York for the financing, construction, reconstruction, improvement, renovation, equipping or otherwise providing for four residential facilities for learning disabled children.

The department of audit and control of the state of New York.

The New York state and local employees' retirement system.

The New York state and local police and fire retirement system.

The office of general services of the state of New York.

Public school districts receiving aid for the financing of eligible school construction projects for rebuilding schools to uphold education (RESCUE).

Harlem Dowling-West Side Center for Children and Family Services, a not-for-profit corporation for the financing, refinancing, construction, reconstruction, furnishing, equipping, improvement, renovation or otherwise providing for facilities to serve and assist children and their families in crisis and distress.

Yeshiva Beis Leivy.

Roberson Memorial, Inc., doing business as Roberson Museum and Science Center.

* Not-for-profit members of the New York State Rehabilitation Association and the New York Alliance for Inclusion and Innovation and any successor in interest to any such organization, for the acquisition, financing, refinancing, construction, reconstruction, renovation,

development, improvement, expansion and equipping of certain educational, administrative, residential, clinical, day programming, job training and workforce development facilities to be located in the state of New York.

* NB Repealed December 31, 2028

* NYSARC, Inc. for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, and equipping of clinical, day programming and residential facilities and necessary ancillary and related facilities throughout the state.

* NB Repealed December 31, 2028

Educational Housing Services Inc., a not-for-profit corporation, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, and equipping of housing for students and/or faculty at institutions of higher education located within the five boroughs of the city of New York and Westchester county either by directly or by creation of a wholly-owned not-for-profit subsidiary corporation or controlled corporations, limited liability companies or partnerships, that are not subject to federal income taxation (except with respect to any unrelated business income).

* Terence Cardinal Cooke Health Care Center for the financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, and equipping of facilities to serve aged, disabled, and chronically impaired, and persons who have a developmental disability.

* NB Repealed December 31, 2028

United States Military Academy for the purpose of providing construction related services in connection with the construction, reconstruction, improvement, renovation, development or expansion of facilities owned by the United States Military Academy located at West Point, New York.

The Helen Keller National Center for Deaf-Blind Youths and Adults, a not-for-profit corporation located in Sands Point, New York, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of facilities.

The Green Chimneys Children's Services, Inc., Brewster, New York for the financing, refinancing, construction, reconstruction, improvement, renovation, equipping or otherwise for new children's cottages.

The state university construction fund or any other public or private entity in connection with financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, a pharmaceutical research, development, which may also include a manufacturing facility at the state university of New York college of technology at Farmingdale. The authority shall exercise only those powers or duties set forth in this section as shall be set forth in an agreement by and between the state university construction fund, the authority and any such public or private entity.

MSMC realty corporation, a support organization of the Mount Sinai hospital, Mount Sinai school of medicine of the city university of New York and the Mount Sinai medical center, inc. (collectively, "Mount Sinai"), for the purpose of providing facilities and equipment for Mount Sinai. As used in this paragraph and for purposes of chapter five hundred fifty-four of the laws of nineteen hundred ninety-nine, MSMC Realty Corporation shall be deemed to include any other entity that is created by MSMC Realty Corporation or Mount Sinai for the purpose of entering into an agreement with the dormitory authority pursuant to this paragraph.

The state university construction fund or any other public or private entity in connection with financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for approved university-related economic development facilities authorized by section three hundred seventy-two-a of the education law. The authority shall exercise only those powers or duties set forth in this section as shall be set forth in an agreement by and between the state university construction fund, the authority and any such public or private entity.

The Capital District YMCA and related branches, administrative offices and satellite facilities located in New York state including: Albany YMCA, Camp Chingachgook, Guilderland YMCA, Parkside Family YMCA, Schenectady YMCA, Southern Saratoga YMCA, Troy Family YMCA and any successor in interest to any such organization for the financing and/or refinancing of the acquisition, construction, reconstruction, renovation, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

UCPA of the Capital District, Inc., UCPA of Cayuga County, Inc., United Cerebral Palsy and Handicapped Children's Association of Chemung County, Inc., Finger Lakes United Cerebral Palsy, Inc., United Cerebral Palsy Associations of Fulton and Montgomery Counties, Inc., United Cerebral Palsy Association of the Tri-Counties, Inc., Franziska Racker Centers, Inc., United Cerebral Palsy Association of Nassau County, Inc., United Cerebral Palsy of New York City, Inc., United Cerebral Palsy Association of Niagara County, Inc., Orange County Cerebral Palsy Association, Inc., United Cerebral Palsy of Queens, Inc., United Cerebral Palsy Association of the Rochester Area, Inc., Jawonio, Inc., The Handicapped Children's Association of Southern New York, Inc., United Cerebral Palsy Association of Greater Suffolk, Inc., SDTC - The Center for Discovery, Inc., United Cerebral Palsy and Handicapped Children's Association of Syracuse, Inc., United Cerebral Palsy of Ulster County Inc., United Cerebral Palsy and Handicapped Person's Association of the Utica Area, Inc., United Cerebral Palsy Association of Westchester, Inc. and Unified Creative Programs, Inc., United Cerebral Palsy Association of Western New York, Inc., United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc., United Cerebral Palsy Association of the North Country, Inc., United Cerebral Palsy Associations of New York State, Inc., any not-for-profit affiliates or members of Cerebral Palsy Associations of New York State, Inc., and any successor in interest to any such organization for the financing and/or refinancing of the acquisition, construction, reconstruction, renovation, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities throughout the state of New York, including educational, residential, administrative, clinical, and day programming facilities used in the provision of services to individuals with disabilities.

The university at Albany foundation, or an associated not-for-profit corporation controlled by the university at Albany foundation which has been formed or is formed within one year of the effective date of this paragraph, for the purpose of financing or refinancing the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for a facility to serve as an incubator and research facility located at the east campus of the university at Albany; and Fuller road management corporation, for the purpose of financing or refinancing the design, construction, improvement, furnishing and equipping of incubator and research facilities at the center for environmental sciences and technology management.

Baker Hall, Lackawanna, New York for the financing, acquisition, construction, reconstruction, renovation and improvement for facilities in Lackawanna, New York.

The Abyssinian Cultural Building Corporation, a New York not-for-profit corporation, with respect to the financing and/or refinancing of the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing, purchasing and equipping of, or otherwise providing for, an educational facility for the Thurgood Marshall Academy for Learning and Social Change to be leased to the New York city school construction authority or to the board of education of the city school district of the city of New York for school purposes.

Any school district in the state with respect to the financing or refinancing of all or a portion of school district capital facilities and school district capital equipment for such school districts, provided, however, that financing of such projects shall be limited to financing of projects eligible for an apportionment pursuant to subparagraph three of paragraph e of subdivision six of section thirty-six hundred two of the education law.

A qualified zone academy located in a city having one hundred twenty-five thousand or more inhabitants for the purpose of issuing qualified zone academy bonds in accordance with section 1397E of the internal revenue code, as the same may be amended.

The NDC housing and economic development corporation and its affiliates for the financing, refinancing, acquisition, design, construction, reconstruction, renovation, rehabilitation, improvement, expansion, furnishing and equipping of, or otherwise providing for one building to be located at 160 East 24th Street, New York, N.Y. to serve as a dormitory for students attending institutions of higher education within the city of New York.

School Districts having Eligible School District Projects

Political subdivisions financing eligible wireless 911 capital equipment.

Natural History Museum of the Adirondacks.

Women's Interart Center, Inc. of New York City, for the acquisitions, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for facilities for the Interart Rehearsal Studio and Cultural Center Complex located at 543-551 West 52nd Street in the Clinton Urban Renewal area of Manhattan.

The Center for Jewish History, Inc., for the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for facilities as a centralized location for preserving and advancing scholarship, art, history, and culture through its archival collection, in a one hundred twenty thousand square foot facility located at 15 West 16th Street in Manhattan.

The Kaatsbaan International Dance Center, Inc., for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, furnishing and equipping or otherwise providing for a professional creative residence and performance facility on one hundred fifty-three rural acres in Tivoli, New York.

Eyebeam Atelier, Inc., for the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for facilities devoted to the collaboration of art and technology in New York state and the construction of a new ninety thousand square foot building located in the Chelsea area of New York city.

Youth Environmental Services, d/b/a Yes Community Counseling, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, furnishing and equipping or otherwise providing for the purchase of a building for such not-for-profit group located in Massapequa, New York.

The New York military academy, an education corporation chartered by the board of regents located in Cornwall-on-Hudson, New York, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of facilities.

Preventive Medicine Institute, doing business as Strang Cancer Prevention Center.

Any residential institution for children as defined in subdivision forty-four of this section for the financing, refinancing, design, replacement (including acquisition and construction), reconstruction, rehabilitation, improvement, renovation, and equipping of existing residential facilities.

The Museum of African American Cinema, Inc., a New York not-for-profit educational corporation created by a provisional charter from the board of regents of the state university of New York, with respect to the financing, refinancing, acquisition, design, construction, reconstruction, otherwise providing for facilities as a centralized location for preserving and advancing scholarship, art, history, and culture through its archival collection, in a building located in Harlem, New York city.

34th Street Cancer Center, Inc., with respect to the financing and/or refinancing of the acquisition, purchasing and equipping of a certain building located at 160 East 34th Street, New York, New York, for use as a cancer center.

The Beacon Institute, Inc., a domestic not-for-profit corporation formerly known as the Rivers and Estuaries Center on the Hudson, Inc., for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, furnishing and equipping or otherwise providing for facilities for conducting a program of research and education that advances the understanding of rivers and estuaries and develops policies and practices that benefit the human and natural communities that depend upon these ecosystems, located at Beacon Harbor and Denning's Point in Beacon, New York, The Upper Hudson Research Center at Troy, located at the waterfront in Troy, New York and the Center for Tributary Study, located at Creek Road in Beacon, New York, and the Old Main Building at Clarkson University located in Potsdam, New York.

The Rochester school construction board for the financing of projects authorized pursuant to the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act.

Albany Convention Center Authority

The YMCA of Greater Syracuse and related branches, administrative offices and satellite facilities located in New York state including: Downtown YMCA, East Area YMCA, North Area YMCA, Northwest YMCA, Camp

Iroquois and any successor in interest to any such organization for the financing and/or refinancing of the acquisition, construction, reconstruction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

The United States Maritime Resource Center for the purpose of financing, refinancing, construction, reconstruction, renovation, development, expansion and equipping of a facility to serve as a classroom and student residence building in support of professional education and training programs to be located on the campus of the United States Merchant Marine Academy located in Kings Point, New York.

Not-for-profit members of the Alliance of Long Island Agencies, Inc., for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of certain educational, administrative, clinical, day program and residential facilities to be located in the state of New York.

Fordham Preparatory School, Inc., for the financing or refinancing, or reimbursement of the costs of the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for construction of additional educational facilities located on Fordham University Rose Hill Campus, the Bronx, New York.

The Reece School, for the financing or refinancing, or reimbursement of the costs of, the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, additional floors or facilities for education and therapy at their facility located at twenty-five East One Hundred Fourth Street in the city of New York, to serve as a school for special education students; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed thirty-five million dollars. Notwithstanding any other provision of law, the Reece School shall have full power and authority to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the United States, any agency thereof, the state, any agency thereof, a political subdivision, as defined in section one hundred of the general municipal law, any social services district in the state or any other governmental entity in an amount sufficient to make all payments required to be made by the Reece School to any lease, sublease or other agreement entered into between the Reece School and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

Friends Academy, Glen Cove, Nassau County, for the financing or refinancing, or reimbursement of the costs of the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, the complete renovation of the lower school located on the campus at Glen Cove, Nassau County, provided however, that the aggregate sum of any bonds issued for such purpose shall not exceed six million five hundred thousand dollars.

Not-for-profit members of InterAgency Council of Developmental Disabilities Agencies, Inc., for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of certain educational, administrative, clinical, day program and residential facilities to be located in the state of New York.

Broad Channel Volunteers, Inc. doing business as Broad Channel Volunteer Fire Department and Ambulance Corps for the purpose of providing construction related services in connection with the construction, reconstruction, improvement, renovation, development or expansion of facilities owned by Broad Channel Volunteers, Inc. doing business as Broad Channel Volunteer Fire Department and Ambulance Corps located at 305 Crossbay Boulevard, County of Queens, block 15304, lot 450, New York 11693.

The Convent of the Sacred Heart School, for the financing or refinancing, or reimbursement of the costs of, the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, the Convent of the Sacred Heart School at their facility located at: 406 East 91st Street in the city of New York, to serve as a school for students in grades pre-kindergarten through twelve; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed fifty-five million dollars.

Mercy Flight, Inc., of Western New York, for the financing and/or refinancing of equipment or the acquisition, construction, reconstruction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

The Trevor Day School, for the financing or refinancing, or reimbursement of the costs of, the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, the Trevor Day School at their facility located at 312-318 East 95th Street in the city of New York, to serve as a school for students in grades seven through twelve; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed seventy-five million dollars.

Richardson Center Corporation.

Williamsburg Infant & Early Childhood Development Center, Inc. at 22 Middleton Street, Brooklyn, New York.

Randolph Academy union free school district for the financing, acquisition, construction, reconstruction, renovation and improvement for facilities located in Erie county, New York.

Medical Missions for Children, Inc.

Primary Care Development Corporation for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, and equipping of facilities offering primary health care services and related ambulatory care and ancillary services in the state of New York.

Poly Prep Country Day School, for the refinancing of outstanding indebtedness, the financing or refinancing, or reimbursement of the costs of, the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, the Poly Prep Country Day School at its facilities located at 9216 Seventh Avenue and/or 50 Prospect Park West in Brooklyn, New York, to serve as a school for students in grades Nursery through twelve; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed fifteen million dollars.

St. Andrew's Foundation, the Scottish Society of Hudson's Valley, Ltd., a not-for-profit corporation, for the acquisition, financing, refinancing, design, construction, improvement, renovation, equipping, furnishing or otherwise providing for facilities within the Hudson Valley.

Xavier High School, for the financing or refinancing, or reimbursement of the costs of the aquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, Xavier High School at its facility located at 30 West 16th Street in the city of New York, to serve as a school for students in grades nine through twelve; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed fifty-five million dollars.

Mercy Flight Central, Inc., of Central New York, for the financing and/or refinancing of equipment or the acquisition, construction, reconstruction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

Young Men's Christian Association-Women's Community Center of Rome, New York Incorporated, for the financing and/or refinancing of equipment or the acquisition, construction, reconstruction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

Dancewave, Inc., for the financing, acquisition, construction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

Summit Educational Resources, Inc., a not-for-profit organization, for the acquisition, financing and/or refinancing, design, construction, renovation, reconstruction, development, improvement, furnishing, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

An authorized agency as defined by subdivision ten of section three hundred seventy-one of the social services law, or a local probation department as defined by sections two hundred fifty-five and two hundred fifty-six of the executive law for the provision of detention facilities certified by the office of children and family services or by such office in conjunction with the state commission of correction or for the provision of residential facilities licensed by the office of children and family services including all necessary and usual attendant and related facilities and equipment.

The office of children and family services of the state of New York.

North Country School, Lake Placid, New York, for the acquisition, financing and/or refinancing, design, construction, renovation, reconstruction, development, improvement, furnishing, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

New York Military Academy

Any not-for-profit corporation formed pursuant to an inter-municipal agreement among two or more counties within this state to assist said counties in acquiring, financing, constructing, reconstructing, remodeling, enlarging, altering, repairing, operating, managing, leasing, selling or otherwise disposing of a joint county detention facility established in accordance with section two hundred eighteen-a of the county law.

The New York Racing Association, Inc. for capital projects.

The New York Academy of Medicine.

The Young Men's and Young Women's Hebrew Association (dba 92nd Street Y)

Masonic Medical Research Laboratory, a not-for-profit corporation, for the design, acquisition, financing, refinancing, construction, reconstruction, renovation, rehabilitation, development, improvement, expansion, furnishing, equipping or otherwise providing for a facility and/or facilities, including any necessary or ancillary facilities, for the purpose of conducting scientific research or conducting testing for public health in the city of Utica.

Mary Cariola Children's Center, Inc.

Sandy Ground Historical Museum at 1538 Woodrow Road, Staten Island, New York for the restoration or replacement of the museum building located at such address.

the office of cannabis management.

the cannabis control board.

the private debt or equity fund in which the state or any state agency, public authority or public benefit corporation, or division thereof, has invested and is selected pursuant to subdivision thirty-two of section one thousand six hundred seventy-eight of this title to the extent authorized in subdivision thirty of such section.

Saint Ann's School, Brooklyn, New York.

Dutchess Community College Association, Inc. for the purpose of financing or refinancing the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for residential housing located on the campus of Dutchess Community College.

SB Clinical Practice Management Plan, Inc., for the purpose of financing or refinancing for up to four advanced specialty care centers.

(c) It shall also include, a laboratory, which may include academic facilities, together with all necessary and usual attendant and related facilities and equipment, erected for rental to the state of New York or the government of the United States of America for research, laboratory or other related operations at any institution for higher education located in this state, and authorized to confer degrees by law or by the board of regents, other than a state-operated institution or statutory or contract college under the jurisdiction of the State University of New York, as defined in section three hundred fifty of the education law.

(d) It shall also include, a board of cooperative educational services school facility, any building, library, laboratory, classroom or other building or structure essential, necessary or useful for instruction in a program of any board of cooperative educational services and located in the state of New York.

(e) It shall also include, facilities, which may include a combined occupancy or multi-use building or portion thereof, for the Gananda educational facilities corporation, a not-for-profit corporation, and used in whole or in part by the Gananda school district pursuant to a lease or other agreement entered into under the provisions of chapter nine hundred twenty-eight of the laws of nineteen hundred seventy-two, as amended.

(f) It shall also include, a facility for the aged.

(g) It shall also include a child care facilities development project.

(h) It shall also include equipment, intellectual property or other intangible property, including information technology and software, eligible for tax-exempt financing under the United States internal revenue code.

3. The term "bond" shall mean bonds or notes issued by the authority

pursuant to this title;

5. The term "board" shall mean the members of the authority.

6. The term "facility for the aged" shall mean any real property, building, unit within a building, or any structure on or improvement to real property of any kind or description essential, necessary or useful in a program to provide facilities for the aged, including all usual attendant and related facilities, fixtures, equipment and connections for utility services or any combinations thereof, acquired, designed, constructed, reconstructed, rehabilitated and improved, or otherwise provided by the dormitory authority for persons sixty years of age or older, and any other person who is the spouse of and resides with a person sixty years of age or older.

7. The term "locally sponsored community college" shall mean a college established and administered pursuant to article one hundred twenty-six of the education law;

8. The term "city university" shall mean the city university of New York, comprised of the senior colleges and community colleges governed and administered by the board of higher education in the city of New York pursuant to article one hundred twenty-five of the education law;

9. The term "facility", when used with respect to a locally sponsored community college, shall mean a dormitory as defined in subdivision two (b) of this section.

10. The term "federally guaranteed security" means any security, investment or evidence of indebtedness which is issued pursuant to the national housing act or any successor provision of law, each as amended from time to time, and which is either, directly or indirectly, insured or guaranteed, in whole as to the repayment of principal and interest by the United States of America or any instrumentality thereof.

11. The term "federally insured mortgage note" means any loan secured by a mortgage for any hospital or health care institution facility which

is either, directly or indirectly, insured or guaranteed, in whole or in part, as to the repayment of principal and interest by the United States of America or an instrumentality thereof, or any commitment by the United States of America or an instrumentality thereof to so insure or guarantee such a loan secured by a mortgage.

12. The term "direct loan" shall mean a loan by the authority to a student or the parents of a student or both for the purpose of financing the cost of attendance by the student at a public institution for higher education located in this state, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree, which is serviced and administered by a financial institution, the New York state higher education services corporation or other qualified loan origination and servicing organization pursuant to the supplemental higher education loan financing program authorized by section sixteen hundred seventy-nine of this title.

13. The term "education loan" shall mean a loan by the authority to an independent institution for higher education located in this state, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree pursuant to the supplemental higher education loan financing program authorized by section sixteen hundred seventy-nine of this title.

14. The term "student loan" shall mean a loan by an independent institution for higher education located in this state, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree to a student or the parents of a student or both for the purpose of financing the cost of attendance by the student at such institution pursuant to the supplemental higher education loan financing program authorized by section sixteen hundred seventy-nine of this title.

15. The term "cost of attendance" shall mean, for the period for which

the loan is sought, the tuition and fees applicable to the student, together with the estimate of the institution for higher education of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable commuting costs and costs for books, and, in the case of a student who receives or has received a HEAL direct loan or a HEAL student loan, the amount of the insurance premium and the interest due and payable on any such loan.

16. The term "borrower" shall mean a student or a parent who has received or agreed to pay a student loan or a direct loan.

17. The term "student loan series portfolio" shall mean student loans made by a specific institution for higher education which are funded from the proceeds of an education loan to such institution out of the proceeds of a related specific bond issue through the authority or which is purchased, acquired or taken by assignment or otherwise by the authority.

18. The term "student" shall mean any full-time or half-time student, as such terms are defined by the commissioner of education, enrolled as an undergraduate or graduate student in a public or independent institution for higher education located in this state, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree.

19. The term "parent" shall mean one or both of the birth parents, step-parents or adoptive parents or the spouse of an adoptive parent or the legal guardian or guardians of a student.

20. The term "HEAL direct loan" shall mean a loan by the authority to a student for the purpose of financing the cost of attendance by the student at a public or independent institution for higher education located in this state where such loan is insured by the United States of America pursuant to title IV, part C, of the "Health Professions Educational Assistance Act of 1976", as now or hereafter amended, with

respect to the health education assistance loan program authorized thereunder.

21. The term "HEAL education loan" shall mean a loan by the authority to an independent institution for higher education located in this state, which is designated as a HEAL school pursuant to title IV, part C, of the "Health Professions Educational Assistance Act of 1976", as now or hereafter amended with respect to the health education assistance program authorized thereunder.

22. The term "HEAL student loan" shall mean a loan by an independent institution for higher education in this state, to a student for the purpose of financing the cost of attendance by the student at such institution which is insured by the United States of America pursuant to title IV, part C, of the "Health Professions Educational Assistance Act of 1976", as now or hereafter amended, with respect to the health education assistance loan program authorized thereunder.

23. The term "HEAL student loan series portfolio" shall mean HEAL student loans made by a specific institution for higher education which are funded from the proceeds of a HEAL education loan to such institution out of the proceeds of a related specific bond issue through the authority or which is purchased, acquired or taken by assignment or otherwise by the authority.

24. The term "judicial facilities" means facilities, in any county, within the tenth judicial district, that does not contain a city, designed for the use of the judiciary, including without limitation, civil and criminal courts, administrative tribunals and government offices and facilities for the administration of justice, and all necessary and usual attendant and related facilities and equipment and the acquisition of land necessary therefor.

25. The term "court facilities" shall mean facilities suitable and sufficient for the transaction of business by the state-paid courts and court-related agencies of the unified court system and the judicial and nonjudicial personnel thereof, including rooms and accommodations for

the courts of the unified court system, the judges, justices and the clerical, administrative and other personnel thereof, law libraries, conference rooms or centers, facilities for the temporary detention of persons in connection with appearance or production in court when the court is in session, any other necessary or desirable facilities incidental to the operation or administration of the unified court system, fixtures, furnishings or equipment in connection therewith and buildings and improvements used for the foregoing.

26. The term "participating municipality" means a political subdivision of the state identified in paragraph (a) of subdivision two of section thirty-nine of the judiciary law.

27. The term "combined occupancy structure" shall mean any building or other improvement on real property or an interest therein, containing both court facilities and facilities intended to be used for purposes not directly or indirectly related to the court facilities and occupied by one or more public officials, public bodies or not-for-profit corporations, together with any other necessary or desirable facilities incidental to such purposes. Not more than forty-nine percent of a combined occupancy structure shall be used for purposes unrelated to the function of the court facilities therein.

28. The term "state university educational facility" shall mean an academic building, administrative building, housing unit for the use of faculty and staff and the families of such faculty and staff who are living with such faculty or staff, library, laboratory, classroom, lecture hall, health facility, or other building or structure essential, necessary or useful in the academic, cultural, health or research program, including all necessary and attendant and related facilities and equipment, at any state-operated institution or statutory or contract college under the jurisdiction of the state university of New York, as defined in section three hundred fifty of the education law.

29. The term "state university athletic facility" shall mean an athletic facility which includes an outdoor stadium for athletic competitions at the state university of New York at Buffalo. Such

facility shall not be considered for any purpose to be a state university educational facility within the meaning of this chapter; nor shall any bonds issued in connection with a state university athletic facility be considered for any purpose to have been issued in connection with a state university educational facility.

30. The term "private not-for-profit schools" shall mean those private not-for-profit schools approved by the commissioner of education pursuant to article eighty-nine of the education law as set forth in this chapter.

31. The term "ambulatory care training facility" shall mean a facility at the health sciences center at state university of New York at Stony Brook which is to be used for the provision of on-site ambulatory care services and the instruction and training of medical students, resident physicians and fellows and other health sciences students in attendance at the health sciences center. Such facility shall not be considered for any purpose to be a state university educational facility within the meaning of this chapter; nor shall any bonds issued in connection with such facility be considered for any purpose to have been issued in connection with a state university educational facility.

32. The term "public library" shall mean those libraries set forth in section five of the chapter of the laws of nineteen hundred ninety-three which added this subdivision, as defined as a public library or as an association library pursuant to section two hundred fifty-three of the education law.

33. The term "equipment loan" shall mean a loan made by the authority to any private entity for the benefit of which the dormitory authority is authorized to issue bonds or other obligations of the dormitory authority.

34. The term "private entity" shall mean any corporation formed other than for profit, including any institution of higher education.

35. "Eligible school construction project" means a project for the

design, planning, construction, acquisition, reconstruction, rehabilitation or improvement of a public school building used primarily for instruction that is an accessibility project, an educational technology project, a health and safety project, and/or a physical capacity expansion project, that has been approved by the voters of the school district, or approved by the trustees or board of education for school districts where voter approval is not required, or, a construction emergency project. Each of the types of projects included within this definition shall have the same meaning ascribed thereto pursuant to subdivision ten of section thirty-six hundred forty-one of the education law.

* 36. The term "child care facilities development project" shall mean any project that provides for rehabilitation or construction to establish, expand, or develop a licensed child care center or a registered school-age program which is intended to serve the needs of low-income working families or an area with demonstrated child care need or to provide care for children through the age of twelve years and enrolled in school following the completion of the school day or the school year. Such projects shall be used as licensed or registered forms of child care for a period of at least ten years with an average of twenty-five percent of its available child care slots set aside for families eligible for low-income child care subsidies or for referrals of low-income or public assistance families from local social services districts.

* NB There are 2 sub. 36's

* 36. "Eligible capital facility program project" shall mean a project for the design, acquisition, construction, reconstruction, rehabilitation, or improvement of research and development facilities, including equipment, or for the reconstruction, rehabilitation, or improvement of existing laboratory facilities, as specified in subdivision four of section two hundred nine-p of article ten-B of the executive law.

* NB There are 2 sub. 36's

38. "Eligible biomedical facilities program project" shall mean a project for the design, acquisition, construction, reconstruction, rehabilitation, or improvement of biomedical facilities, including the

reconstruction and expansion by the state university construction fund of an academic incubator facility for use as a pharmaceutical technology/manufacturing building under section three hundred seventy-two-a of the education law.

39. "Eligible courthouse improvements" shall mean a project for the design, acquisition, construction, rehabilitation or improvement of courthouse facilities as set forth in an agreement between the authority and the director of the budget providing for the financing of such improvements.

* 40. The term "school district" shall mean a common school district, a consolidated school district, a union free school district, a central school district, a central high school district, or a city school district in a city having a population of less than one hundred twenty thousand inhabitants or a city acting on behalf of a city school district in a city having a population in excess of one hundred twenty-five thousand but less than one million inhabitants according to the latest federal census. Provided, however, that for the purposes of subparagraph four of paragraph e of subdivision six of section thirty-six hundred two of the education law, such term shall not include special act school districts listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended. Provided, further, that for the purposes of section sixteen hundred eighty-nine-i of this title, such term shall also include a city acting on behalf of a city school district in a city having a population in excess of one million inhabitants according to the latest federal census.

* NB Effective until December 31, 2029

* 40. The term "school district" shall mean a common school district, a consolidated school district, a union free school district, a central school district, a central high school district, or a city school district in a city having a population of less than one hundred twenty thousand inhabitants or a city acting on behalf of a city school district in a city having a population in excess of one hundred twenty-five thousand but less than one million inhabitants according to the latest federal census. Provided, however, that for the purposes of subparagraph four of paragraph e of subdivision six of section thirty-six hundred two of the education law, such term shall not include

special act school districts listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended.

* NB Effective December 31, 2029

41. The term "school board" shall mean the board of education, trustee or board of trustees of a school district, or, for purposes of any lease, sublease or other agreement entered into pursuant to subdivisions thirty-eight and thirty-nine of section sixteen hundred eighty of this article, a city acting on behalf of a city school district in a city having a population in excess of one hundred twenty-five thousand inhabitants but less than one million inhabitants according to the latest federal census.

42. The term "school district capital facilities" shall mean any school district project for the construction, reconstruction or acquisition of a school facility for which a cost allowance or incidental cost allowance would be available pursuant to subdivision six of section thirty-six hundred two of the education law, a laboratory, library, classroom, lecture hall, or other building or structure essential, necessary or useful in an educational program of any school district, including all necessary and attendant and related facilities and equipment.

43. The term "school district capital equipment" shall mean any type of capital equipment essential, necessary or useful in an educational program of any school district and telecommunication systems, computer systems, local area networks or wide-area networks, including the original purchase and installation of computer hardware, conduit, wiring, in-building elements of networks and equipment for powering of hardware installation in buildings.

44. The term "residential institution for children" shall mean any not-for-profit corporation that operates a residential facility for thirteen or more foster children and/or children placed by the committee on special education of a school district for which the office of children and family services establishes a payment rate pursuant to the social services law or the education law.

* 45. "EXCEL project" shall mean capital projects eligible for an expanding our children's education and learning (EXCEL) grant aid apportionment pursuant to subdivision fourteen of section thirty-six hundred forty-one of the education law.

* NB Repealed December 31, 2029

§ 1676-a. Payment on authority public work projects. Notwithstanding the provisions of any other law to the contrary, all contracts for public work awarded by the dormitory authority pursuant to this title shall be in accordance with section one hundred thirty-nine-f of the state finance law. For the purposes of this section, public work by the dormitory authority shall include but not be limited to the construction of dormitories and other related structures as defined in paragraph a of subdivision two of section sixteen hundred seventy-six of this title, boards of cooperative educational services as defined in paragraph d of subdivision two of section sixteen hundred seventy-six of this title, locally sponsored community colleges as defined in subdivision seven of section sixteen hundred seventy-six of this title, and the city university as defined in subdivision eight of section sixteen hundred seventy-six of this title.

§ 1677. Dormitory Authority. A board, to be known as the "Dormitory Authority," is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. Such board shall consist of the commissioner of education, the commissioner of health, the comptroller or one member appointed by him or her who shall serve until his or her successor is appointed, the director of the budget, one member appointed by the temporary president of the senate, one member appointed by the speaker of the assembly, and five members to be appointed by the governor, by and with the advice and consent of the senate, for a term of three years. The governor shall also fill any vacancy which may occur by reason of the death, disqualification, resignation or removal of any member theretofore appointed. The commissioner of education, the commissioner of health and the director of the budget each may appoint a person or persons to represent such commissioner or director, respectively, at all meetings of such board from which such commissioner or director, as the case may be, may be absent. Any such representative so designated shall have the power to attend and to vote at any meeting of such board from which the officer so designating him as a representative is absent with the same force and effect as if the officer designating him were present and voting. The powers of the board shall be vested in and exercised by a majority of the whole number of the members thereof. The members of the board shall serve without compensation but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties. The governor shall appoint a chair from among the members appointed by him or her who shall serve as such until his or her successor is appointed. At the first meeting of the board and at the first meeting thereof in each fiscal year thereafter the members of the board shall choose from their number a vice-chair and a secretary. The authority may also use the facilities, employees, records and equipment of the state department of education with the consent of the regents.

§ 1678. Powers of the authority. The authority shall have power

1. To sue and be sued;

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

3. To acquire in the name of the state by purchase or condemnation, gift or devise real property or rights of easement on terms necessary or convenient for its corporate purposes; to acquire, hold and dispose of personal property for its corporate purposes;

4. To make by-laws for the management and regulation of its affairs;

5. To appoint officers, agents and employees and fix their compensation, provided, however, that the appointment of the executive director shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter;

6. To make contracts and to execute all instruments necessary or convenient;

7. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of dormitories and appurtenant facilities for the institutions specified in section sixteen hundred seventy-six, and from time to time to modify such plans, specifications, designs or estimates;

8. By contract or contracts or by its own employees to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, dormitories and necessary and usual attendant facilities for state-operated institutions and statutory and contract colleges under the jurisdiction of the state university of New York pursuant to agreement with the state university construction fund created by section three hundred seventy-one of the education law;

9. To maintain, reconstruct and operate such dormitories until the cost thereof and the outstanding bonds thereon have been liquidated;

10. To fix and collect rentals and other charges for the use of dormitories and judicial facilities, court facilities or combined occupancy structures or any parts thereof; to contract with holders of its bonds to fix such rentals and charges at rates at least sufficient to pay for all costs of operation, maintenance and repairs of the dormitories and judicial facilities, court facilities or combined occupancy structures, and the interest on and amortization of, or payment of its bonds issued to finance dormitories, judicial facilities, court facilities or combined occupancy structures; to provide by contract for the promulgation, by the appropriate officer or body, in relation to any institution described in subdivision two of section sixteen hundred seventy-six of this title, of such reasonable and proper rules and regulations as may be necessary to assure the maximum use of the facilities of any dormitory at all times;

11. To borrow money and to issue negotiable bonds or notes and to provide for the rights of the holders thereof;

12. To do all things necessary or convenient to carry out the purposes of this authority.

13. In connection with court facilities or combined occupancy structures:

(a) To acquire by purchase, condemnation, gift, devise, lease or other agreement such real property or an interest therein as may be necessary or convenient for the acquisition, construction, reconstruction, rehabilitation, improvement or provision of court facilities or combined occupancy structures;

(b) To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the design, construction, reconstruction, rehabilitation or improvement of court facilities or combined occupancy structures, and the equipping and furnishing thereof;

(c) To prepare or cause to be prepared a facility design and performance plan with each participating municipality relating to court facilities and combined occupancy structures in any case where the authority and the participating municipality have agreed that the authority will award contracts for the design and construction of the project. Such plan shall set forth the terms and conditions associated with the construction management process, including, but not limited to, provisions relating to the selection of architects, construction consultants, construction managers and contractors, the relative responsibilities of the authority and the participating municipality with respect to the initial project budget and the court facilities program, the preparation of working drawings and budgets, the project construction process, beneficial occupancy including formal notifications, punch lists and acceptance by all parties, notification of construction completion, project close-out, and the commencement of responsibility for maintenance of the facility. Such plan shall also include provisions relating to the responsibility of the authority to require appropriate performance and surety bonds, the diligent pursuit by the authority of remedies against architects, contractors and sureties deemed to be in default in the performance of their obligations, and, generally, the management of the construction process in a professional manner in accordance with prevailing construction industry standards. The authority shall submit the facility design and performance plan to the chief administrator for submission to the court facilities capital review board in accordance with section sixteen hundred eighty-c of this chapter;

(d) To design, construct, reconstruct, rehabilitate or improve court facilities or combined occupancy structures and to enter into contracts to cause court facilities or combined occupancy structures to be designed, constructed, reconstructed, rehabilitated or improved;

(e) To enter into leases, subleases or other agreements with participating municipalities in connection with court facilities and jointly with participating municipalities and other persons, firms, associations, corporations or agencies, including public bodies, in accordance with section sixteen hundred eighty-b of this article;

(f) To sell, convey, lease, sublease or otherwise transfer any real property or interest therein held by the authority to any person, firm, association, corporation or agency, including a public body, for the purpose of constructing or otherwise providing thereon a combined occupancy structure, provided that, simultaneously therewith, the authority enters into an agreement for the reconveyance, purchase, lease, sublease or other acquisition of the court facilities to be contained in such combined occupancy structures.

Any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement of any court facilities or combined occupancy structures shall comply with the provisions of sections one hundred one and one hundred three of the general municipal law.

14. To adopt resolutions providing for a program of self-insurance to pay for uninsured losses incurred by the dormitory authority by reason of a deductible feature in a policy or policies of insurance or to prevent a default in the compliance with any provision of any agreement, lease or resolution of the authority relating to or authorizing the issuance of obligations of the authority. When such program is approved by the superintendent of financial services of the state of New York, such program shall for all purposes of compliance by the dormitory authority with any provision of an agreement, lease or resolution of the

authority relating to or authorizing the issuance of obligations of the authority be deemed to be an insurance policy issued by an insurance company authorized to do business in the state of New York. The approval of the superintendent shall be based upon such standards as he shall from time to time determine to be appropriate in light of the said program, including but not limited to reasonable requirements regarding the amounts and kinds of coverage provided and the minimum financing maintained, and provided that the superintendent shall determine that such program will not be prejudicial to the best interests of the people of this state.

15. The authority shall, notwithstanding any other law, have the power to mortgage, pledge or assign any real or personal property of any dormitory or board of cooperative educational services school facility as and to the extent authorized by any agreement or lease between the authority and any educational institution as defined in section sixteen hundred eighty of this title or any board of cooperative educational services to secure any and all liabilities of such educational institution or board of cooperative educational services under such agreement or lease in respect of such dormitory or board of cooperative educational services facility not theretofore paid or discharged, or other real or personal property of the authority. Any such mortgage, pledge or assignment by the authority, unless otherwise provided therein, shall be superior to any right an educational institution or a board of cooperative educational services may have with respect to the property subject to such mortgage, pledge or assignment, and upon foreclosure of any such mortgage or enforcement of any such pledge or assignment any such right shall be extinguished.

16. To acquire and to enter into commitments to acquire any federally guaranteed security and to pledge or otherwise use any such federally guaranteed security in such manner as the authority deems in its best interest to secure or otherwise provide a source of repayment on any of its bonds issued on behalf of any hospital designated as an educational institution in section sixteen hundred eighty of this title or to enter into any appropriate agreement with any hospital designated as an educational institution in section sixteen hundred eighty of this title

whereby the authority may make a loan to any such hospital for the purpose of acquiring and entering into commitments to acquire any federally guaranteed security. Any agreement entered into pursuant to this subdivision may contain such provisions which are deemed necessary or desirable by the authority for the security or protection of the authority or the holders of such bonds; provided, however, that the authority, prior to making any such acquisition, commitment or loan, shall first determine, and shall first enter into an agreement with any such hospital or any other appropriate institution or corporation to require, that the proceeds derived from the acquisition of any such federally guaranteed security will be used for the purpose of providing or refinancing any dormitory for any hospital designated as an educational institution in section sixteen hundred eighty of this title, including any facility, real property, equipment and appurtenant and related facilities.

17. To make and undertake commitments to make education loans to any independent institution for higher education located in this state, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree, for the purpose of enabling any such institution for higher education to make student loans to any student attending such independent institution for higher education, the parents of any such student or both for the purpose of financing the cost of attendance by such student at such independent institution for higher education, to make and to commit to make direct loans to a student or the parents of a student or both for the purpose of financing the cost of attendance by such student at a public institution for higher education, and to purchase, acquire or take by assignment or otherwise student loans from such an independent institution for higher education. Each loan and purchase of a student loan by the authority authorized by this subdivision shall be premised upon an agreement, agreements, or supplements thereto, between the authority and such institution for higher education, such student or the parents of the student or both, which agreement, agreements, or supplements thereto, may make provisions as to payment, security, payment of any expenses or costs of the authority and any other matters deemed appropriate by the authority.

All provisions of this title not inconsistent with the provisions of this subdivision shall be applicable with respect to any bonds of the authority issued to obtain funds for any purpose authorized under this subdivision, and with respect to the powers of the authority and any such institution for higher education provided, however, that the use of any such powers in order to effectuate the purpose of section sixteen hundred seventy-nine of this chapter be expressed by guidelines subject to the review of the advisory committee pursuant to paragraph ten of section sixteen hundred seventy-nine of this chapter. Bonds of the authority issued for the purposes of this subdivision shall be deemed to be issued for the financing and construction of a project within the meaning of section fifty-one of this chapter.

18. To make and undertake commitments to make HEAL education loans to any independent institution for higher education located in this state, which is an eligible institution pursuant to title IV, part C, of the "Health Professions Educational Assistance Act of 1976", as now or hereafter amended, for the purpose of enabling any such institution to make HEAL student loans, to make and to commit to make HEAL direct loans to an eligible student attending a public or independent institution for higher education, and to purchase, acquire or take by assignment or otherwise HEAL student loans, and to sell and commit to sell HEAL direct loans, HEAL education loans and HEAL student loans purchased, acquired or taken by assignment or otherwise by the authority to the extent necessary to assure the marketability of and the adequacy of the security for the bonds of the authority. Each loan and purchase of a HEAL student loan by the authority authorized by this subdivision shall be premised upon an agreement, agreements, or supplements thereto, between the authority and such institution for higher education or such student, which agreement, agreements, or supplements thereto, may, to the extent permitted by federal law and regulations, make provisions as to payment, security, payment of any expenses or costs of the authority and any other matters deemed appropriate by the authority. The authority shall be deemed to be and is authorized to act as an eligible lender as defined in title IV, part C, of the "Health Professions Educational Assistance Act of 1976", as now or hereafter amended, for purposes of

the health education assistance loan program authorized thereunder.

All provisions of this title not inconsistent with the provisions of this subdivision shall be applicable with respect to any bonds of the authority issued to obtain funds for any purpose authorized under this subdivision, and with respect to the powers of the authority and any such institution for higher education, provided, however, that the use of any such powers in order to effectuate the purpose of sections sixteen hundred seventy-nine and sixteen hundred seventy-nine-a of this chapter be expressed by guidelines subject to the review of the advisory committee pursuant to subdivision ten of section sixteen hundred seventy-nine of this chapter. Bonds of the authority issued for the purposes of this subdivision shall be deemed to be issued for the financing and construction of a project within the meaning of section fifty-one of this chapter.

19. By contract or contracts or by its own employees to design, contruct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, or otherwise provide judicial facilities.

All provisions of this title not inconsistent with the provisions of this subdivision shall be applicable with respect to any bonds of the authority issued to obtain funds for any purpose authorized under this subdivision, and with respect to the powers of the authority; provided, however, that the authority shall not undertake the provision of judicial facilities authorized by this subdivision unless the governing body of any county, within the tenth judicial district, that does not contain a city for whose use judicial facilities are to be provided consents thereto.

20. To enter into a contract or contracts with the commissioner of health for the purpose of implementing the health facility restructuring pool pursuant to section twenty-eight hundred fifteen of the public health law, and to receive, hold, invest and pay out moneys deposited in the restructuring pool. In connection therewith, the authority shall exercise all of its powers under article eight of this chapter.

21. (a) To enter into one or more agreements with the state university of New York to provide financial assistance on behalf of the state, as provided in subdivision eight of section six thousand three hundred four of the education law, to the local sponsors of community colleges for the design, acquisition, construction, reconstruction, rehabilitation or improvement of one or more facilities for locally sponsored community colleges and the furnishing or equipping of such facilities. Each such agreement shall provide for annual payments to the dormitory authority from the state aid or other financial assistance provided to the local sponsor of such community college and paid into the community college tuition and instructional fund pursuant to paragraph (iii) of subdivision two of section ninety-seven-p of the state finance law, and contain such other terms and conditions as may be agreed upon by the parties thereto, including, but not limited to, provisions relating to the establishment of reserve funds and indemnities. Each such agreement shall be subject to the approval of the director of the budget.

(b) Any such agreement entered into pursuant to this subdivision may provide that the provisions thereof shall remain in force and effect until the issue of bonds of the dormitory authority to which it relates, together with interest thereon, interest on any unpaid installments of interest and the fees and expenses of the dormitory authority, are fully met and discharged, and any payments to be made by the state may be pledged by the dormitory authority to secure such bonds.

(c) No agreement entered into pursuant to this section shall be construed to limit or diminish the power of the dormitory authority with respect to a locally sponsored community college with respect to providing construction related services in connection with the construction, reconstruction, improvement, renovation, development or expansion of locally sponsored community college facilities.

23. To make equipment loans pursuant to section sixteen hundred seventy-nine-b of this article and, in connection with such equipment loans, to enter into all necessary or useful agreements with respect to such loans.

24. To acquire bonds, notes or other obligations of any school district or city of the state issued to finance or refinance school

district capital facilities and school district capital equipment and to make loan commitments and loans to school districts and to cities for such purposes, and to enter into arrangements with school districts and cities for the purchase of such bonds, notes or other obligations.

* 25. (a) To form one or more subsidiaries for the purpose of limiting the potential liability of the authority when exercising the powers and duties conferred upon the authority by this article in connection with the exercise of remedies by the authority against any borrower regulated under article twenty-eight of the public health law that has defaulted in its obligations under its loan agreement or mortgage with the authority and for which an event of default has been declared by the authority. Each such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the authority (other than the issuance of indebtedness) in connection with real and personal property with respect to which the authority holds or held a mortgage, security interest or other collateral interest including: (i) bidding for, taking, holding, selling, conveying, assigning or transferring title to such property; (ii) entering into leases, subleases, operating agreements, security agreements, loan agreements or other encumbrances or arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner of such property pursuant to such agreements or encumbrances; (iii) assuming any indebtedness or other liabilities secured by such property. Notwithstanding any other provision of law to the contrary, but in all instances subject to the provisions of any contract with bondholders, the transfer of title to any such subsidiary or any other actions taken by the authority or such subsidiary to enforce the authority's rights under the mortgage, security interest or other collateral interest or to protect, acquire, manage or dispose of the property shall be deemed to be a corporate purpose of the authority and shall not impair the validity of any bonds, notes or other obligations of the authority to which the mortgage, security interest or other collateral interest relates.

(b) Each such subsidiary authorized by paragraph (a) of this subdivision shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the authority as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto with the secretary of state. Each such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the authority. The members of each such subsidiary shall be the same as the members of the authority and the provisions of subdivision two of section sixteen hundred ninety-one of this title shall in all respects apply to such members when acting in such capacity.

(c) Nothing in this subdivision shall be construed to impose any liabilities, obligations or responsibilities of any such subsidiary upon the authority and the authority shall have no liability or responsibility therefor unless the authority expressly agrees to assume the same.

(d) Each such subsidiary created pursuant to this subdivision shall be subject to any other provision of this chapter pertaining to subsidiaries of public authorities.

(e) Notwithstanding any other provision of law to the contrary, including but not limited to title five-A of article nine of this chapter, the Atlantic Avenue Healthcare Property Holding Corporation is hereby authorized and empowered to sell, exchange, lease, transfer and convey certain real property located at 483-503 Herkimer Street, 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue, all in Brooklyn, New York as directed by the commissioner of New York state division of homes and community renewal, upon such terms and conditions as such commissioner may fix and determine.

Such sale, exchange, lease, transfer and conveyance shall be consistent with and made pursuant to a plan to increase access and quality of health care services and preventative care and create affordable housing approved by the commissioner of New York state division of homes and community renewal, the commissioner of health and the director of the division of the budget to transform the Central

Brooklyn region. Such plan shall include any combination of initiatives intended to: increase access to open spaces, transform health care by increasing access and quality of health care services and preventative care, create affordable housing, improve youth development, prevent community violence, address social determinants of health, and provide any ancillary services thereto.

Notwithstanding the foregoing, no such sale, exchange, transfer, lease or conveyance shall be permitted pursuant to this section, unless in the opinion of bond counsel to the authority, such sale, exchange, transfer, lease or conveyance does not impair the tax-exempt status of any outstanding bonds or other obligations, if any, issued by the authority to finance or refinance the subject property. For the purposes of such opinion, the valuation of such property being sold, exchanged, transferred, leased or conveyed may reflect the terms and conditions set forth in the plan.

(f) The description in paragraph (e) of this subdivision of the lands to be transferred and conveyed is not intended to be a legal description, but is intended only to identify the premises to be conveyed. As a condition of transfer and conveyance, the Atlantic Avenue Healthcare Property Holding Corporation shall receive an accurate survey and description of the lands generally described in paragraph (e) of this subdivision, which may be used in the conveyance thereof.

* NB Effective until July 1, 2028

* 25. (a) To form a subsidiary for the purpose of limiting the potential liability of the authority when exercising the powers and duties conferred upon the authority by article eight of this chapter in connection with the exercise of remedies by the authority against North General Hospital, an eligible secured borrower (as defined in chapter five hundred ninety of the laws of two thousand two) located in the borough of Manhattan, New York that has defaulted in its obligations under its loan agreement or mortgage with the authority and for which an event of default has been declared by the authority. Such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the authority other than the issuance of indebtedness, in connection with real and personal property with respect

to which the authority holds or held a mortgage, security interest or other collateral interest including: (i) bidding for, taking, holding, selling, conveying, assigning or transferring title to such property; (ii) entering into leases, subleases, operating agreements, security agreements, loan agreements or other encumbrances or arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner of such property pursuant to such agreements or encumbrances; (iii) assuming any indebtedness or other liabilities secured by such property. Notwithstanding any other provision of law to the contrary, but in all instances subject to the provisions of any contract with bondholders, the transfer of title to such subsidiary or any other actions taken by the authority or the subsidiary to enforce the authority's rights under the mortgage, security interest or other collateral interest or to protect, acquire, manage or dispose of the property shall be deemed to be a corporate purpose of the authority and shall not impair the validity of any bonds, notes or other obligations of the authority to which the mortgage, security interest or other collateral interest relates.

(b) Such subsidiary authorized by paragraph (a) of this subdivision shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the authority as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto with the secretary of state. Such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the authority. The members of such subsidiary shall be the same as the members of the authority and the provisions of subdivision two of section sixteen hundred ninety-one of this title shall in all respects apply to such members when acting in such capacity.

(c) Nothing in this subdivision shall be construed to impose any liabilities, obligations or responsibilities of such subsidiary upon the authority and the authority shall have no liability or responsibility therefor unless the authority expressly agrees to assume the same.

(d) Such subsidiary created pursuant to this subdivision shall be subject to any other provision of this chapter pertaining to subsidiaries of public authorities.

(e) Notwithstanding any other provision of law to the contrary, including but not limited to title five-A of article nine of this chapter, the Atlantic Avenue Healthcare Property Holding Corporation is hereby authorized and empowered to sell, exchange, lease, transfer and convey certain real property located at 483-503 Herkimer Street, 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue, all in Brooklyn, New York as directed by the commissioner of New York state division of homes and community renewal, upon such terms and conditions as such commissioner may fix and determine.

Such sale, exchange, lease, transfer and conveyance shall be consistent with and made pursuant to a plan to increase access and quality of health care services and preventative care and create affordable housing approved by the commissioner of New York state division of homes and community renewal, the commissioner of health and the director of the division of the budget to transform the Central Brooklyn region. Such plan shall include any combination of initiatives intended to: increase access to open spaces, transform health care by increasing access and quality of health care services and preventative care, create affordable housing, improve youth development, prevent community violence, address social determinants of health, and provide any ancillary services thereto.

Notwithstanding the foregoing, no such sale, exchange, transfer, lease or conveyance shall be permitted pursuant to this section, unless in the opinion of bond counsel to the authority, such sale, exchange, transfer, lease or conveyance does not impair the tax-exempt status of any outstanding bonds or other obligations, if any, issued by the authority to finance or refinance the subject property. For the purposes of such opinion, the valuation of such property being sold, exchanged, transferred, leased or conveyed may reflect the terms and conditions set forth in the plan.

(f) The description in paragraph (e) of this subdivision of the lands to be transferred and conveyed is not intended to be a legal description, but is intended only to identify the premises to be conveyed. As a condition of transfer and conveyance, the Atlantic Avenue Healthcare Property Holding Corporation shall receive an accurate survey and description of the lands generally described in paragraph (e) of this subdivision, which may be used in the conveyance thereof.

* NB Effective July 1, 2028

* 26. To enter into a design and construction management agreement with the department of environmental conservation, pursuant to which one or more facilities are to be designed, constructed, reconstructed, rehabilitated, improved, furnished or equipped for such department. Any such design and construction management agreement entered into pursuant to this subdivision shall provide for the following: the scope of design and construction management services to be provided by the authority, the manner in which those services will be provided, the fees to be charged by the authority and the sources of funds for the projects. No design-build contract as defined in chapter fifty-six of the laws of two thousand eleven shall be awarded pursuant to this subdivision.

* NB Repealed April 1, 2027

* 27. To enter into a design and construction management agreement with the office of parks, recreation and historic preservation, pursuant to which one or more facilities are to be designed, constructed, reconstructed, rehabilitated, improved, furnished or equipped for such office. Any such design and construction management agreement entered into pursuant to this subdivision shall provide for the following: the scope of design and construction management services to be provided by the authority, the manner in which those services will be provided, the fees to be charged by the authority and the sources of funds for the projects. No design-build contract as defined in chapter fifty-six of the laws of two thousand eleven shall be awarded pursuant to this subdivision.

* NB Repealed April 1, 2027

28. To enter into a construction management agreement with the New York city housing authority, pursuant to which one or more facilities owned or operated by the New York city housing authority located in the

city of New York are to be constructed, reconstructed, demolished, improved, modernized, renovated or expanded for such authority.

* 29. Notwithstanding any law to the contrary, to establish a pilot program for the award of contracts up the maximum dollar amount specified in paragraph (e) of this subdivision, for the procurement of goods or services from, or for the construction, reconstruction, rehabilitation or improvement of facilities by, small businesses as defined in section one hundred thirty-one of the economic development law and minority-owned and women-owned business enterprises as defined in section three hundred ten of the executive law, notwithstanding the expiration of such section pursuant to subdivision (h) of section one hundred twenty-one of chapter two hundred sixty-one of the laws of nineteen hundred eight-eight, as amended, in accordance with the following provisions:

(a) Procurements made pursuant to this subdivision shall be governed by the authority's procurement policy and guidelines adopted pursuant to section twenty-eight hundred seventy-nine of this chapter, with participation in the pilot program confined to small businesses, as defined in section one hundred thirty-one of the economic development law, and minority-owned and women-owned business enterprises, as defined in section three hundred ten of the executive law.

(b) Procurements made pursuant to this subdivision shall be designated as such by the authority, in its sole discretion, pursuant to pre-established criteria contained in the authority's procurement and policy guidelines described in paragraph (a) of this subdivision. Such designation shall be made prior to the advertisement and request for bids or proposals, and any such advertisement or request shall indicate this designation clearly.

(c) If the total number of parties responding and considered capable of meeting the specifications and terms of the advertisement and request for bids or proposals is less than three, or if the authority determines that acceptance of any bid or proposal will result in the payment of an unreasonable price, the authority shall reject all responses and withdraw the designation made pursuant to paragraph (b) of this subdivision.

(d) Procurements made pursuant to this subdivision may be undertaken in conjunction with section one hundred forty-seven of the state finance law authorizing a mentor-protege program to foster long-term relationships between approved mentor firms and small business concerns and minority and women-owned businesses certified pursuant to article fifteen-A of the executive law.

(e) The total value of contracts awarded pursuant to this subdivision shall not exceed the greater of twenty million dollars or five percent of the value of all contracts awarded by the authority in a given fiscal year.

The authority shall submit a report, no later than September thirtieth, two thousand twenty-four, and annually thereafter, to the governor, the temporary president of the senate and the speaker of the assembly regarding procurements made pursuant to this subdivision. Such report shall include a description of each procurement made pursuant to this subdivision, information regarding the procurement process for each such procurement contract, including the list of responding entities that demonstrated the capability to meet the specifications and terms of the procurement made pursuant to this subdivision if such procurement did not use lowest responsible bidding, the project identification number and a description for each such project, the completion date or projected completion date as applicable for each such project, the status of each such project, the total cost or projected cost and cost modifications of each such project procured pursuant to this subdivision, indication of whether the party awarded a contract pursuant to this subdivision served as a general contractor or subcontractor in fulfilling the contract, and the total dollar value of monies paid to minority-owned and women-owned business enterprises pursuant to this subdivision itemized by year and including the total dollar values for the five years preceding the respective annual report's release date. For annual reports any new procurements and changes during the period covered by the report shall be identified separately.

* NB Repealed July 1, 2027

30. To enter into one or more agreements with the office of cannabis management, the cannabis control board, or the private debt or equity fund, selected pursuant to subdivision thirty-two of this section, in which the state or any state agency, public authority, public benefit

corporation, or division thereof has invested and is formed for the limited purpose of funding the capital costs associated with establishing conditional adult-use cannabis retail dispensaries for operation by social equity licensees duly licensed pursuant to article two of the cannabis law, for the following purposes:

(a) (i) To acquire by lease or sublease such real property or any interest therein as may be necessary or convenient for the construction, reconstruction, rehabilitation, improvement, or provision of conditional adult-use cannabis retail dispensaries for operation by social equity licensees, as agent, and (ii) to acquire by purchase or other agreement, personal property or interest therein as may be necessary for the acquisition, construction, reconstruction, rehabilitation, improvement or provision of such dispensaries, whether as principal or agent;

(b) To prepare or cause to be prepared, whether as principal or agent, plans, specifications, designs, and estimates of costs for the design, construction, reconstruction, rehabilitation, improvement, furnishing or equipping of conditional adult-use cannabis retail dispensaries for operation by social equity licensees;

(c) To design, construct, reconstruct, rehabilitate, or to cause the design, construction, rehabilitation or improvement of, whether as principal or agent, conditional adult-use cannabis retail dispensaries for operation by social equity licensees and to enter into contracts to cause such facilities to be designed, constructed, reconstructed, rehabilitated, improved, furnished, or equipped;

(d) To enter, as lessor or as agent for the lessor, into leases, subleases, or other agreements with the social equity licensees operating for the conditional adult-use cannabis retail dispensaries; provided that (i) the authority shall only enter in lease agreements as agent of the private debt or equity fund selected pursuant to subdivision thirty-two of this section, (ii) any general terms of such lease agreement, and any material deviations or changes therefrom, are approved by the office of cannabis management; and

(e) To enter, as lender or as agent to the lender, into a non-recourse loan or other agreements with the social equity licensees operating the conditional adult-use cannabis retail dispensaries, provided that any general terms of such non-recourse loan agreements, and any material deviations or changes therefrom, are approved by the office of cannabis management and that the terms of the non-recourse loan agreement do not include a penalty for early termination but will allow for the inclusion of a make-whole provision and shall not, at the time the loan is established, exceed the prime lending rate plus one-half the interest rate specified under subdivision one of section fourteen-a of the banking law, nor include terms or conditions that would allow for an equity position in the social equity licensee's conditional adult-use cannabis retail dispensary business or that would entitle a share in, or claim to, any revenue or profit generated by such business.

31. (a) To form one or more subsidiaries for the purpose of limiting the potential liability of the authority when exercising the powers and duties conferred upon the authority by subdivision thirty of this section in connection with certain work performed on behalf of the office of cannabis management, the cannabis control board, or the private debt or equity fund in which the state or any state agency, public authority, public benefit corporation, or division thereof has invested and has been selected pursuant to subdivision thirty-two of this section. Such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the authority other than the issuance of indebtedness, in connection with real and personal property with respect to which the authority holds title or a leasehold interest, in its own name or as agent for the titleholder or leaseholder including, but not limited to: (i) entering into leases, subleases, or other arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner, landlord or tenant of such property pursuant to such lease or sublease agreements; (ii) servicing non-recourse loan payments; (iii) furnishing property management services; and (iv) providing general operational and administrative support services.

(b) Such subsidiary authorized by paragraph (a) of this subdivision shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the authority as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto with the secretary of state. Such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the authority. The members of such subsidiary shall be the same as the members of the authority and the provisions of subdivision two of section sixteen hundred ninety-one of this title shall in all respects apply to such members when acting in such capacity.

(c) Nothing in this subdivision shall be construed to impose any liabilities, obligations, or responsibilities of such subsidiary upon the authority and the authority shall have no liability or responsibility therefor unless the authority expressly agrees to assume the same.

(d) Such subsidiary created pursuant to this subdivision shall be subject to any other provision of this chapter pertaining to subsidiaries of public authorities.

32. (a) (i) To select a private debt or equity fund formed for the sole purpose of funding the capital costs, including closely related ancillary and administrative costs, associated with establishing conditional adult-use cannabis retail dispensaries for operation by social equity licensees deemed to be eligible by the office of cannabis management for financing through such fund or related costs, provided that any partnership agreement between the fund and the authority, shall be subject to the written approval or resolution of the cannabis control board, the board of the dormitory authority, and the director of the division of the budget, and the selection of such general partner shall be made in consultation with the office of cannabis management.

(ii) The organizational structure and investment policy of the selected fund and the provisions of the partnership agreement shall satisfy the following parameters and requirements:

(1) The fund shall have a public policy committee composed of the chair of the cannabis control board, executive director of the office of cannabis management, and the president of the authority, or their representatives, who shall guide the decisions of the selected fund to

achieve the public policy goals of the state, which includes providing advice and direction to the fund where matters implicate public policy and confirming the fund's adherence to its public purpose, which includes compliance with stated objectives or mission of the cannabis law and the marihuana regulation and taxation act, generally and more specifically, to provide social equity conditional adult-use cannabis retail dispensary licensees with the opportunity of acquiring commercially viable retail operations;

(2) Such committee shall:

(A) review and approve of the fund's investment policy statement and any changes thereto;

(B) review and approve any changes to the use and distribution of investment funds;

(C) review and approve the fund's strategic plan, particularly those pertaining to the investor class, the establishment, management, and liquidation of investments by the fund;

(D) monitor the fund's risk profile, investment activity, and performance;

(E) approve the maximum amount of promised return on investment, management fees, and compensation of the general partner;

(F) review and approve any changes or amendments to the fund's organizational structure, partnership agreements, and the fund manager or servicer's agreement to ensure that they are consistent with the fund's public purpose;

(G) take reasonable steps, at the direction of the office of cannabis management, to provide geographic equity and representation in establishing such conditional adult-use cannabis retail dispensaries for operation by social equity licensees, to the extent practicable, in support of the public purpose of the fund and further, at the direction of the office of cannabis management that the site selection for such dispensaries comports with the requirements of the cannabis law and the marihuana regulation and taxation act, and its rules and regulations governing the location of conditional adult-use cannabis dispensaries; and

(H) confirm that any real property leases and loan agreements issued by or on behalf of the fund shall be provided to social equity licensees, duly licensed pursuant to article two of the cannabis law;

(3) The general partner and the fund shall to the extent allowable by section one of article five of the state constitution, authorize the comptroller of the state, or the comptroller's legally authorized representatives, to access, examine, or audit the accounts and books of the fund including its receipts, disbursements, contracts, investments, and any other items directly relating to its financial standing and cooperate with any such financial examination or financial audit on an annual basis. The general partner shall agree to cause the key officers to be available to discuss the fund and the partnership and its activities at the time of the audit;

(4) The general partner shall agree to cause the key officers to be available to discuss the fund and the partnership and its activities at the request of the public policy committee;

(5) Any real property subleased out by the fund to a social equity licensee shall be at the same rate on which the fund has leased such property;

(6) The fund shall not be authorized to borrow any money or to incur any indebtedness, including guarantees, except when approved by the public policy committee;

(7) The fund shall not be voluntarily terminated early without the prior consent of the public policy committee;

(8) The fund shall have a conflict-of-interest policy approved by the public policy committee;

(9) Any loan agreement the fund enters into with social equity licensees shall be a non-recourse loan and shall allow prepayment of the debt without any penalty imposed by the fund but will allow for the inclusion of a make-whole provision and shall not, at the time that the non-recourse loan is established, exceed the prime lending rate plus one-half the maximum interest rate specified under subdivision one of section fourteen-a of the banking law;

(10) The fund shall not accept more than two hundred million dollars in total investment over the course of its life and the state's contribution to the fund shall not exceed fifty million dollars; and

(11) The fund shall not take any equity positions in, issue equity loans to, or enter into revenue or profit sharing agreements with any social equity adult-use cannabis retail dispensary business or include any terms and conditions in an agreement with such business to that

effect; the fund shall also not include any excessive penalties within the loan agreements; and

(12) Any other requirement as the dormitory authority may deem appropriate, in consultation with the office of cannabis management, or the cannabis control board.

(b) (i) After the funding of the private debt or equity fund as provided pursuant to this subdivision, the authority shall prepare an annual report beginning on December thirtieth, two thousand twenty-two and annually thereafter, which report shall include, but not be limited to:

(1) the number of conditional adult-use cannabis retail dispensaries assisted by the authority pursuant to this subdivision;

(2) the geographic distribution of sites designated by the office of cannabis management and prepared by the authority for conditional adult-use cannabis retail dispensaries for operation by licensed social equity businesses; and

(3) any other such data and information, including information about subsidiary or subsidiaries created pursuant to subdivision thirty-one of this section.

(4) Additionally, for the first report, the authority shall report on the procurement and selection of the general partner.

(ii) Such report shall be published on the authority's website and presented to the governor, the temporary president of the senate and the speaker of the assembly, no later than December thirtieth, two thousand twenty-two and annually thereafter; and

(iii) The authority shall further submit a copy of the partnership agreement between the fund and the authority, to the governor, the temporary president of the senate, and the speaker of the assembly no later than fifteen days after such agreement has been fully executed.

§ 1679. Supplemental higher education loan financing program. 1. The purpose of the supplemental loan financing program is to make available to students attending public and independent sector institutions of higher education financial assistance beyond the grants and loans available from state, federal and private sources where such students demonstrate remaining financial need.

2. In furtherance of its powers under this title with respect to the supplemental higher education loan financing program, the authority is authorized:

(a) to receive and accept from any source loans, contributions or grants for or in aid of a supplemental higher education loan financing program or any portion thereof and, when desirable, to use such funds, property or labor only for the purposes for which it was loaned, contributed or granted;

(b) to make education loans to participating institutions for higher education, and require that the proceeds of such education loans be used for making student loans, funding reserves, providing for capitalized interest and paying other costs and fees involved in making student loans or issuing bonds;

(c) to issue bonds not in excess of two hundred million dollars for the purpose of making direct loans, education loans for the express purpose of providing student loans, and the purchasing, acquiring or taking by assignment or otherwise of student loans, provided, however, that each such sale of bonds shall be subject to the approval of the public authorities control board;

(d) to purchase student loans from participating institutions for higher education under terms and conditions which require that such loans were originated after the effective date of this section in contemplation of participation by such institutions for higher education in a supplemental higher education loan financing program of the authority authorized by this section and in anticipation of the purchase of such loans by the authority, provided, however, that, prior to the sale of bonds any portion of the proceeds of which shall be used for the purchase, acquisition or taking by assignment or otherwise of student loans, the authority shall by resolution adopt specific guidelines setting forth the terms and conditions upon which such purchases, acquisitions and taking by assignment or otherwise shall be made. No such resolution shall be adopted until at least forty-five days after the delivery of a copy of such proposed guidelines to the governor, the temporary president of the senate and the speaker of the assembly for comment.

3. The authority shall adopt guidelines, subject to review by the advisory committee, created pursuant to subdivision ten of this section, and consistent with federal law and regulations to the extent applicable which shall include but not be limited to: (a) eligibility criteria for making education loans and direct loans; (b) limitations upon the principal amounts and the terms of education loans and direct loans; (c) qualifications and characteristics of borrowers; and (d) procedures for allocating education loans among independent institutions and for allocating direct loans among students and parents of students attending public institutions. Such guidelines shall also include such eligibility standards for borrowers as the authority shall determine are necessary or desirable in order to effectuate the purposes of this section including the following: (a) each student shall have a certificate of enrollment or acceptance for enrollment at a specific participating institution for higher education; (b) each student or his or her parents shall satisfy such financial qualifications as the authority shall establish to effectuate the purposes of this section; and (c) each student and his or her parents shall submit such information as may be required by the authority to his or her institution for higher education. Such guidelines shall also establish specific criteria governing the making of direct loans, education loans and student loans, provisions for default, the establishment of default reserve funds, the purchase of default insurance, the provision of debt service reserve funds, and the furnishing by participating independent institutions for higher education of such additional guarantees of, and security with respect to, education loans, student loans or the bonds as the authority shall determine, all of such criteria to be established to assure the marketability of the bonds and the adequacy of the security for the bonds.

4. The authority shall contract with financial institutions, the New York state higher education services corporation established by the provisions of section six hundred fifty-two of the education law or other qualified loan origination and servicing organizations, which may assist in pre-qualifying borrowers for student loans and direct loans and which may service and administer each student loan and direct loan and each institution's respective loan series portfolio. The fees or

interest costs of each student loan or direct loan shall include a portion, if necessary, to cover the applicable pro rata cost of such a servicing organization.

5. The maximum amount of a student loan or direct loan shall not exceed:

(a) in the case of a borrower who is a student, the student's cost of attendance for the period of time for which the loan is made, minus the following amounts applicable to such period of time:

(1) the amount of grant which the student receives, or would receive had the student made application, under the federal Pell Grant program authorized under title IV, part A, of the "Higher Education Act of 1965", as now or hereafter amended;

(2) the maximum net loan proceeds which the student receives, or would receive had the student made application, under the guaranteed student loan program as defined under (i) title IV, part B, of the "Higher Education Act of 1965", as now or hereafter amended, and (ii) the regulations implementing such program promulgated at 34 Code of Federal Regulations, part 682, as now or hereafter amended;

(3) the maximum net loan proceeds which the student's parents receive, or would receive had the student's parents made application, under the parent loan to undergraduate students program as defined under (i) title IV, part B, of the "Higher Education Act of 1965", as now or hereafter amended, and (ii) the regulations implementing such program promulgated at 34 Code of Federal Regulations, part 683, as now or hereafter amended;

(4) the maximum net loan proceeds which the student receives, or would receive had the student made application, under the auxiliary loan to assist students program as defined under title IV, part B, of the "Higher Education Act of 1965", as now or hereafter amended;

(5) the maximum net loan proceeds which the student receives, or would receive had the student made application, under the health education assistance loan program as defined under (i) title IV, part C, of the "Health Professions Educational Assistance Act of 1976", as now or hereafter amended, and (ii) the regulations implementing such program promulgated at 42 Code of Federal Regulations, part 60-C, as now or hereafter amended;

(6) the amount of scholarships, grants or other nonrepayable assistance received from government agencies, educational institutions or private institutions or organizations;

(7) except in the case of a student who is eligible for a loan under the auxiliary loan to assist students program as defined under Title IV, part B, of the "Higher Education Act of 1965", as now or hereafter amended, the expected family contribution computed pursuant to section 428 of the "Higher Education Act of 1965", as now or hereafter amended with respect to families in which the total adjusted gross income of all members of the family exceeds thirty thousand dollars; and

(b) (1) in the case of a borrower who is a parent of an eligible student, the student's cost of attendance minus (i) the amounts determined pursuant to subparagraphs one, two and six of paragraph (a) of this subdivision; and (ii) the amount of loan which the student receives pursuant to paragraph (a) of this subdivision;

(2) the combined maximum loan amount of both parents shall not exceed the maximum amount as determined under this paragraph.

6. Notwithstanding any other provisions contained in this title, but pursuant to guidelines, the authority may commingle and pledge as security for a series or issue of bonds, with the consent of all of the institutions for higher education which are participating in such series or issue, the student loan series portfolios and some or all future student loan series portfolios of such institutions for higher education provided that student loan series portfolios and other security and moneys set aside in any fund or funds pledged for any series of bonds or issue of bonds shall be held for the sole benefit of such series or issue separate and apart from student loan series portfolios and other security and moneys pledged for any other series or issue of bonds of the authority. Bonds may be issued in series under one or more resolutions in the discretion of the authority.

7. The authority shall require that education loans be used solely to make student loans and that direct loans be used solely for the purpose of financing the cost of attendance at public institutions for higher education. The authority shall require that independent institutions for higher education shall require that each borrower under a student loan

shall use the proceeds solely for such cost of attendance and that each such borrower shall so certify.

8. Any student otherwise eligible for a student loan or for a direct loan shall not be disqualified by reason of his or her being under the age of eighteen years and, for the purposes of applying for, receiving and repaying such a loan, any such student shall be deemed to have full legal capacity to act; provided, however, that the signatures of both parents of an unemancipated applicant shall be required for the purpose of receiving such a loan unless the authority determines in accordance with guidelines established by the board of the authority that unusual family circumstances preclude the availability of such signatures.

9. The authority may charge to and apportion among participating institutions of higher education and students or their parents or both its administrative and operating costs and expenses incurred in the exercise of the powers and duties conferred by this section.

10. There is hereby created an advisory committee on the supplemental higher education loan financing program to the dormitory authority which shall consist of the chairman of the authority, who shall serve as the chairman of such committee, the commissioner of education, the chancellor of the state university of New York, the chancellor of the city university of New York, the president of the higher education services corporation, the chairman of the board of trustees of the commission on independent colleges and universities, the president of the New York state financial aid administrators association and an undergraduate student appointed by the governor who is in attendance at a public or independent institution of higher education located in this state. Such committee shall participate in the development of and review the program guidelines to be established by the authority as required by this section and may make recommendations on, comment upon and advise the members of the board of the authority with respect to such guidelines. Each of the members of such committee may designate in writing to the chairman of the committee a representative to serve on such committee in the place of such member. The members of the committee shall receive no compensation for their services, but shall be entitled

to reimbursement by the dormitory authority for their actual and necessary expenses incurred in the performance of their duties.

11. The authority shall report annually to the governor and the legislature on or before February first concerning its findings, conclusions and recommendations with respect to the operation of the program provided for in this section.

§ 1679-a. Health education assistance loan financing program. 1. The purpose of the health education assistance loan financing program, hereafter referred to as the HEAL loan financing program, is to make available to students attending public and independent institutions for higher education financial assistance beyond the grants and loans available from state, federal and private sources, other than supplemental higher education loans pursuant to section sixteen hundred seventy-nine of this chapter, where such students demonstrate remaining financial need. Such program is created to encourage the participation of HEAL eligible institutions in conjunction with, but not in substitution for, the participation of financial or credit institutions in increasing the availability of HEAL loans to all eligible students. The authority and institutions for higher education participating in such program shall to the extent practicable ensure that borrowers of such loans include individuals who are underrepresented or unrepresented in the health professions.

2. In furtherance of its powers under this title with respect to the HEAL loan financing program, the authority is authorized:

(a) to receive and accept from any source loans, contributions or grants for or in aid of the HEAL loan financing program or any portion thereof and, when desirable, to use such funds, property or labor only for the purposes for which it was loaned, contributed or granted;

(b) to make HEAL direct loans to students attending, and HEAL education loans to participating independent institutions for higher education, and require that the proceeds of HEAL education loans be used for making HEAL student loans, funding reserves, providing for capitalized interest and paying other costs and fees involved in making

HEAL student loans or issuing bonds; and

(c) to purchase HEAL student loans solely from participating independent institutions for higher education under terms and conditions which require that such loans were originated after the effective date of this section in contemplation of participation by such institutions for higher education in the HEAL loan financing program of the authority authorized by this section and in anticipation of the purchase of such loans by the authority, provided, however, that prior to the sale of bonds any portion of the proceeds of which shall be used for the purchase, acquisition or taking by assignment or otherwise of HEAL student loans, the authority shall by resolution adopt specific guidelines setting forth the terms and conditions upon which such purchases, acquisitions and taking by assignment or otherwise shall be made. No such resolution shall be adopted until at least forty-five days after the delivery of a copy of such proposed guidelines to the governor, the temporary president of the senate and the speaker of the assembly for comment.

(d) to sell HEAL direct loans, HEAL education loans and HEAL student loans purchased, acquired or taken by assignment or otherwise by the authority to the extent necessary to assure the marketability of and adequacy of the security for the bonds of the authority.

3. The authority shall adopt guidelines, subject to review by the advisory committee, created pursuant to subdivision ten of section sixteen hundred seventy-nine of this chapter, and consistent with federal law and regulations to the extent applicable, which shall include but not be limited to: (a) eligibility criteria for making HEAL education loans and HEAL direct loans; (b) limitations upon the principal amounts and the terms of HEAL education loans and HEAL direct loans; (c) qualifications and characteristics of borrowers; and (d) procedures for allocating HEAL education loans among independent institutions and for allocating direct loans among students attending public institutions. Such guidelines shall also include such eligibility standards for borrowers as the authority shall determine are necessary or desirable in order to effectuate the purposes of this section including the following: (a) each student shall have a certificate of enrollment or acceptance for enrollment at a specific participating

institution for higher education; (b) each student shall satisfy such financial qualifications as the authority shall establish to effectuate the purposes of this section; and (c) each student shall submit such information as may be required by the authority to his or her institution for higher education. Such guidelines shall also establish specific criteria governing the making of HEAL direct loans, HEAL education loans and HEAL student loans, provisions for default, the establishment of default reserve funds, the purchase of default insurance, the provision of debt service reserve funds and the furnishing by the participating independent institutions for higher education of such additional guarantees of, and security with respect to, HEAL education loans, HEAL student loans or the bonds as the authority shall determine, all of such criteria to be established to assure the marketability of the bonds and the adequacy of the security for the bonds to finance fully federally insured HEAL direct loans, HEAL education loans, and HEAL student loans.

4. The authority shall contract with financial institutions, the New York state higher education services corporation established by the provisions of section six hundred fifty-two of the education law or other qualified loan origination and servicing organizations, which may assist in pre-qualifying borrowers for HEAL student loans and HEAL direct loans and which may service and administer each HEAL student loan and HEAL direct loan and each institution's respective HEAL loan series portfolio.

5. The maximum amount of a HEAL student loan or HEAL direct loan shall not exceed the student's cost of attendance for the period of time for which the loan is made, minus the following amounts applicable to such period of time:

(a) the maximum net loan proceeds which the student receives, or will receive, under the guaranteed student loan program as defined under (i) title IV, part B, of the "Higher Education Act of 1965", as now or hereafter amended, and (ii) the regulations implementing such program promulgated at 34 Code of Federal Regulations, part 682, as now or hereafter amended;

(b) the maximum net loan proceeds which the student's parents receive, or will receive, under the parent loan to undergraduate students program as defined under (i) title IV, part B, of the "Higher Education Act of 1965", as now or hereafter amended, and (ii) the regulations implementing such program promulgated at 34 Code of Federal Regulations, part 683, as now or hereafter amended;

(c) the maximum net loan proceeds which the student receives, or will receive, under the auxiliary loan to assist students program as defined under (i) title IV, part B, of the "Higher Education Act of 1965", as now or hereafter amended, and (ii) the regulations implementing such program promulgated at 34 Code of Federal Regulations, part 683, as now or hereafter amended;

(d) the amount of scholarships, grants or other nonrepayable assistance received from government agencies, educational institutions or private institutions or organizations.

6. Notwithstanding any other provisions contained in this title, but pursuant to guidelines, the authority may commingle and pledge as security for a series or issue of bonds, with the consent of all of the institutions for higher education which are participating in such series or issue, the HEAL student loan series portfolios and some or all future HEAL student loan series portfolios of such institutions for higher education provided that HEAL student loan series portfolios and other security and moneys set aside in any fund or funds pledged for any series of bonds or issue of bonds shall be held for the sole benefit of such series or issue separate and apart from HEAL student loan series portfolios and other security and moneys pledged for any other series or issue of bonds of the authority, and provided further that in no event shall HEAL student loan series portfolios be commingled with student loan series portfolios comprised of student loans made pursuant to the supplemental higher education loan financing program authorized by section sixteen hundred seventy-nine of this act or with any other loan portfolio. Bonds may be issued in series under one or more resolutions in the discretion of the authority.

7. The authority shall require that HEAL education loans be used solely to make HEAL student loans and that HEAL direct loans be used solely for the purpose of financing the cost of attendance at public

institutions for higher education. The authority shall require that independent institutions for higher education shall require that each borrower under a HEAL student loan shall use the proceeds solely for such cost of attendance and that each such borrower shall so certify.

8. Any student otherwise eligible for a HEAL student loan or for a HEAL direct loan shall not be disqualified by reason of his or her being under the age of eighteen years and, for the purposes of applying for, receiving and repaying such a loan, any such student shall be deemed to have full legal capacity to act; provided, however, that the signatures of one parent of an unemancipated applicant shall be required for the purpose of receiving such a loan unless the authority determines in accordance with guidelines established by the board of the authority that unusual family circumstances preclude the availability of such signature.

9. The authority may charge to and apportion among participating institutions of higher education and students its administrative and operating costs and expenses incurred in the exercise of the powers and duties conferred by this section.

10. Bonds issued by the authority for the HEAL loan financing program shall be within the two hundred million dollar limitation set forth in paragraph (c) of subdivision two of section sixteen hundred seventy-nine of this chapter and each such issuance shall be subject to the approval of the public authorities control board.

11. The authority shall report annually to the governor and the legislature on or before February first concerning its findings, conclusions and recommendations with respect to the operation of the programs provided for in this section.

§ 1679-b. Equipment loans. 1. The dormitory authority may make an equipment loan to any private entity for the benefit of which the dormitory authority is authorized to issue bonds or other obligations of the dormitory authority. The proceeds of such a loan are to be used substantially to finance the acquisition through purchase or lease of equipment including construction and rehabilitation related to the installation of such equipment or the acquisition of intellectual property or other intangible property, including information technology and software, that is eligible for tax-exempt financing under the United States internal revenue code. The dormitory authority may make an equipment loan by the purchase, lease or sublease of equipment by the dormitory authority and the lease or sublease of such equipment to any such private entity for the purpose of providing for the acquisition of such equipment and the construction and rehabilitation related to the installation thereof or pursuant to an installment purchase agreement.

2. Except to the extent otherwise expressly prohibited by law, each private entity described in subdivision one of this section shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be appropriated, apportioned or otherwise made payable to such private entity by the federal government, any agency thereof, the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by such private entity pursuant to any necessary or useful agreement entered into between such private entity and the dormitory authority for an equipment loan. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

3. The making of equipment loans by the authority shall be a corporate purpose of the authority.

§ 1679-c. The New York higher education loan program. 1. For purposes of this section, the following words and terms shall have the following meaning unless the context shall indicate another or different meaning

or intent:
(a) "Corporation" shall mean the New York state higher education services corporation.
(b) "Education loan" shall mean a loan made under the New York higher education loan program established pursuant to part v of article fourteen of the education law.

2. In addition to the powers of the authority pursuant to the other sections of this title, the authority shall have power:
(a) To enter into one or more agreements with the corporation, which agreement may provide for the securing of education loans in accordance with part V of article fourteen of the education law, and to perform or contract for the performance of its obligations under any such agreement;
(b) To make and contract to make and to acquire and contract to acquire education loans and to enter into advance commitments for the purchase of said education loans;
(c) Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, in education loans;
(d) To service and execute contracts for the servicing of education loans acquired by the authority pursuant to this title, and to pay the reasonable value of services rendered to the authority pursuant to those contracts;
(e) To prescribe standards and criteria for education loans purchases, insofar as such standards and criteria are not inconsistent with the applicable agreement with the corporation;
(f) Subject to any agreement with bondholders or noteholders, to sell any education loans made or acquired by the authority at public or private sale and at such price or prices and on such terms as the authority shall determine; and
(g) To establish, revise from time to time, charge and collect such premiums or fees in connection with education loans and its participation in the New York higher education loan program as the authority shall determine.

3. The authority shall have the power and is hereby authorized from

time to time to issue bonds and notes, including without limitation for the purposes of financing and refinancing education loans and of refunding any bonds or notes issued for such purpose pursuant to part V of article fourteen of the education law.

§ 1680. Dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York. 1. For all purposes of this section sixteen hundred eighty, the term "educational institution" shall mean any of the following:

Any institution for higher education, other than a state-operated institution or statutory or contract college under the jurisdiction of State University of New York, as defined in section three hundred fifty of the education law, located in this state, and authorized to confer degrees by law or by the board of regents.

Any non-profit institution or hospital at which the training of nurses is provided by a program approved by the department of education of the state of New York.

New York Academy of Sciences.

Lincoln Center for the Performing Arts, Incorporated.

Center for the Arts at Ithaca, Incorporated.

Affiliated Colleges and Universities, Inc.

Brookdale Hospital Center.

Albany Medical Center Hospital.

St. Vincent's Hospital and Medical Center of New York.

Mount Vernon Hospital.

Onondaga County Historical Museum.

The department of health of the state of New York.

Columbia Memorial Hospital.

New York Medical College of New York, Incorporated.

Highland Hospital of Rochester, Incorporated.

St. Peter's Hospital of the city of Albany.

Geneva General Hospital.

Optometric Center of New York.

Brookhaven Memorial Association, Incorporated, doing business as Brookhaven Memorial Hospital.

Calvary Hospital, Inc.

A local sponsor as defined by subdivision three of section sixty-three hundred one of the education law, or as defined by subdivision four of section sixty-three hundred one of the education law with respect to a community college region, a community college regional board of trustees, or, with respect to locally sponsored community colleges in the city of New York, the city of New York or the board of education, as the case may be.

Beth Israel Medical Center.

Our Lady of Lourdes Memorial Hospital, Inc.

St. Francis Hospital, Poughkeepsie.

The Staten Island Hospital.

Carthage Area Hospital, Inc.

Mount Sinai Hospital.

Hospital for Joint Diseases and Medical Center.

Beekman-Downtown Hospital.

Catholic Medical Center of Brooklyn and Queens, Incorporated.

The Clifton Springs Sanitarium Company.

Children's Hospital of Buffalo.

St. Joseph's Hospital Health Center.

General Hospital of Saranac Lake.

The Church Charity Foundation of Long Island.

Buffalo General Hospital.

Crouse-Irving Memorial Hospital, Inc.

Samaritan Hospital of Brooklyn.

Benedictine Hospital.

The Society of the Home for Incurables.

The White Plains Hospital Association.

Misericordia Hospital Medical Center.

The Cornwall Hospital.

Memorial Hospital, Albany, New York.

The Rochester General Hospital.

Our Lady of Victory Hospital of Lackawanna.

Mercy Hospital Association.

The Hebrew Home for the Aged at Riverdale, Inc.

Charles S. Wilson Memorial Hospital.

Aurelia Osborn Fox Memorial Hospital Society.

Retirement Home of Central New York Conference of the United Methodist Church, Inc.

Gananda educational facilities corporation.

The Trustees of the Jones Fund for the Support of the Poor.

St. Mary's Hospital of Troy.

The Roosevelt Hospital.

Queens Hospital Center of the borough of Queens, city of New York.

A not-for-profit corporation or any political subdivision of the state of New York or the state of New York to provide facilities for the aged.

Franklin General Hospital.

St. Vincent's Medical Center of Richmond.

Long Island Jewish-Hillside Medical Center.

Eastman Dental Center.

United Hospital.

The Brooklyn Educational and Cultural Alliance (B.E.C.A.) when and if incorporated by the Board of Regents of the University of the state of New York.

St. Mary's Hospital at Amsterdam.

The New York Public Library, Astor, Lenox and Tilden Foundations.

The Village Nursing Home, Inc.

The Elizabeth A. Horton Memorial Hospital.

The Community Hospital of Brooklyn, Inc.

Putnam Community Hospital.

Lawrence Hospital.

The New Rochelle Hospital Medical Center.

Methodist Hospital, Brooklyn.

Maimonides Medical Center.

Lutheran Medical Center, Brooklyn.

The Faxton Hospital in the city of Utica.

Booth Memorial Medical Center, Queens, New York.

New York Blood Center, Inc.

South Nassau Communities Hospital, in Oceanside, New York.

Montefiore Hospital and Medical Center.

The Saratoga Hospital.

St. Joseph's Hospital, Yonkers, New York.

St. Elizabeth's Hospital at Utica.

Arden Hill Hospital, Goshen, New York

St. Luke's Hospital of Newburgh, New York.

Vassar Brothers Hospital

The Nyack Hospital, North Midland Avenue, Nyack, New York.

Yonkers General Hospital.

Nassau Hospital, Mineola, Long Island, New York.

Manhattan Eye, Ear and Throat Hospital.

Sheehan Memorial Emergency Hospital, Buffalo.

Good Samaritan Hospital, West Islip, New York.

The Community Hospital at Glen Cove.

Flushing Hospital and Medical Center.

Cortland Memorial Hospital.

St. John's Riverside Hospital at Yonkers.

The Moses Ludington Hospital.

Jamaica Hospital of Jamaica, New York

Ellis Hospital, Schenectady, New York.

Society of New York Hospital.

Jewish Board of Family and Children's Services, Inc.

Dobbs Ferry Hospital, Dobbs Ferry, New York.

New York state teachers' retirement system.

The Metropolitan Museum of Art

F.I.T. student housing corporation.

Community Memorial Hospital, Inc., Hamilton, New York.

The College Entrance Examination Board.

Museum of American Folk Art.

The Human Resources Center.

The Museums at Stony Brook.

Memorial Sloan-Kettering Cancer Center.

Associated Universities, Inc.

New York Zoological Society

The New York Foundling Charitable Corporation.

International House, Inc.

New York State Association for Retarded Children, Inc., Albany County Chapter.

March of Dimes Birth Defects Foundation.

YM and YWHA of Mid-Westchester of the Associated YM-YWHA's of Greater New York.

Association for the Help of Retarded Children, Suffolk Chapter.

New York Society for the Deaf.

Hillside Children's Center

United Way of Tri-State, Inc.

New Dimensions in Living, Inc.

Associated Residential Centers, Inc.

Snug Harbor Cultural Center, Inc.

The National Center for the Study of Wilson's Disease, Inc.

The Westchester School for Special Children, Westchester County.

The Devereux Foundation for the financing, construction and equipping of facilities subject to the approval of the commissioner of education, the commissioner of social services and the commissioner of the office for people with developmental disabilities for a residential and educational program for children with handicapping conditions, as such term is defined in subdivision one of section forty-four hundred one of the education law, including, but not limited to, those students who were publicly placed at the Rhinebeck Country School during the nineteen hundred eighty-six--eighty-seven school year and in the furtherance of the state's overall goal of reducing the number of children with handicapping conditions requiring out-of-state placements: nothing in the foregoing shall be deemed to authorize The Devereux Foundation to apply any funds or credits obtained pursuant to this section toward the financing, construction or equipping of facilities on any other property or properties it presently owns or controls or owns or controls in the future.

New Hope Community, Inc., a not-for-profit corporation, for the financing, construction and development of residences for adults with a developmental disability on forty acres of land purchased from Leon and Dave Scharf, d.b.a. New Hope Rehabilitation Center, located on State Route 52 in the Town of Fallsburg, to replace existing residential facilities operated by New Hope Rehabilitation Center.

For the financing, construction, reconstruction, improvement, renovation of or otherwise provided for United Cerebral Palsy of New York City, Inc., for (1) an intermediate care facility for the developmentally disabled at Avenue S and Lake Street, Brooklyn; (2) a pre-school program service facility at Mason and Seaview Avenues, Staten Island; (3) a children and adult program service facility at Stillwell Avenue, Bronx; (4) a children and adult program service facility at Lawrence Avenue, Brooklyn; (5) a pre-school program service building at Lawrence Avenue, Brooklyn; (6) an adult program service building at Port Richmond Avenue, Staten Island; (7) children's program services building at Lawrence Avenue, Brooklyn; and for the leasehold improvements to Manhattan and adult programs services sites.

Special act school districts listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended.

State-supported schools for the instruction of deaf and blind students and children with other handicapping conditions pursuant to article eighty-five of the education law and chapter one thousand sixty of the laws of nineteen hundred seventy-four.

The education department of the state of New York, including the New York state school for the blind, the New York state school for the deaf, and schools established by the commissioner of education pursuant to section forty-one hundred one of the education law, for facilities owned, operated by, or provided by the state for the use of, the education department of the state of New York, including, but not limited to, the premises commonly known as the education department building, located at 89 Washington Avenue in the city of Albany, New York, the New York state school for the blind, located at Richmond Avenue in the city of Batavia, New York, the New York state school for the deaf, located at 401 Turin Street in the city of Rome, New York, schools established by the commissioner of education pursuant to the provisions of subdivision one of section four thousand one hundred one of the education law, and the premises commonly known as the cultural education center located in the empire state plaza in the city of Albany, New York, and attendant and related facilities.

Vesta Community Housing Development Board, Inc. of Altamont for the financing, construction and equipping of facilities for persons recovering from an addiction to alcohol or a controlled substance.

The Utica College Foundation, for the financing, refinancing, reimbursement and development of student dormitory and academic facilities at its Utica campus, including Burrstone House to serve as a dormitory for students residing at the college; provided, however, that the aggregate sum of such issuance of bonds shall not exceed thirty-five million dollars.

Gateway Youth and Family Services for the financing, construction and development of new facilities for a diagnostic and evaluation program and a pre-independent living program, and to expand existing facilities in a special education school on real property located on Main Street, Williamsville, county of Erie.

Orleans County Chapter-New York State Association for Retarded Children, Inc. for the financing, construction and development, of a preschool facility and necessary ancillary and related facilities in Orleans county to replace the existing preschool facility now operated by the Orleans County Chapter-New York State Association for Retarded Children, Inc. at 151 Platt Street, Albion, N.Y. 14411.

New York State Association for Retarded Children, Inc., for the financing, construction and development, of a preschool facility and necessary ancillary and related facilities in Westchester county to replace the existing preschool facilities now operated by the New York State Association for Retarded Children, Inc., Westchester County Chapter at 12 Green Street, Mt. Kisco, New York and 50 Washington Avenue, New Rochelle, New York.

New York State Association for Retarded Children, Inc.-Livingston-Wyoming County Chapter for the financing, acquisition and rehabilitation, of a preschool facility and necessary ancillary and related facilities in Livingston county to expand existing preschool facilities now operated by the New York State Association for Retarded Children, Inc.-Livingston-Wyoming County Chapter located at 18 Main Street, Mount Morris, N.Y. 14510.

New York Association for the Learning Disabled, Capital District Chapter, Inc., renamed Wildwood Programs, Inc., for the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for facilities for Wildwood Programs, Inc.

AMDA INC./The American Musical and Dramatic Academy, for the financing, refinancing, reimbursement and development of a dormitory for students residing at the academy and an academic facility.

Private not-for-profit schools.

For the financing, construction, reconstruction, improvement, renovation of or otherwise provide for United Cerebral Palsy of Westchester County, Inc., for (1) a twelve bed intermediate care facility for the developmentally disabled and (2) for expansion of the day program service facility at Rye Brook, New York. Notwithstanding any other provision of law, United Cerebral Palsy of Westchester County, Inc. shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by United Cerebral Palsy of Westchester County, Inc. pursuant to any lease, sublease or other agreement entered into between such organization and the authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this paragraph. No agreement or lease by United Cerebral Palsy of Westchester County, Inc. shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

Hospice, Buffalo, for the financing, construction and development of new and renovated facilities for the care and treatment of terminally ill individuals.

The National Sports Academy at Lake Placid, for the financing, refinancing, reimbursement and development of a dormitory for students residing at the academy and an academic facility.

Ferncliff Manor as a not-for-profit residential school serving children who are severely mentally disabled and medically involved, who will also on a not-for-profit basis operate an intermediate care facility, for the financing, construction, reconstruction, improvement, renovation and development of five twelve bed dormitories in Westchester County for such children, subject to the approval of the commissioners of education, social services, and the office for people with developmental disabilities, and subject further to the approval of the director of the budget as to project need and project cost. Except to the extent otherwise prohibited by law, Ferncliff Manor shall have full power and authority to assign and pledge to the authority, together with any pledge of its own assets and other income, any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by Ferncliff Manor pursuant to any lease, sublease or other agreement entered into between Ferncliff Manor and the authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section. No agreement or lease by Ferncliff Manor shall be effective unless and until it is approved by or on behalf of the commissioners of education, social services, and the office for people with developmental disabilities, and subject further to the approval of the director of the budget as to project need and project cost.

The Leake and Watts Children's Home (Incorporated), Yonkers, New York for the financing, construction, reconstruction, improvement, renovation or otherwise for (1) a new school building for the junior high and high school vocational programs including a field house; (2) a new children's cottage and renovation and reconstruction of eight existing children's cottages to provide more efficient heating and cooling systems, more secure supervision and to increase the number of beds; (3) renovation and reconstruction of the main building to provide new electrical and plumbing systems and internal rehabilitation; and (4) renovation and reconstruction of the old school building for multiple use; subject to the approval of the commissioners of education, social services and the office for people with developmental disabilities, and subject further to the approval of the director of the budget including as to project need and project cost. Notwithstanding any other provision of law, The Leake and Watts Children's Home (Incorporated) shall have full power and authority to assign and pledge to the authority, together with any other assets so pledged, any and all property rights to, and property interests in, any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by The Leake and Watts Children's Home (Incorporated) pursuant to any lease, sublease or other agreement entered into between The Leake and Watts Children's Home (Incorporated) and the authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section. No lease, sublease or other agreement by The Leake and Watts Children's Home (Incorporated) shall be effective unless and until it is approved by or on behalf of the commissioners of education, social services and the office for people with developmental disabilities and subject further to the approval of the director of the budget including as to project need and project cost.

Oxford University and the Oxford University Press, Incorporated; or either of them for the financing, acquisition, construction, reconstruction, renovation and rehabilitation of facilities to be located at thirty-fourth street and Madison avenue in the borough of Manhattan, in the city of New York.

Berkshire Farm Center and Services for Youth, Canaan, New York for the financing, construction, reconstruction, improvement, renovation, equipping or otherwise providing for a dining facility on the existing campus of Berkshire Farm Center and Services for Youth in Canaan, New York.

Notwithstanding any other provision of law, Berkshire Farm Center and Services for Youth shall have full power and authority to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by Berkshire Farm Center and Services for Youth pursuant to any lease, sublease or other agreement entered into between Berkshire Farm Center and Services for Youth and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

A public library.

South Street Seaport Museum, Inc.

United Cerebral Palsy Association of the Capital District, Inc., for the financing, construction, reimbursement, and development of residences and program facilities on lands owned by the Center, at locations within Albany county.

Phoenix House Foundation, Inc., New York, New York, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of facilities, excluding general hospitals as defined in article twenty-eight of the public health law, located in the county of New York, or at sites owned, leased or operated by Phoenix House at the following locations: 34-01, 34-11 and 34-25 Vernon Boulevard, Long Island City, New York; 480 East 185th Street and 2329 Bassford Avenue, Bronx, New York; 43-44 and 46-50 Jay Street, Brooklyn, New York; and Shrub Oak, Westchester county, New York; for the provision of drug abuse prevention and treatment, medical, psychiatric and clinic services, excluding those services provided by a general hospital as defined in article twenty-eight of the public health law, remedial education, secondary education, vocational training and recreational facilities for adolescent and adult substance and polysubstance abusers, mentally ill chemical abusers, and their families, and related administrative and support services.

Notwithstanding any other provision of law, Phoenix House Foundation, Inc. shall have full power and authority to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by Phoenix House Foundation, Inc. pursuant to any lease, sublease or other agreement entered into between Phoenix House Foundation, Inc. and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issue, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

Irish American Heritage Museum.

The Crown Heights Jewish Community Council, Inc. a not-for-profit corporation, for the financing, refinancing, acquisition, construction, reconstruction, renovation, rehabilitation of, furnishing, equipping and otherwise providing for buildings to serve as a dormitories for students enrolled in various professional or post-secondary educational institutions.

The Rosalind and Joseph Gurwin Jewish Geriatric Center of Long Island, Inc., a not-for-profit corporation, for the financing, refinancing, construction, reconstruction, furnishing, equipping, improvement, renovation or otherwise providing for facilities to serve the aged, disabled and chronically impaired persons.

Staten Island Institute of Arts & Sciences.

The DePaul Group, Inc. and its affiliates and subsidiaries, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of certain educational, administrative and residential facilities, to be located in the state of New York.

Notwithstanding any other provision of law, the DePaul Group, Inc. and its affiliates and subsidiaries shall have full power and authority to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by the DePaul Group, Inc. pursuant to any lease, sublease or other agreement entered into between the DePaul Group, Inc. and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issue, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

University Heights Association, Inc.

Little Flower Children's Services of New York, Brooklyn, New York for the financing, construction, reconstruction, improvement, renovation, equipping or otherwise providing for four residential facilities for learning disabled children, subject to the approval of the commissioners of education and social services and subject further to the approval of the director of the budget as to project need and project cost. Notwithstanding any other provision of law, Little Flower Children's Services of New York shall have full power and authority to assign and pledge to the authority, any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by Little Flower Children's Services of New York pursuant to any lease, sublease or other agreement entered into between Little Flower Children's Services of New York and the authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority, or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section. No lease, sublease or other agreement by Little Flower Children's Services of New York shall be effective unless and until it is approved by or on behalf of the commissioners of education and social services and further approved by the director of the budget as to project need and project cost.

The Roswell Park Cancer Institute corporation and its subsidiary corporations.

The department of audit and control of the state of New York.

The New York state and local employees' retirement system.

The New York state and local police and fire retirement system.

The office of general services of the state of New York.

Harlem Dowling-West Side Center for Children and Family Services, a not-for-profit corporation, for the financing, refinancing, construction, reconstruction, furnishing, equipping, improvement, renovation or otherwise providing for facilities to serve and assist children and their families in crisis and distress.

Yeshiva Beis Leivy.

Roberson Memorial, Inc., doing business as Roberson Museum and Science Center.

* Not-for-profit members of the New York State Rehabilitation Association and the New York Alliance for Inclusion and Innovation and any successor in interest to any such organization, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of certain educational, administrative, residential, clinical, day programming, job training and workforce development facilities to be located in the state of New York.

Notwithstanding any other provision of law, not-for-profit members of the New York State Rehabilitation Association and the New York Alliance for Inclusion and Innovation and any successor in interest to any such organization, with the concurrence of the applicable association shall have full power and authority to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the United States, any agency thereof, the state, any agency thereof to the extent permitted by law, a political subdivision, as defined in section one hundred of the general municipal law, any social services district in the state or any other governmental entity in an amount sufficient to make all payments required to be made by such members pursuant to any lease, sublease or other agreement entered into between such members and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issue, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section. The New York State Rehabilitation Association's responsibilities and the responsibilities of the New York Alliance for Inclusion and Innovation and any successor in interest to any such organization, in relation to any lease, sublease, or other agreement between the dormitory authority and the applicable association's members shall include, but not be limited to, coordinating and facilitating any required financial disclosure and any other matters heretofore or hereafter deemed necessary or appropriate.

* NB Repealed December 31, 2028

* NYSARC, Inc. for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, and equipping of clinical, day programming and residential facilities and necessary ancillary and related facilities throughout the state.

* NB Repealed December 31, 2028

* Notwithstanding any other provision of law, NYSARC, Inc. shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be appropriated, apportioned or otherwise made payable by the federal government, any agency thereof, the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by such entity pursuant to any necessary or useful agreement

entered into between such entity and the dormitory authority.

* NB Repealed December 31, 2028

* All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB Repealed December 31, 2028

Educational Housing Services Inc., a not-for-profit corporation, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, and equipping of housing for students and/or faculty at institutions of higher education located within the five boroughs of the city of New York and Westchester county either directly or by creation of a wholly-owned not-for-profit subsidiary corporation or controlled corporations, limited liability companies, or partnerships that are not subject to federal income taxation (except with respect to any unrelated business income).

* Terence Cardinal Cooke Health Care Center for the financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, and equipping of facilities to serve aged, disabled, and chronically impaired, and persons who have a developmental disability.

Notwithstanding any other provision of law, Terence Cardinal Cooke Health Care Center shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be appropriated, apportioned or otherwise made payable by the federal government, any agency thereof, the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by such entity pursuant to any necessary or useful agreement entered into between such entity and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB Repealed December 31, 2028

United States Military Academy for the purpose of providing construction related services in connection with the construction, reconstruction, improvement, renovation, development or expansion of facilities owned by the United States Military Academy located at West Point, New York.

The Helen Keller National Center for Deaf-Blind Youths and Adults, a not-for-profit corporation located in Sands Point, New York, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of facilities.

The Green Chimneys Children's Services, Inc., Brewster, New York for the financing, refinancing, construction, reconstruction, improvement, renovation, equipping or otherwise for new children's cottages. Notwithstanding any other provision of law, The Green Chimneys Children's Services, Inc. shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by The Green Chimneys Children's Services, Inc. pursuant to any lease, sublease or other agreement entered into between The Green Chimneys Children's Services, Inc. and the authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section. No agreement or lease by The Green Chimneys Children's

Services, Inc. shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

The state university construction fund or any other public or private entity in connection with financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of or otherwise providing for, a pharmaceutical research, development, which may also include a manufacturing facility at the state university of New York college of technology at Farmingdale. The authority shall exercise only those powers or duties set forth in this section as shall be set forth in an agreement by and between the state university construction fund, the authority and any such public or private entity.

MSMC realty corporation, a support organization of the Mount Sinai hospital, Mount Sinai school of medicine of the city university of New York and the Mount Sinai medical center, inc. (collectively, "Mount Sinai"), for the purpose of providing facilities and equipment for Mount Sinai. As used in this paragraph and for purposes of chapter five hundred fifty-four of the laws of nineteen hundred ninety-nine, MSMC Realty Corporation shall be deemed to include any other entity created by MSMC Realty Corporation or Mount Sinai for the purpose of entering into an agreement with the dormitory authority pursuant to this paragraph.

Notwithstanding any other provision of law, MSMC realty corporation shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be appropriated, apportioned or otherwise made payable by the federal government, any agency thereof, the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by such entity pursuant to any necessary or useful agreement entered into between such entity and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issue pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

The state university construction fund or any other public or private entity in connection with financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of or otherwise providing for approved university-related economic development projects authorized by section three hundred seventy-two-a of the education law. The authority shall exercise only those powers or duties set forth in this section as shall be set forth in an agreement by and between the state university construction fund, the authority and any such public or private entity.

The Capital District YMCA and related branches, administrative offices and satellite facilities located in New York state including: Albany YMCA, Camp Chingachgook, Guilderland YMCA, Parkside Family YMCA, Schenectady YMCA, Southern Saratoga YMCA, Troy Family YMCA and any successor in interest to any such organization for the financing and/or refinancing of the acquisition, construction, reconstruction, renovation, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities, provided that the aggregate amount of any bonds issued for such purpose shall not exceed two million dollars ($2,000,000).

UCPA of the Capital District, Inc., UCPA of Cayuga County, Inc., United Cerebral Palsy and Handicapped Children's Association of Chemung County, Inc., Finger Lakes United Cerebral Palsy, Inc., United Cerebral Palsy Associations of Fulton and Montgomery Counties, Inc., United Cerebral Palsy Association of the Tri-Counties, Inc., Franziska Racker Centers, Inc., United Cerebral Palsy Association of Nassau County, Inc., United Cerebral Palsy of New York City, Inc., United Cerebral Palsy Association of Niagara County, Inc., Orange County Cerebral Palsy Association, Inc., United Cerebral Palsy of Queens, Inc., United

Cerebral Palsy Association of the Rochester Area, Inc., Jawonio, Inc., The Handicapped Children's Association of Southern New York, Inc., United Cerebral Palsy Association of Greater Suffolk, Inc., SDTC - The Center for Discovery, Inc., United Cerebral Palsy and Handicapped Children's Association of Syracuse, Inc., United Cerebral Palsy of Ulster County Inc., United Cerebral Palsy and Handicapped Person's Association of the Utica Area, Inc., United Cerebral Palsy Association of Westchester, Inc. and Unified Creative Programs, Inc., United Cerebral Palsy Association of Western New York, Inc., United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc., United Cerebral Palsy Association of the North Country, Inc., United Cerebral Palsy Associations of New York State, Inc., any not-for-profit affiliates or members of Cerebral Palsy Associations of New York State, Inc., and any successor in interest to any such organization for the financing and/or refinancing of the acquisition, construction, reconstruction, renovation, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities throughout the state of New York, including educational, residential, administrative, clinical, and day programming facilities used in the provision of services to individuals with disabilities.

The university at Albany foundation, or an associated not-for-profit corporation controlled by the university at Albany foundation which has been formed or is formed within one year of the effective date of this paragraph, for the purpose of financing or refinancing the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for a facility to serve as an incubator and research facility located at the East Campus of the university at Albany, provided that the amount of any bonds issued for such purpose shall not exceed twelve million dollars ($12,000,000); and Fuller road management corporation, for the purpose of financing or refinancing the design, construction, improvement, furnishing and equipping of incubator and research facilities at the center for environmental sciences and technology management, provided that the amount of any bonds issued for such purpose shall not exceed ten million dollars ($10,000,000), and provided, further, that any such borrowing and such projects shall have been approved by the state university of New York.

Baker Hall, Lackawanna, New York for the financing, acquisition, construction, reconstruction, renovation and improvement for facilities in Lackawanna, New York. Notwithstanding any other provision of law, Baker Hall, Lackawanna, New York shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by Baker Hall, Lackawanna, New York pursuant to any lease, sublease or other agreement entered into between Baker Hall, Lackawanna, New York and the authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section. No agreement or lease by Baker Hall, Lackawanna, New York shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

The Abyssinian Cultural Building Corporation, a New York not-for-profit corporation, with respect to the financing and/or refinancing of the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing, purchasing and equipping of, or otherwise providing for, an educational facility for the Thurgood Marshall Academy for Learning and Social Change to be leased to the New York city school construction authority or to the board of education of the city school district of the city of New York for school purposes; provided that the aggregate amount of bonds issued by the dormitory authority issued for the Abyssinian Cultural Building Corporation shall not exceed thirty million dollars ($30,000,000). In furtherance of the aforesaid purposes and notwithstanding any other provision of law, the following provisions shall apply:

(i) The Abyssinian Cultural Building Corporation shall have full power and authority to assign and pledge to the dormitory authority any and all funds payable to it by the New York city school construction authority or the board of education of the city school district of the city of New York pursuant to any lease entered into by and between the Abyssinian Cultural Building Corporation and the New York city school construction authority or the board of education of the city school district of the city of New York;

(ii) The New York city school construction authority or the board of education of the city school district of the city of New York is hereby authorized to pay all lease payments assigned and pledged by the Abyssinian Cultural Building Corporation pursuant to subparagraph (i) of this paragraph to the dormitory authority or, upon direction of the dormitory authority, to any trustee of any bonds issued by the authority;

(iii) Any lease by and between the Abyssinian Cultural Building Corporation and the New York city school construction authority or the board of education of the city school district of the city of New York relating to an educational facility for the Thurgood Marshall Academy for Learning and Social Change shall provide that the obligation of the school district to make annual lease payments to the Abyssinian Cultural Building Corporation or to the dormitory authority shall not constitute a debt of the city of New York within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys made available to the New York city school construction authority or the board of education of the city school district of the city of New York, and that no liability on account thereof shall be incurred by the New York city school construction authority or the board of education of the city school district of the city of New York beyond the moneys available for the purpose thereof;

(iv) Any lease by and between the Abyssinian Cultural Building Corporation and the New York city school construction authority or the board of education of the city school district of the city of New York shall not be deemed to be an installment purchase contract, contract for public work or purchase contract within the meaning of article five-A of the general municipal law or any other law; and

(v) No agreement of lease by the Abyssinian Cultural Building

Corporation pursuant to this paragraph shall be effective unless, and until, it is approved by the board of education and the chancellor of the city school district of the city of New York.

Any school district in the state with respect to the financing or refinancing of all or a portion of school district capital facilities and school district capital equipment for such school districts provided, however, that financing of such projects shall be limited to financing of projects eligible for an apportionment pursuant to subparagraph three of paragraph e of subdivision six of section thirty-six hundred two of the education law.

A qualified zone academy located in a city having one hundred twenty-five thousand or more inhabitants for the purpose of issuing qualified zone academy bonds in accordance with section 1397E of the internal revenue code, as the same may be amended. In connection with the issuance of qualified zone academy bonds as aforesaid and notwithstanding any other provision of the law to the contrary, the following provisions shall apply:

(1) The dormitory authority and a city acting on behalf of a city school district in a city having one hundred twenty-five thousand or more inhabitants shall each be empowered and authorized to enter into a lease, sublease or other agreement pursuant to which the dormitory authority may finance the rehabilitation or repair of a school facility, the provision of equipment for use at such facility, or any other expenditure in connection with such facility which would be a "qualified purpose" as defined in section 1397E of the internal revenue code, provided that such financing shall be for such projects contained within the city school district's approved application to the state education department for projects pursuant to section 1397E of the internal revenue code and, if applicable, is included in the city school district's five year capital facilities plan pursuant to the applicable provisions of section twenty-five hundred ninety-p and subdivision six of section thirty-six hundred two of the education law. Such lease, sublease or other agreement may provide for annual or other payments to the dormitory authority by or on behalf of the city school district and may contain such other terms and conditions as may be agreed upon by the

parties thereto, including, but not limited to, the establishment of reserve funds and indemnities.

(2) In a city school district of a city having a population of one hundred twenty-five thousand or more, no lease, sublease or other agreement entered by such city on behalf of the board of education of such city school district pursuant to the provisions of this paragraph shall be effective unless, and until, it is approved by the board of education of such city school district and the mayor of such city.

(3) Any such lease, sublease or other agreement entered into pursuant to this paragraph may provide that the provisions thereof shall remain in force and effect until the bonds, notes or other obligations of the dormitory authority are no longer outstanding, together with interest on any unpaid installments of interest and the fees and expenses of the dormitory authority, are fully met and discharged, and any payments to be made by a city on behalf of the city school district to the dormitory authority may be pledged to secure such bonds.

(4) (i) In the event of the failure in whole or in part of a city to make payments when due pursuant to any lease, sublease or other agreement entered into pursuant to this paragraph, the dormitory authority shall forthwith make and deliver to the state comptroller, a certificate stating the amount of the payment required to have been made by the city, the amount paid by the city and the amount remaining unpaid by the city. The state comptroller shall, in accordance with the provisions of section ninety-nine-b of the state finance law, pay to the dormitory authority not later than thirty days after the certificate shall have been filed by the dormitory authority with the state comptroller the amount set forth in such certificate as remaining unpaid.

(ii) For purposes of section ninety-nine-b of the state finance law and notwithstanding the provisions of any general or special law to the contrary, the following shall apply in connection with any certificate filed by the dormitory authority pursuant to this subparagraph: (A) all leases, subleases or other agreements entered into by and between a city pursuant to this subdivision shall be deemed "bonds or notes issued for school district purposes"; (B) the certificate filed by the dormitory authority with the state comptroller as provided herein shall be deemed to be a "verified statement" of "the holder or owner of a bond or note" of the city; (C) the dormitory authority, or the trustee for the holders of any bonds issued by the dormitory authority, shall be deemed to be the "paying agent"; and (D) the amount payable by the state comptroller to the dormitory authority shall include principal, interest and other amounts payable to the dormitory authority under any lease, sublease or other agreement.

The NDC housing and economic development corporation and its affiliates for the financing, refinancing, acquisition, design, construction, reconstruction, renovation, rehabilitation, improvement, expansion, furnishing and equipping of, or otherwise providing for one building to be located at 160 East 24th Street, New York, N.Y. to serve as a dormitory for students attending institutions of higher education within the city of New York.

School Districts having Eligible School District Projects

Political subdivisions financing eligible wireless 911 capital equipment.

Natural History Museum of the Adirondacks.

Women's Interart Center, Inc. of New York City, for the acquisitions, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for facilities for the Interart Rehearsal Studio and Cultural Center Complex located at 543-551 West 52nd Street in the Clinton Urban Renewal area of Manhattan.

The Center for Jewish History, Inc., for the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for facilities as a centralized location for preserving and advancing scholarship, art, history, and culture through its archival collection, in a one hundred twenty thousand square foot facility located at 15 West 16th Street in Manhattan.

The Kaatsbaan International Dance Center, Inc., for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, furnishing and equipping or otherwise providing for a professional creative residence and performance facility on one hundred fifty-three rural acres in Tivoli, New York.

Eyebeam Atelier, Inc., for the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for facilities devoted to the collaboration of art and technology in New York state and the construction of a new ninety thousand square foot building located in the Chelsea area of New York city.

Youth Environmental Services, d/b/a Yes Community Counseling, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, furnishing and equipping or otherwise providing for the purchase of a building for such not-for-profit group located in Massapequa, New York.

The New York military academy, an education corporation chartered by the board of regents located in Cornwall-on-Hudson, New York, for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of facilities.

Preventive Medicine Institute, doing business as Strang Cancer Prevention Center.

Any residential institution for children as defined in subdivision forty-four of section sixteen hundred seventy-six of this title for the financing, refinancing, design, replacement (including acquisition and construction), reconstruction, rehabilitation, improvement, renovation, and equipping of existing residential facilities.

The Museum of African American Cinema, Inc., for the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for such facilities in Harlem, New York city.

34th Street Cancer Center, Inc., with respect to the financing and/or refinancing of the acquisition, purchasing and equipping of a certain building located at 160 East 34th Street, New York, New York, for use as a cancer center. Notwithstanding any other provision of law, the following provisions shall apply:

(i) 34th Street Cancer Center, Inc. shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be appropriated, apportioned, or otherwise made payable by the federal government, any agency thereof, the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by such entity pursuant to any agreement entered into between such entity and the dormitory authority necessary or useful for the purposes set forth in this paragraph.

(ii) All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this paragraph.

The Beacon Institute, Inc., a domestic not-for-profit corporation formerly known as the Rivers and Estuaries Center on the Hudson, Inc., for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, furnishing and equipping or otherwise providing for facilities for conducting a program of research and education that advances the understanding of rivers and estuaries and develops policies and practices that benefit the human and natural communities that depend upon these ecosystems, located at Beacon Harbor and Denning's Point in Beacon, New York, The Upper Hudson Research Center at Troy, located at the waterfront in Troy, New York and the Center for Tributary Study, located at Creek Road in Beacon, New York, and the Old Main Building at

Clarkson University located in Potsdam, New York.

The Rochester school construction board for the financing of projects authorized pursuant to the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act.

Albany Convention Center Authority

The YMCA of Greater Syracuse and related branches, administrative offices and satellite facilities located in New York state including: Downtown YMCA, East Area YMCA, North Area YMCA, Northwest YMCA, Camp Iroquois and any successor in interest to any such organization for the financing and/or refinancing of the acquisition, construction, reconstruction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

The United States Maritime Resource Center for the purpose of financing, refinancing, construction, reconstruction, renovation, development, expansion and equipping of a facility to serve as a classroom and student residence building in support of professional education and training programs to be located on the campus of the United States Merchant Marine Academy located in Kings Point, New York.

Not-for-profit members of the Alliance of Long Island Agencies, Inc., for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of certain educational, administrative, clinical, day program and residential facilities to be located in the state of New York. Notwithstanding any other provision of law, not-for-profit members of the Alliance of Long Island Agencies, Inc. shall have full power and authority to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the United States, any agency thereof, the state, any agency thereof, a political subdivision, as defined in section one hundred of the general municipal law, any social services district in the state or any other governmental entity in an amount sufficient to make all payments required to be made by such members pursuant to any lease, sublease or other agreement entered into between such members and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

Fordham Preparatory School, Inc., for the financing or refinancing, or reimbursement of the costs of the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for construction of additional educational facilities located on Fordham University Rose Hill Campus, the Bronx, New York.

The Reece School, for the financing or refinancing, or reimbursement of the costs of, the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, additional floors or facilities for education and therapy at their facility located at twenty-five East One Hundred Fourth Street in the city of New York, to serve as a school for special education students; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed thirty-five million dollars. Notwithstanding any other provision of law, the Reece School shall have full power and authority to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the United States, any agency thereof, the state, any agency thereof, a political subdivision, as defined in section one hundred of the general municipal law, any social services district in the state or any other governmental entity in an amount sufficient to make all payments required to be made by the Reece School to any lease, sublease or other agreement entered into between the Reece School and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

Friends Academy, Glen Cove, Nassau County, for the financing or refinancing, or reimbursement of the costs of the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, the complete renovation of the lower school located on the campus at Glen Cove, Nassau County, provided however, that the aggregate sum of any bonds issued for such purpose shall not exceed six million five hundred thousand dollars.

Not-for-profit members of InterAgency Council of Developmental Disabilities Agencies, Inc., for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion and equipping of certain educational, administrative, clinical, day program and residential facilities to be located in the state of New York. Notwithstanding any other provision of law, not-for-profit members of the InterAgency Council of Developmental Disabilities Agencies, Inc. shall have full power and authority to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the United States, any agency thereof, the state, any agency thereof, a political subdivision, as defined in section one hundred of the general municipal law, any social services district in the state or any other governmental entity in an amount sufficient to make all payments required to be made by such members pursuant to any lease, sublease or other agreement entered into between such members and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

Broad Channel Volunteers, Inc. doing business as Broad Channel Volunteer Fire Department and Ambulance Corps for the purpose of providing construction related services in connection with the construction, reconstruction, improvement, renovation, development or expansion of facilities owned by Broad Channel Volunteers, Inc. doing business as Broad Channel Volunteer Fire Department and Ambulance Corps located at 305 Crossbay Boulevard, County of Queens, block 15304, lot 450, New York 11693.

The Convent of the Sacred Heart School, for the financing or refinancing, or reimbursement of the costs of, the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, the Convent of the Sacred Heart School at their facility located at: 406 East 91st Street in the city of New York, to serve as a school for students in grades pre-kindergarten through twelve; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed fifty-five million dollars.

Mercy Flight, Inc., of Western New York, for the financing and/or refinancing of equipment or the acquisition, construction, reconstruction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

The Trevor Day School, for the financing or refinancing, or reimbursement of the costs of, the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, the Trevor Day School at their facility located at 312-318 East 95th Street in the city of New York, to serve as a school for students in grades seven through twelve; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed seventy-five million dollars.

Richardson Center Corporation.

Williamsburg Infant & Early Childhood Development Center, Inc. at 22 Middleton Street, Brooklyn, New York.

Randolph Academy union free school district, for the financing, acquisition, construction, reconstruction, renovation and improvement for facilities located in Erie county, New York. Notwithstanding any other provision of law, Randolph Academy union free school district shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by Randolph Academy union free school district pursuant to any lease, sublease or other agreement entered into between Randolph Academy union free school district and the authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section. No agreement or lease by Randolph Academy union free school district pursuant to this paragraph shall be effective unless and until it is approved by or on behalf of the commissioner of education.

Medical Missions for Children, Inc.

Primary Care Development Corporation for the acquisition, financing, refinancing, construction, reconstruction, renovation, development, improvement, expansion, and equipping of facilities offering primary health care services and related ambulatory care and ancillary services in the state of New York.

Poly Prep Country Day School, for the refinancing of outstanding indebtedness, the financing or refinancing, or reimbursement of the costs of, the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, the Poly Prep Country Day School at its facilities located at 9216 Seventh Avenue and/or 50 Prospect Park West in Brooklyn, New York, to serve as a school for students in grades Nursery through twelve; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed fifteen million dollars.

St. Andrew's Foundation, the Scottish Society of Hudson's Valley, Ltd.

Xavier High School, for the financing or refinancing, or reimbursement of the costs of the aquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for, Xavier High School at its facility located at 30 West 16th Street in the city of New York, to serve as a school for students in grades nine through twelve; provided, however, that the aggregate sum of any bonds issued for such purpose shall not exceed fifty-five million dollars.

Mercy Flight Central, Inc., of Central New York, for the financing and/or refinancing of equipment or the acquisition, construction, reconstruction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

Young Men's Christian Association-Women's Community Center of Rome, New York Incorporated, for the financing and/or refinancing of equipment or the acquisition, construction, reconstruction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

Dancewave, Inc., for the financing, acquisition, construction, development, improvement, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

Summit Educational Resources, Inc., a not-for-profit organization, for the acquisition, financing and/or refinancing, design, construction, renovation, reconstruction, development, improvement, furnishing, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

An authorized agency as defined by subdivision ten of section three hundred seventy-one of the social services law, or a local probation department as defined by sections two hundred fifty-five and two hundred fifty-six of the executive law for the provision of detention facilities certified by the office of children and family services or by such office in conjunction with the state commission of correction or for the provision of residential facilities licensed by the office of children and family services including all necessary and usual attendant and related facilities and equipment.

North Country School, Lake Placid, New York, for the acquisition, financing and/or refinancing, design, construction, renovation, reconstruction, development, improvement, furnishing, expansion and/or equipping of a facility or facilities and necessary ancillary and related facilities.

New York Military Academy

Any not-for-profit corporation formed pursuant to an inter-municipal agreement among two or more counties within this state to assist said counties in acquiring, financing, constructing, reconstructing, remodeling, enlarging, altering, repairing, operating, managing, leasing, selling or otherwise disposing of a joint county detention facility established in accordance with section two hundred eighteen-a of the county law.

The New York Racing Association, Inc. for capital projects.

The New York Academy of Medicine.

The Young Men's and Young Women's Hebrew Association (dba 92nd Street Y)

Masonic Medical Research Laboratory, a not-for-profit corporation, for the design, acquisition, financing, refinancing, construction, reconstruction, renovation, rehabilitation, development, improvement, expansion, furnishing, equipping or otherwise providing for a facility and/or facilities, including any necessary or ancillary facilities, for the purpose of conducting scientific research or conducting testing for public health in the city of Utica.

Mary Cariola Children's Center, Inc.

Sandy Ground Historical Museum at 1538 Woodrow Road, Staten Island, New York for the restoration or replacement of the museum building located at such address.

the office of cannabis management.

the cannabis control board.

the private debt or equity fund in which the state or any agency, authority or division thereof has invested and is selected pursuant to subdivision thirty-two of section one thousand six hundred seventy-eight of this title to the extent authorized in subdivision thirty of such section.

Saint Ann's School, Brooklyn, New York.

Dutchess Community College Association, Inc. for the purpose of financing or refinancing the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for residential housing located on the campus of Dutchess Community College.

SB Clinical Practice Management Plan, Inc., for the purpose of financing or refinancing for up to four advanced specialty care centers.

2. a. The dormitory authority is hereby authorized and empowered upon application of the educational institution concerned to acquire, design, construct, reconstruct, rehabilitate and improve, or otherwise provide and furnish and equip dormitories and attendant facilities for any educational institution, provided that any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement of any building or structure commenced after September first, nineteen hundred seventy-four for the Gananda school district or the Gananda educational facilities corporation, or any agency, board or commission therein, or any official thereof, shall comply with the provisions of section one hundred one of

the general municipal law and the specifications for such contract may provide for assignment of responsibility for coordination of any of the contracts for such work to a single responsible and qualified person, firm or corporation; provided, however, that all contracts for construction of buildings on behalf of Queens Hospital Center shall be in conformity with the provisions of section one hundred one of the general municipal law; provided that any contracts for the construction, reconstruction, rehabilitation or improvement of any public work project undertaken by the dormitory authority of any facility for the aged for any political subdivision of the state or any district therein or agency, department, board or commission thereof, or any official thereof, shall comply with the provisions of section one hundred thirty-five of the state finance law; and provided further that any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement of any building commenced after January first, nineteen hundred eighty-nine for the department of health shall comply with the provisions of section one hundred thirty-five of the state finance law.

Each educational institution defined in subdivision one of this section, except the department of health of the state of New York, shall, when authorized by an appropriate resolution adopted by its governing board or, when permitted, adopted by an appropriate committee of such governing board, have power: (i) to convey or cause to be conveyed to the authority real property or rights in real property required in connection with the construction and financing of a dormitory by the authority for such educational institution; or (ii) to enter into agreements or leases or both with the dormitory authority pursuant to subdivision sixteen of section sixteen hundred seventy-eight of this title and to paragraph e of this subdivision, or both, or, in the case of the department of health of the state of New York, providing that legislation or appropriations which specifies the facilities to be acquired, constructed, reconstructed, rehabilitated or improved for the department of health of the state of New York and the total estimated costs for each such facility, not to exceed four hundred ninety-five million dollars in the aggregate, shall have been approved by the legislature, the commissioner of health shall have power: (i) to convey or cause to be conveyed to the authority real property or rights in real property required in connection with the construction and financing of a dormitory by the authority for such educational institution; or (ii) to enter into agreements or leases or both with the dormitory authority pursuant to subdivision sixteen of section sixteen hundred seventy-eight of this title and to paragraph e of this subdivision or both. The educational institution for which such dormitory and attendant facility is intended to be provided shall approve the plans and specifications and location of such dormitory and attendant facility. The dormitory authority shall have the same power and authority in respect to such dormitories and attendant facilities provided pursuant to this subdivision that it has relative to other dormitories.

b. The dormitory authority shall have power to acquire, in the name of the authority, on terms necessary or convenient by purchase, gift or devise, real property or rights of easement in relation to dormitories and attendant facilities provided pursuant to this subdivision, and for the purposes of paragraph f of this subdivision, the dormitory authority shall also have power to acquire such real property or rights of easement by condemnation.

c. The dormitory authority shall have power to accept gifts of personal property in the name of the authority for the purposes of this subdivision.

d. (1) The dormitory authority may operate and manage any dormitory and attendant facility provided pursuant to this subdivision, or the authority may lease any such dormitory and attendant facility to the educational institution for which such dormitory and attendant facility is provided.

(2) At such time as the liabilities of the dormitory authority incurred for any such dormitory and attendant facility have been met and the bonds of the authority issued therefor have been paid or such liabilities and bonds have otherwise been discharged, the authority shall take action as follows:

(a) In the case of any dormitory and attendant facility other than one provided pursuant to paragraph f of this subdivision, the authority shall transfer title to all the real and personal property of such dormitory and attendant facility, vested in the authority, to the educational institution in connection with which such dormitory and attendant facility is then being operated, or to which such dormitory and attendant facility is then leased, provided, however, that if at any time prior thereto such educational institution ceases to offer educational facilities then such title shall vest in the people of the state of New York;

(b) In the case of any dormitory and attendant facility provided pursuant to paragraph f of this subdivision, the authority shall transfer such right, title and interest as it may have in or to the real property of such dormitory and attendant facility to the city of New York and in and to all personal property of such dormitory and attendant facility to the board of higher education in such city; provided, however, that if the authority has title to such dormitory and attendant facility and the city university shall cease to offer educational facilities before any such liabilities and bonds have been so paid or discharged, the title to all of the real and personal property thereof shall vest in the people of the state of New York;

(3) Notwithstanding any other provisions of law, if requested by the city university construction fund and the board of higher education in the city of New York, and with the prior written approval of the director of the budget of the state of New York or his designee, the authority may sell all or any part of any dormitory and attendant facility provided by the authority for the city university pursuant to paragraph f of subdivision two, including any real and personal property comprising said dormitory and attendant facility. Such sale may be made by private or public sale. Such sale may be made only if the dormitory and attendant facility or portion thereof being sold is abandoned or withdrawn from the applicable project in accordance with (i) the applicable agreement entered into by the authority with the city university construction fund and the board of higher education in the city of New York and (ii) the applicable resolution of the authority, and if the net proceeds of such sale are applied by the authority in accordance with such agreement and resolution. The difference, if any, between the net proceeds of such sale, and, if greater, the amount required to be paid by the board of higher education in the city of New

York to the authority pursuant to the terms of the applicable agreement by reason of the abandonment or withdrawal of such dormitory and attendant facility or portion thereof shall be paid to the authority by the state of New York, the city of New York, in which case the written approval of the director of the office of management and budget of the city of New York, or his designee, shall also be required, the city university construction fund or such board of higher education or any number of the foregoing at the closing of such sale and shall likewise be applied by the authority in accordance with the applicable agreement and resolution. Provided, however, that the foregoing provisions of this subparagraph only to the extent that they otherwise require a request for and approval by the city university construction fund or the board of higher education in the city of New York shall not apply to any sale of the parcels which constitute one hundred twenty-three and one hundred twenty-seven West one hundred eighty-third street in the city of New York being in section eleven, block three thousand two hundred twenty-five, lot forty-eight in Bronx county (also known as Sedgwick dormitory and North hall). The abandonment or withdrawal of such dormitory and attendant facility or portion thereof being sold and the payment to the authority in full of the difference between the net proceeds of sale and the amount required to be paid by such board of higher education to permit the abandonment or withdrawal shall be conditions to the closing of any sale pursuant to this subparagraph. In the event of a sale pursuant to this subparagraph, the authority shall be relieved of any obligation to transfer the dormitory and attendant facility or portion thereof being sold to the city of New York, the state of New York or the board of higher education in the city of New York pursuant to clause (b) of subparagraph two of this paragraph. Any and all rights of the city of New York, the state of New York and such board of higher education in and to such dormitory and attendant facility or portion thereof shall be deemed to be fully satisfied and extinguished by a sale pursuant to this subparagraph. At the request of the authority, the city of New York, the state of New York and such board of higher education shall join in the deed or execute a quitclaim or other legal instrument of conveyance of their respective interests, if any, therein.

(4) Notwithstanding any other provision of law, the authority, if

requested by the city university construction fund and the board of higher education in the city of New York, may lease all or any part of any dormitory and attendant facility provided by the authority for the city university pursuant to paragraph f of this subdivision to a third party upon such terms and conditions as the authority, the city university construction fund and the board of higher education in the city of New York shall deem appropriate and as are consistent with the provisions of the applicable agreement entered into by the authority with the city university construction fund and the board of higher education in the city of New York and the applicable resolution of the authority. Provided, however, that the foregoing provisions of this subparagraph only to the extent that they otherwise require a request for and approval by the city university construction fund or the board of higher education in the city of New York shall not apply to any lease of the parcels which constitute one hundred twenty-three and one hundred twenty-seven West one hundred eighty-third street in the city of New York being in section eleven, block three thousand two hundred twenty-five, lot forty-eight in Bronx county (also known as Sedgwick dormitory and North hall). Any rentals or other moneys received by the authority pursuant to such lease shall be applied by the authority in accordance with the terms of the applicable agreement and resolution. Any leasing of such dormitory and attendant facility or portion thereof by the authority pursuant to the terms of this subparagraph shall not be deemed to constitute a breach by the authority of the terms and conditions of, or a default by the authority under any agreement which the authority may have entered into with the city university construction fund and the board of higher education in the city of New York, or any resolution of the authority, applicable to the dormitory and attendant facility or portion thereof being leased.

e. Any lease of a dormitory and attendant facility authorized by this subdivision shall be a general obligation of the lessee and may contain certain provisions, which shall be a part of the contract with the holders of the bonds of the authority issued for such dormitory, as to

(1) pledging all or any part of the moneys, earnings, income and revenues derived by the lessee from such dormitory or any part or parts thereof, or other personal property of the lessee, to secure payments

required under the terms of such lease;

(2) the rates, rentals, fees and other charges to be fixed and collected by the lessee, the amounts to be raised in each year thereby, and the use and disposition of such moneys, earnings, income and revenues;

(3) the setting aside of reserves and the creation of special funds and the regulation and disposition thereof;

(4) the procedure, if any, by which the terms of such lease may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(5) vesting in a trustee or trustees such specified properties, rights, powers and duties as shall be deemed necessary or desirable for the security of the holders of the bonds of the authority issued for such dormitory;

(6) the obligations of the lessee with respect to the replacement, reconstruction, maintenance, operation, repairs and insurance of such dormitory;

(7) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the lessee, and providing for the rights and remedies of the authority and of its bondholders in the event of such default;

(8) any other matters, of like or different character, which may be deemed necessary or desirable for the security or protection of the authority or the holders of its bonds.

f. (1) Notwithstanding any other provision of law, general or special, the dormitory authority is hereby authorized and empowered to acquire, design, construct, reconstruct, rehabilitate, and improve or otherwise provide and furnish and equip dormitories and attendant facilities for the use of the city university, in accordance with the terms of any lease, sublease, or other agreement entered into by the authority, pursuant to article one hundred twenty-five-B of the education law, with the city university construction fund, or with such fund and the board of higher education in the city of New York. The dormitory authority may issue its bonds to finance the cost of senior college facilities either together with or separate from bonds issued to finance the cost of community college facilities, and may issue its bonds to finance the local sponsor's portion of the cost of community college facilities either together with or separate from its bonds issued to finance the state's portion of the cost of such community college facilities.

Notwithstanding any other provision of law, general or special, the dormitory authority may acquire, design, construct or otherwise provide and furnish and equip dormitories and attendant facilities for the use of Hunter College, which may include therein a police and fire station, upon a site set forth in and in accordance with the terms of any lease, sublease or other agreement entered into by the authority pursuant to article one hundred twenty-five-B of the education law with the city university construction fund, the city of New York and the board of higher education in such city. The police and fire station portions of such facility shall be deemed capital projects of the city of New York within the meaning of chapter nine of the New York city charter. Any conveyance of real property or rights and interests therein by the city to the dormitory authority with respect to such facility shall not include title to that portion of the real property to be occupied by the police and fire station portions thereof but shall include the air rights over such police and fire stations and subsurface rights thereunder.

(2) The provisions of this subdivision shall apply to projects undertaken by the dormitory authority pursuant to this paragraph provided, however, that wherever any provision of this subdivision authorizes or requires action on the part of an educational institution such provision, so far as it applies to any such project, shall be deemed to refer to action on the part of the city university construction fund or the board of higher education of the city of New York, as the case may be.

h. Notwithstanding any other provision of law, general or special, the dormitory authority is hereby authorized and empowered to acquire dormitories, including existing dormitories, from any educational institution for such consideration and upon such terms as may be approved by the authority.

i. Notwithstanding any other provision of law the dormitory authority is hereby authorized and empowered to enter into any agreement, lease or sublease with any not-for-profit corporation or any political subdivision of the state of New York or the state of New York to allow a dormitory to be used and occupied by persons sixty-five years of age or older.

j. Subject to the provisions of chapter fifty-nine of the laws of two thousand, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two for a housing unit for the use of students at a state-operated institution or statutory or contract college under the jurisdiction of the state university of New York shall be one billion five hundred sixty-one million dollars. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance, and to refund any outstanding bonds and notes relating to a housing unit under the jurisdiction of the state university of New York.

k. (1) For purposes of this section, the following provisions shall apply to the powers in connection with the provision of detention facilities certified by the office of children and family services or by such office in conjunction with the state commission of correction or for the provision of residential facilities licensed by the office of children and family services including all necessary and usual attendant and related facilities and equipment.

(2) Notwithstanding any other provision of law, any entity as listed above shall have full power and authority to enter into such agreements with the dormitory authority as are necessary to finance and/or construct detention or residential facilities described above, including without limitation, the provision of fees and amounts necessary to pay debt service on any obligations issued by the dormitory authority for same, and to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the United States, any agency thereof, the state, any agency thereof, a political subdivision, as defined in section one hundred of the general municipal law, any social services district in the state or any other governmental entity in an amount sufficient to make all payments required to be made by any such entity as listed above pursuant to any lease, sublease or

other agreement entered into between any such entity as listed above and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

l. (1) For purposes of this section, the following provisions shall apply to the powers in connection with the provision of detention facilities certified by the office of children and family services or by such office in conjunction with the state commission of correction, including any joint county detention facility established in accordance with section two hundred eighteen-a of the county law, or for the provision of residential facilities licensed by the office of children and family services including all necessary and usual attendant and related facilities and equipment.

(2) Notwithstanding any other provision of law, the office of children and family services, the division of the budget, any county and any entity as listed above shall have full power and authority to enter into such agreements with the dormitory authority as are necessary or useful to finance and/or construct detention or residential facilities described above, including without limitation, such agreements that may provide for or warrant the uninterrupted provision of fees and amounts necessary to pay debt service on any obligations issued by the dormitory authority for same, and to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the United States, any agency thereof, the state, any agency thereof, a political subdivision, as defined in section one hundred of the general municipal law, any social services district in the state or any other governmental entity in an amount sufficient to make all payments required to be made by any such entity as listed above pursuant to any lease, sublease, pledge agreement or other agreement entered into between any such entity as listed above, any county and the dormitory authority; any such agreement shall not constitute indebtness for purposes of the state constitution or section 20.00 of the local finance

law, and shall not be deemed either executory or to create any contractual obligation in excess of the amounts appropriated annually for such purpose. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

3. a. The authority also shall have power to make loans to any educational institution for the acquisition, construction, reconstruction, rehabilitation and improvement, or otherwise providing, furnishing and equipping of dormitories and attendant facilities, for the purpose of financing or refinancing the cost thereof or for the purpose of acquiring any federally guaranteed security in accordance with subdivision sixteen of section sixteen hundred seventy-eight of this chapter. Each such loan shall be premised upon an agreement, agreements, or supplements thereto, between the authority and the institution, which agreement, agreements, or supplements thereto, may make provisions as to payment, security, maturity, redemption, interest, payment of any expenses of the authority and other appropriate matters.

b. The authority shall likewise have power to make loans to any educational institution to refund existing bonds, mortgages or advances given or made by such institution for the construction of dormitories to the extent that this will enable such educational institution to offer greater security for loans for new dormitory construction or to effect savings in interest cost or more favorable amortization terms.

c. For the purpose of obtaining loans under subdivision three of this section every educational institution shall, notwithstanding the provisions of any other law, have power to mortgage and pledge any of its real or personal property, to pledge any of its income from whatever source, and to purchase and pledge a federally guaranteed security for the repayment of the principal of and interest on any loan made to it by the authority or to pay the interest on and principal and redemption premium, if any, of any note, bond or other evidence of indebtedness evidencing the debt created by any such loan; provided that the foregoing shall not be construed to authorize actions in conflict with specific legislation, trusts, endowment, or other agreements relating to specific properties or funds.

d. Moneys of the authority received from any educational institution in payment of any sum due to the authority pursuant to the terms of any loan or other agreement or any bond, note or other evidence of indebtedness, shall be deposited in an account in which only moneys received from educational institutions under this subdivision shall be deposited and shall be kept separate and apart from and not commingled with any other moneys of the authority. Moneys deposited in such account shall be paid out on checks signed by the chairman of the authority or by such other person or persons as the authority may authorize.

4. Whenever the dormitory authority under subdivision two of this section undertakes to construct, acquire or otherwise provide and operate and manage a dormitory and attendant facilities, the dormitory authority shall be responsible for the direct operation and maintenance costs of such dormitory but each educational institution in connection with which such a dormitory is provided and operated and managed shall be responsible at its own expense for the over-all supervision of each dormitory, for the overhead and general administrative costs of the educational institution which are incurred because of such dormitory and for the integration of each dormitory operation into the institution's educational program so that in so far as practicable the declaration of policy as outlined in section one of chapter eight hundred fifty of the laws of nineteen hundred fifty-five and a declaration of policy contained in section one of an act of the legislature of nineteen hundred fifty-nine amending this subdivision may be fully achieved. Whenever the dormitory authority under subdivision two of this section undertakes to construct, acquire or otherwise provide a dormitory and attendant facilities and to lease the same to an educational institution, the lessee shall be responsible for the direct operation and maintenance costs of such dormitory and in addition shall be responsible for the over-all supervision of each dormitory, for the overhead and general administrative costs of the lessee which are

incurred because of such dormitory and for the integration of each dormitory operation into the lessee's educational program so that in so far as practicable the declaration of policy as outlined in section one of chapter eight hundred fifty of the laws of nineteen hundred fifty-five and a declaration of policy contained in section one of an act of the legislature of nineteen hundred fifty-nine amending this subdivision may be fully achieved. Whenever the dormitory authority under subdivision three of this section makes loans for the construction of a dormitory, the educational institution at which such dormitory is located shall be responsible for the direct operation and maintenance costs of such dormitory and in addition shall be responsible for the over-all supervision of each dormitory, for the overhead and general administrative costs of the educational institution which are incurred because of such dormitory and for the integration of each dormitory operation into the institution's educational program so that in so far as practicable the declaration of policy as outlined in section one of chapter eight hundred fifty of the laws of nineteen hundred fifty-five and a declaration of policy contained in section one of an act of the legislature of nineteen hundred fifty-nine amending this subdivision may be fully achieved.

5. All the provisions of this title four not inconsistent with the provisions of this section sixteen hundred eighty, shall be applicable with respect to any bonds of the authority issued to obtain funds for any purpose authorized under this section sixteen hundred eighty, and with respect to the powers of the authority hereunder.

6. To obtain funds for construction, acquisition or provision of dormitories and loans under this section, the authority shall have power from time to time to issue negotiable bonds or notes.

7. Any pledge of or other security interest in moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge or other security interest attaches, without any physical delivery of the collateral or further act. The lien of any such pledge or other security interest

shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or other security interest is created nor any financing statement need be recorded or filed. This subdivision shall apply notwithstanding the provisions of the uniform commercial code.

8. For all purposes of this section sixteen hundred eighty, the term "dormitory" shall include and mean a housing unit, including all necessary and usual attendant and related facilities and equipment, provided for the use of married students, faculty, staff and the families thereof.

9. (a) Notwithstanding any other provision of law to the contrary, each local sponsor shall have power to convey or cause to be conveyed to the authority real property or rights in real property required in connection with the providing and financing of a facility by the authority for a locally sponsored community college for which such local sponsor is the sponsor or one of the sponsors and who also enters into agreements and leases with the dormitory authority pursuant to paragraph e of subdivision two of this section. The authority to make any such conveyance shall not be subject to a mandatory or permissive referendum.

(b) Notwithstanding the provisions of any general, special or local law, charter or ordinance to the contrary, on request of the local sponsor of a locally sponsored community college in the city of New York and with the approval of the city board of estimate, the city of New York may sell, convey, lease, exchange or otherwise make available to the dormitory authority, for a nominal consideration, any interest in real property of the city designated by such local sponsor as suitable for a facility. Such sale, conveyance, lease, exchange, or other disposition may be made at a nominal cost and without the requirement of public auction or sealed bids, or restriction as to the term of any such lease or arrangement, and the provisions of subdivision b of section three hundred eighty-four of the New York city charter shall not apply in such cases. Conveyances made pursuant to this section shall include but shall not be limited to real property on which are situated facilities of, or are under the jurisdiction of, or assigned to, the board of education of the city school district of the city of New York.

(c) Notwithstanding the provisions of any general, special or local law, charter or ordinance to the contrary, the city board of estimate on behalf of the city of New York may grant revocable or irrevocable consents or rights of any kind or nature whatsoever, providing for or involving or relating to the occupation or use of any of the streets of the city, whether on, under or over the surface thereof, to the dormitory authority, on such terms and conditions and for such period of time or duration as may be determined by the board of estimate to be in the public interest.

(d) The following provisions shall be applicable to agreements and leases entered into between the authority and a local sponsor in relation to the providing and financing by the authority of facilities for locally sponsored community colleges, and to agreements and leases entered into between the authority and the city university construction fund in relation to the providing and financing by the authority of facilities for city university community colleges.

(1) In addition to the provisions authorized by subdivision four of section sixteen hundred eighty-two of this title four, any resolution or resolutions authorizing any bonds for the purpose of financing the cost of providing facilities for locally sponsored or city university community colleges may contain provisions which may be a part of the contract with the holders of such bonds providing for the creation and establishment and maintenance of reserve funds and payments to such reserve funds as hereinafter in this paragraph set forth.

(2) The authority may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such reserve funds (i) any moneys appropriated and made available by the state for the purposes of such funds, (ii) any proceeds of the sale of bonds and notes to the extent provided in the resolution of the authority authorizing the issuance thereof, and (iii) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this paragraph, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such reserve fund, as the

same mature, the purchase of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest on the bonds of the authority secured by such reserve fund maturing and becoming due and for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the authority to the extent it does not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund.

(3) The authority shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the authority at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds then to be issued and on all other bonds of the authority then outstanding and secured by such reserve fund.

(4) To ensure the continued operation and solvency of the authority for the carrying out of the public purposes relating to providing facilities for locally sponsored or city university community colleges provision is made in the foregoing provisions of this paragraph d for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then

outstanding and secured by such reserve fund. In order further to ensure the maintenance of such debt service reserve funds, there shall be annually apportioned and paid to the authority for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and state director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and state director of the budget his certificate stating the sum, if any, required to restore each such debt service reserve fund to the amount aforesaid, and the sum or sums so certified, if any, shall be apportioned and paid to the authority during the then current state fiscal year. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subparagraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subparagraph, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed two hundred seventy million dollars for locally sponsored community colleges and four hundred seventy million dollars for city university community colleges, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(5) In computing any debt service reserve fund for the purposes of this paragraph, securities in which all or a portion of such reserve fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

(e) All the provisions of this title four not inconsistent with the provisions of this section sixteen hundred eighty shall be applicable with respect to any bonds of the authority issued to obtain funds for the purpose of providing facilities for locally sponsored community colleges.

(f) No agreement by the dormitory authority with a local sponsor shall be effective unless and until it is approved by the state university trustees and the state director of the budget or his designee and, in the case of a locally sponsored community college in the city of New York, it is also approved by the director of the budget of the city of New York or his designee.

(g) No agreement by the dormitory authority with the city university construction fund or with such fund and the city university with respect to a city university community college, entered into prior to July first, nineteen hundred eighty-five and no agreement entered into on or after July first, nineteen hundred eighty-five which is supplemental to any agreement entered into prior to such July first, shall be effective unless and until it is approved by the state director of the budget or his designee and by the director of the budget of the city of New York or his designee.

10. The local sponsor shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by a local sponsor or by the state of New York to the local sponsor for purposes of the locally sponsored community college pursuant to the provisions of subdivision eight of section sixty-three hundred four of the education law and any tuition and instructional fees received from students attending such locally sponsored community college.

All state officers and local sponsors concerned are hereby authorized to pay all such funds so assigned and pledged to the commissioner of taxation and finance for deposit in the community college tuition and instructional income fund.

10-a. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any other provision of the law to the contrary, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two, on behalf of the state, in relation to any locally sponsored community college, shall be one billion six hundred twenty-three million eight hundred eighty-four thousand dollars $1,623,884,000. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance and to refund any outstanding bonds and notes, issued on behalf of the state, relating to a locally sponsored community college.

11. In the case of any locally sponsored community college, other than a locally sponsored community college in the city of New York or a locally sponsored community college where the local sponsor has entered into an agreement with the dormitory authority to finance and construct a facility for such college, construction of the facilities may be performed by the local sponsor under existing statute.

12. In the case of a locally sponsored community college in the city of New York or in the case of a locally sponsored community college where the local sponsor has entered into an agreement with the dormitory authority to finance and construct a facility for such college, any construction of such facility shall be performed by the dormitory authority pursuant to the provisions of this title four.

13. Upon application of a local sponsor of a locally sponsored community college, which application has been approved by the state university trustees and the state director of the budget or his designee and, in the case of a locally sponsored community college in the city of New York, has also been approved by the director of the budget of the city of New York or his designee, the dormitory authority may acquire, design, construct, reconstruct, rehabilitate and improve, and furnish and equip or otherwise provide facilities pursuant to the provisions of this title four and in such event the obligations of the authority issued to finance the cost of such project shall be repaid pursuant to an agreement between such local sponsor and the dormitory authority. The dormitory authority may issue its bonds to finance the local sponsor's portion of the cost of such project either together with or separate from the bonds issued by the dormitory authority to finance the state's

portion of the cost of such project.

14. (a) During any twelve month period beginning with a July first and ending on a June thirtieth, hereinafter referred to in this subdivision as a "school year", the dormitory authority shall not deliver a series of bonds for any locally sponsored community college project, except to refund or to be substituted for or in lieu of other bonds in relation to such locally sponsored community college, unless (1) the amount of tuition and instructional fees received by the local sponsor from students attending such locally sponsored community college for the school year immediately preceding the school year in which such bonds are proposed to be delivered shall exceed the amount which the commissioner of taxation and finance is required to maintain on deposit in the community college tuition and instructional income fund pursuant to the provisions of subdivision five of section ninety-seven-p of the state finance law for such locally sponsored community college, or

(2) the local sponsor of such locally sponsored community college shall submit proof in form satisfactory to the dormitory authority that the amount of tuition and instructional fees to be received by the local sponsor from students attending such college for the third school year after the school year in which such bonds are proposed to be delivered shall exceed the amount which the commissioner of taxation and finance is required to maintain on deposit in the community college tuition and instructional income fund pursuant to the provisions of subdivision five of section ninety-seven-p of the state finance law for such college.

(b) The provisions of paragraph a of this subdivision shall not apply to facilities for a locally sponsored community college in the city of New York other than the fashion institute of technology.

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, (i) the dormitory authority shall not deliver a series of bonds for city university community college facilities, except to refund or to be substituted for or in lieu of other bonds in relation to city university community college facilities pursuant to a resolution of the dormitory authority adopted before July first, nineteen hundred eighty-five or any resolution supplemental thereto, if the principal amount of bonds so to be issued when added to all principal amounts of bonds previously issued by the dormitory authority for city university community college facilities, except to refund or to be substituted in lieu of other bonds in relation to city university community college facilities will exceed the sum of four hundred twenty-five million dollars and (ii) the dormitory authority shall not deliver a series of bonds issued for city university facilities, including community college facilities, pursuant to a resolution of the dormitory authority adopted on or after July first, nineteen hundred eighty-five, except to refund or to be substituted for or in lieu of other bonds in relation to city university facilities and except for bonds issued pursuant to a resolution supplemental to a resolution of the dormitory authority adopted prior to July first, nineteen hundred eighty-five, if the principal amount of bonds so to be issued when added to the principal amount of bonds previously issued pursuant to any such resolution, except bonds issued to refund or to be substituted for or in lieu of other bonds in relation to city university facilities, will exceed thirteen billion one million four thousand dollars $13,001,004,000, excluding bonds issued after April first, two thousand twenty-five to (i) fund one or more debt service reserve funds, (ii) pay costs of issuance of such bonds, and (iii) refund or otherwise repay such bonds or notes previously issued, provided that nothing herein shall affect the exclusion of refunding debt issued prior to such date. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the city university, and the fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

15. In order to effectuate the purposes of this title, the following provisions shall apply to powers in connection with the provision of facilities for locally sponsored community colleges except a facility for a locally sponsored community college in the city of New York or a facility for a community college sponsored by a community college region:

(a) (1) The local sponsor by resolution of its governing body may enter into a lease, sublease or other agreement for the provision of facilities by the authority for such local sponsor upon such terms and conditions as the authority shall determine to be reasonable, including but not limited to the reimbursement of all costs of such construction and claims arising therefrom.

(2) No such lease, sublease or other agreement shall be deemed to be a contract for public work or purchase within the meaning of the general municipal law.

(b) Any lease, sublease or other agreement entered into by the authority and any local sponsor may provide that at the termination thereof the title to the facility shall vest in the local sponsor or its successor in interest, if any, free and clear of any indebtedness contracted by the authority. Any such lease, sublease or other agreement entered into by the authority and any local sponsor which shall provide that the local sponsor shall be liable for the payment of rentals and other payments due and payable to the dormitory authority pursuant to such lease, sublease, or other agreement shall be subject to the following provisions:

(1) The term of any such lease, sublease or other agreement shall not exceed forty years which is hereby determined to be the period of probable usefulness of any facility for a locally sponsored community college authorized to be provided pursuant to this title, which term shall be computed from the date of the first indebtedness contracted by the authority for such facility.

(2) The annual payments to be made by the local sponsor to the authority to enable the authority to pay the principal of any such indebtedness contracted by it to finance the cost of such works or facility shall commence within two years after any such indebtedness or portion thereof shall have been contracted and no such annual payment shall be more than fifty per centum in excess of the smallest prior annual payment for such purpose.

(3) The local sponsor shall pledge its full faith and credit for the payment of such annual payments described in subparagraph two of this paragraph and also for the payments required to be made to the authority to enable it to pay the interest on such indebtedness.

(4) The total amount of any unpaid annual payments in relation to the principal of any such indebtedness shall be deemed to be indebtedness of the local sponsor for a capital improvement within the meaning of subparagraph b of subdivision three of paragraph a of section 135.00 of the local finance law.

(5) The annual payments by a local sponsor in relation to such indebtedness and interest shall be deemed to be "indebtedness" and "interest" within the meaning of section ten of article eight of the state constitution.

(6) The lease, sublease or other agreement shall not be renegotiated, or amended, in such manner as to constitute a refunding within the meaning of section two of article eight of the state constitution.

(7) The lease, sublease or other agreement shall not be applicable to any facility constructed or reconstructed to effectuate the purposes of article eighteen of the state constitution.

(8) The provisions of this title may be utilized by any local sponsor notwithstanding the provision of any general or special law, or county or city charter which (i) requires that any project must be constructed, operated and maintained by the local sponsor, (ii) limits the period of time for which a local sponsor may contract, (iii) requires that the cost shall be paid for by taxes levied for the fiscal year in which the expenditure is to be made, (iv) requires that the cost shall be financed pursuant to the local finance law, or (v) only permits any such project to be constructed subject to either mandatory or permissive referendum.

16. Any lease, sub-lease or other agreement entered into by the authority and any local sponsor in connection with the provision of a facility for a locally sponsored community college may provide for the deduction or withholding from any state financial aid payable to any such local sponsor, other than state financial aid apportioned and paid pursuant to the provisions of subdivision eight of section sixty-three hundred four of the education law, of an amount which has been determined after audit by the state comptroller to have been expended in excess of one-half of the total cost of acquiring, designing, constructing, reconstructing, rehabilitating and improving and furnishing and equipping or otherwise providing such facility for such local sponsor except for the costs of establishing and maintaining reserves and other costs of the authority incurred in connection with the financing of such facility.

* 17. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for the New York State Association for Retarded Children, Inc., Albany County

Chapter by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, the New York State Association for Retarded Children, Inc., Albany County Chapter shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 5 sub 17's

* 17. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for the Association for the Help of Retarded Children, Suffolk Chapter by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, the Association for the Help of Retarded Children, Suffolk Chapter shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 5 sub 17's

* 17. For the purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for United Cerebral Palsy of Ulster County, Inc., hereinafter called the organization, by the authority pursuant to this title.

Notwithstanding any other provision of law, the organization shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section.

No agreement or lease by such organization shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

* NB There are 5 sub 17's

* 17. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for Hillside Children's Center by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, Hillside Children's Center shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 5 sub 17's

* 17. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for New Dimensions in Living, Inc. and Associated Residential Centers, Inc. by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, the New York State Association for Retarded Children, Inc., Rensselaer County Chapter, the New York State Association for Retarded Children, Inc., Montgomery County Chapter, New Dimensions in Living, Inc. and Associated Residential Centers, Inc. shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed

with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.
* NB There are 5 sub 17's

18. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for the New York Society for the Deaf by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, the New York Society for the Deaf shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.
* 19. For purposes of this section, the following provisions shall apply to powers in connection with the purchase and renovation of a new site for the library for the blind and physically handicapped by the dormitory authority pursuant to this title:

a. Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in the purchase and renovation of a site in the county of New York for the library for the blind and physically handicapped, and in consideration of the undertaking thereof and the benefits to be derived therefrom by the people of the state, the director of the budget is authorized in any state fiscal year to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree;

b. Any service contract entered into pursuant to paragraph a of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds and notes;

c. Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges service contract payments as security for its bonds or notes and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature;

d. Any service contract or contracts for projects entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund, or to fund the debt service requirements of any bonds or notes, including bonds issued to fund any required debt service reserve requirement for bonds, of the dormitory authority issued to fund such projects having a cost not in excess of sixteen million dollars; and

e. The New York public library, Astor, Lenox and Tilden foundations shall not be required to pledge all or any part of its moneys, earnings, income, revenues, accounts, contract rights, general intangibles, other personal property, or assets to secure bonds issued by the dormitory authority to finance the purchase and renovation of a new site for the library for the blind and physically handicapped. The dormitory authority shall possess and retain all the rights, title and interest in and to the assets acquired with the proceeds of a bond or bonds issued pursuant to this subdivision provided, however, that upon payment of all outstanding debt service due on such bond or bonds all rights, title and interest in and to such assets shall without any further payment by the state of New York be vested in the state of New York. Within amounts provided by the dormitory authority, the New York public library, Astor, Lenox and Tilden foundation shall be responsible for the conduct of necessary renovations of the acquired site.

* NB There are 4 sub 19's

* 19. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for New Hope Community, Inc., by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, New Hope Community, Inc., shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the federal government, any agency thereof, the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 4 sub 19's

* 19. (a) The dormitory authority is empowered and authorized to enter into a lease, sublease or other agreement with the state university construction fund pursuant to which one or more state university educational facilities are to be designed, acquired, constructed, reconstructed, rehabilitated, improved or otherwise provided, or state university educational facilities are to be furnished or equipped,

provided that such lease, sublease, or other agreement has been approved by the state university of New York, which shall be a party thereto. Such lease, sublease or other agreement may provide for the payment of annual rentals and other payments by the state university construction fund to the authority and contain such other terms and conditions as may be agreed upon by the parties thereto, including, but not limited to, provisions relating to the maintenance and operation of the state university educational facilities, the establishment of reserve funds, indemnities and the disposition of a facility or the interest of the authority therein prior to or upon the termination or expiration of such lease, sublease or other agreement. Such lease, sublease or other agreement shall be subject to the approval of the director of the budget.

(b) Notwithstanding the provisions of the public lands law or any other law to the contrary, the state of New York, the state university of New York and the state university construction fund may sell, convey, lease, exchange or otherwise make available to the authority, for nominal consideration, the title to or an interest in real property for the purpose of providing state university educational facilities and may enter into any lease, sublease or other agreement with the authority in connection with state university educational facilities without public auction or bidding or restriction as to the term of such lease, sublease or other agreement.

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, the dormitory authority shall not issue any bonds for state university educational facilities purposes if the principal amount of bonds to be issued when added to the aggregate principal amount of bonds issued by the dormitory authority on and after July first, nineteen hundred eighty-eight for state university educational facilities will exceed twenty-one billion eight hundred ninety-eight million one hundred sixty-four thousand dollars $21,898,164,000, excluding bonds issued after April first, two thousand twenty-five to (i) fund one or more debt service reserve funds, (ii) pay costs of issuance of such bonds, and (iii) refund or otherwise repay such bonds or notes previously issued, provided that nothing herein shall affect the exclusion of refunding debt issued prior to such date. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the state university of New York, and the state university construction fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

(d) (1) (i) Notwithstanding any other provision of law, the bonds of the authority issued for state university educational facilities purposes shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount, not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect a satisfactory sale.

(ii) Notwithstanding the provisions of clause (i) of this subparagraph, whenever in the judgment of the authority the interest of the authority will be served thereby, the members of the authority, on the written recommendation of the executive director, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales.

(2) The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the state will be served by a private or public sale of bonds, the authority shall select underwriters for private or public bond sales conducted pursuant to a request for proposal process undertaken in accordance with the authority's procurement guidelines adopted pursuant to section twenty-eight hundred seventy-nine of this chapter from qualified underwriters taking into account, among other

things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, and, if any, the capitalization of such firms.

(3) The authority shall have the power from time to time to amend such private or public bond sale guidelines in accordance with the provisions of this section.

(4) No such private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the comptroller.

(5) The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in subparagraph two of this paragraph, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(6) (i) The authority shall annually submit its bond sale report to the comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(ii) The authority shall make available to the public copies of its bond sale report upon reasonable request therefor.

(7) Nothing contained in this paragraph shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this section.

(e) The state shall, in addition to any other moneys appropriated and made available for the support of the state university of New York, annually appropriate and pay to the state university construction fund an amount equal to the aggregate of all annual rentals and other payments due to the dormitory authority from the state university construction fund on account of state university educational facilities, which rentals and other payments are payable by the fund pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the state university construction fund on or after July first, nineteen hundred eighty-eight, for the year commencing April first immediately succeeding the filing of the report required to be submitted by the state university construction fund pursuant to subdivision two of section three hundred eighty-two of the education law. Such amount shall be paid to the state university construction fund as follows:

(1) on or before the fifteenth day of September of the fiscal year of the state, the amount required to be paid by the state university construction fund on account of state university educational facilities under any such lease, sublease or other agreement on or before the tenth day of October of such state fiscal year;

(2) no later than three business days prior to the tenth day of April of the fiscal year of the state, the amount required to be paid by the state university construction fund on account of state university educational facilities under any such lease, sublease or other agreement on or before the tenth day of April of such state fiscal year; and

(3) on such day or days as shall be prescribed under any such lease, sublease, or other agreement, the amount required to be paid by the state university construction fund for the purpose of making payments under any interest rate exchange or similar agreements entered into pursuant to article five-D of the state finance law for state university educational facilities.

Notwithstanding any other provision of law, the state comptroller shall annually encumber that portion of the amount appropriated for payment to the state university construction fund equal to the amount required to be paid pursuant to subparagraphs two and three of this paragraph in the fiscal year following the year in which the appropriation is made pursuant to any lease, sublease or other agreement between the fund, the authority and the state university of New York with respect to authority bonds issued or interest rate exchange and similar agreements entered into for state university educational facilities, before the end of the fiscal year in which the appropriation is made. The amount so encumbered shall be payable to the fund pursuant to subparagraphs two and three of this paragraph, in the manner prescribed by law.

In the event of the failure of the state to pay the state university construction fund when due pursuant to this subdivision all or part of such amounts, the state university construction fund shall forthwith make and deliver to the state comptroller a certificate stating the amount of the payment required to have been made by the state, the amount paid by the state and the amount remaining unpaid by the state. The state comptroller, after giving written notice to the director of the budget, shall pay to the state university construction fund the amount set forth in such certificate as remaining unpaid, which amount shall be paid from any moneys appropriated by the state for or on account of the operating costs of the state university of New York and not yet paid. The amount required to be paid by the state comptroller pursuant to this subdivision shall be paid to the state university construction fund as soon as practicable after receipt of the certificate of the state university construction fund and notice to the director of the budget is given, whether or not the moneys from which such payment is to be made are then due and payable to the state university.

(f) The amount of state appropriations payable to the state university of New York from which the state comptroller has made a payment pursuant to this subdivision shall be reduced by the amount so paid to the state university construction fund, notwithstanding the amount appropriated and apportioned by the state to the state university of New York, and the state shall not be obligated to make and the state university of New York shall not be entitled to receive any additional apportionment or payment of state moneys.

(g) The amount of money required to be paid pursuant to this subdivision shall be determined from the report required to be submitted by the state university construction fund pursuant to subdivision two of section three hundred eighty-two of the education law. Nothing contained in this subdivision shall be construed to create an obligation upon the state to appropriate moneys for or on account of the operating costs of state university educational facilities, to preclude the state from reducing the amount of moneys appropriated or level of support provided for the operating costs of the state university of New York from the amount appropriated or level of support provided in any prior state fiscal year, or to preclude the state from altering or modifying the manner in which it provides for the operating costs of the state university of New York.

* NB There are 4 sub 19's

* 19. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for United Cerebral Palsy of New York City, Inc. by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, United Cerebral Palsy of New York City, Inc. shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issue pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 4 sub 19's

20. Subject to the provisions of any lease, sublease or other agreement with the state university of New York and state university construction fund or with the city university of New York and the city university construction fund to the contrary, in any case where the authority and the respective fund are authorized to and have agreed that the authority will award contracts for the design and construction of a project, the authority shall prepare or cause to be prepared a facility design and performance plan with the state university of New York and state university construction fund or with the city university of New York and the city university construction fund. Such plan shall set forth the terms and conditions associated with the construction management process, including, but not limited to, provisions relating to the selection of architects, construction consultants, construction

managers and contractors, the relative responsibilities of the authority and the respective fund with respect to the initial project budget, the preparation of working drawings and budgets, the project construction process, beneficial occupancy including formal notifications, punch lists and acceptance by all parties, notification of construction completion, project close-out, and the commencement of responsibility for maintenance of the facility. Such plan shall also include provisions relating to the responsibility of the authority to require appropriate performance and surety bonds, the diligent pursuit by the authority of remedies against architects, contractors and sureties deemed to be in default in the performance of their obligations, and, generally, the management of the construction process in a professional manner in accordance with prevailing construction industry standards. The authority shall submit the facility design and performance plan to the respective fund for inclusion in the capital program plan submitted by the respective university to the director of the budget.

* 21. For the purposes of this section, the following provisions shall apply to powers in connection with the acquisition, financing, refinancing, construction, reconstruction, improvement, renovation, development, expansion, furnishing, equipping or otherwise providing for a new school building and provision of dormitories for the Westchester School for Special Children, Westchester county, hereinafter called the organization, by the authority pursuant to this title.

Notwithstanding any other provision of law, the organization shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section.

No agreement or lease by such organization shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

* NB There are 3 sub 21's

* 21. For the purposes of this section, the following provisions shall apply to powers in connection with the construction of a new school building and provision of dormitories for the Guided Growth, Inc. of Hawthorne, Westchester county, hereinafter called the organization, by the authority pursuant to this title.

Notwithstanding any other provision of law, the organization shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section.

No agreement or lease by such organization shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

* NB There are 3 sub 21's

* 21. For the purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for Saint Christopher-Ottilie, Nassau county, hereinafter called the organization, by the authority pursuant to this title.

Notwithstanding any other provision of law, the organization shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section.

No agreement or lease by such organization shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

* NB There are 3 sub 21's

* 22. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for The National Center for the Study of Wilson's Disease, Inc. by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, The National Center for the Study of Wilson's Disease, Inc. shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 3 sub 22's

* 22. For the purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for Orange County Cerebral Palsy Association, Inc., hereinafter called the organization, by the authority pursuant to this title.

Notwithstanding any other provision of law, the organization shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section.

No agreement or lease by such organization shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

* NB There are 3 sub 22's

* 22. For the purposes of this section, the following provisions shall apply to powers in connection with the provision of facilities for Wildwood Programs, Inc. (formerly a school building for the Wildwood School program of New York Association for the Learning Disabled, Capital District Chapter, Inc.) by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, Wildwood Programs, Inc., (formerly New York Association for the Learning Disabled, Capital

District Chapter, Inc.) shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease, or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 3 sub 22's

25. For the purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for The Devereux Foundation by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, The Devereux Foundation shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

26. a. The dormitory authority is empowered and authorized to enter into a lease, sublease or other agreement with the department of health of the state of New York pursuant to which one or more facilities are to be designed, acquired, constructed, reconstructed, rehabilitated, improved or otherwise provided for the department of health, or such facilities are to be furnished or equipped. Such lease, sublease or other agreement may provide for the payment of annual rentals and other payments by the department of health to the authority from appropriations, as provided in paragraph c of this subdivision and contain such other terms and conditions as may be agreed upon by the parties thereto, including, but not limited to, provisions relating to the maintenance and operation of the facilities, the establishment of reserve funds, indemnities and the disposition of a facility or the interest of the authority therein prior to or upon the termination or expiration of such lease, sublease or other agreement. Such lease, sublease or other agreement shall be subject to the approval of the director of the budget.

b. Any such lease, sublease or other agreement entered into pursuant to this subdivision may provide that the provisions thereof shall remain in force and effect until the issue of bonds of the authority to which it relates, together with interest thereon, interest on any unpaid installments of interest and the fees and expenses of the authority, are fully met and discharged, and any payments to be made by the state may be pledged by the authority to secure such bonds.

c. The state shall, in addition to any other moneys appropriated and made available for the support of the department of health, annually appropriate and pay to the dormitory authority an amount equal to the aggregate of all annual rentals and other payments due to the dormitory authority from the department of health on account of facilities for the department of health, which rentals and other payments are payable by the department of health pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the department of health on or after July first, nineteen hundred eighty-nine, for the year commencing April first immediately succeeding the filing of the report required to be submitted by the department of health pursuant to paragraph d of this subdivision. Such amount shall be paid to the dormitory authority as follows: (i) on or before the fifteenth day of May for the fiscal year of the state, the amount required to be paid by the department of health on account of facilities for the department of health under any such lease, sublease or other agreement; and, (ii) on or before the fifteenth day of November of the fiscal year of the state, the amount required to be paid by the department of health under any such lease, sublease or other agreement. The amount of money required to be paid pursuant to this subdivision shall be determined from the report required to be submitted by the commissioner of health pursuant to paragraph d of this subdivision.

d. On or before November fifteenth of each year, the commissioner of health shall submit and thereafter may resubmit, to the director of the budget, the state comptroller, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, a report setting forth the amounts, if any, of all annual rentals and other payments estimated to become due in the succeeding state fiscal year to the dormitory authority from the department of health pursuant to any lease, sublease or other agreement between the dormitory authority and the department of health entered into on or after July first, nineteen hundred eighty-nine, to provide facilities for the department of health.

* 27. a. The dormitory authority is empowered and authorized to enter into a lease, sublease or other agreement with the commissioner of education of the state of New York pursuant to which one or more facilities are to be designed, acquired, constructed, reconstructed, rehabilitated, improved or otherwise provided for the education department or such facilities are to be furnished or equipped. Such lease, sublease or other agreement may provide for the payment of annual rentals and other payments by the education department to the dormitory authority from appropriations, as provided in paragraph c of this subdivision, and contain such other terms and conditions as may be agreed upon by the parties thereto, including, but not limited to, provisions relating to the maintenance and operation of the facilities, the establishment of reserve funds, indemnities and the disposition of a

facility or the interest of the dormitory authority therein, if any, prior to or upon the termination or expiration of such lease, sublease or other agreement. Such lease, sublease or other agreement shall be subject to the approval of the director of the budget.

b. Any such lease, sublease or other agreement entered into pursuant to this subdivision may provide that the provisions thereof shall remain in force and effect until the issue of bonds of the dormitory authority to which it relates, together with interest thereon, interest on any unpaid installments of interest and the fees and expenses of the dormitory authority, are fully met and discharged, and any payments to be made by the state may be pledged by the dormitory authority to secure such bonds.

c. The state shall, in addition to any other moneys appropriated and made available for the support of the education department, annually appropriate to the education department for payment to the dormitory authority an amount equal to the aggregate of all annual rentals and other payments due to the dormitory authority from the education department on account of facilities for the education department which rentals and other payments are payable by the education department pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the education department on or after July first, nineteen hundred ninety for the year commencing April first, immediately succeeding the filing of the report required to be submitted by the education department pursuant to paragraph d of this subdivision. Such amount shall be paid to the dormitory authority as follows: (i) on or before the fifteenth day of March for the fiscal year of the state, the amount required to be paid by the education department on account of facilities for the education department under any such lease, sublease or other agreement; and, (ii) on or before the fifteenth day of September of the fiscal year of the state, the amount required to be paid by the education department under any such lease, sublease or other agreement. The amount of money required to be paid pursuant to this subdivision shall be determined from the report required to be submitted by the commissioner of education pursuant to paragraph d of this subdivision.

d. On or before November fifteenth of each year, the commissioner of education shall submit and thereafter may resubmit, to the director of the budget, the state comptroller, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, a report setting forth the amounts, if any, of all annual rentals and other payments estimated to become due in the succeeding state fiscal year to the dormitory authority from the education department pursuant to any lease, sublease or other agreement between the dormitory authority and the commissioner of education entered into on or after July first, nineteen hundred ninety to provide facilities for the education department.

e. The dormitory authority shall not issue obligations for the provision of a facility for the education department unless a certificate of availability has been approved by the director of the budget and an appropriation for such facility has been enacted. Except for notes or bonds issued to refund outstanding bonds, no notes or bonds shall be issued for the purposes authorized by this subdivision after the thirty-first day of March, nineteen hundred ninety-nine.

f. Any contract entered into by the dormitory authority for the construction, reconstruction, rehabilitation or improvement of any building which constitutes all or part of a facility for the education department of the state of New York, shall comply with the provisions of section one hundred thirty-five of the state finance law.

* NB There are 3 sub 27's

* 27. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for Vesta Community Housing Development Board, Inc. of Altamont by the dormitory authority pursuant to title four of article eight of this chapter.

Except to the extent otherwise prohibited by law, Vesta Community Housing Development Board, Inc. of Altamont shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of

New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issue pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

No agreement or lease by such organization shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

* NB There are 3 sub 27's

* 27. For the purposes of this section, the following provisions shall apply to powers in connection with the construction of new facilities for a diagnostic and evaluation program and a pre-independent living program and to expand existing facilities in a special education school for Gateway Youth and Family Services, hereinafter called the organization, by the authority pursuant to this title.

Notwithstanding any other provision of law, the organization shall have full power and authority to assign and pledge to the authority any and all public funds to be apportioned or otherwise made payable by the state, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the authority or upon the direction of the authority, to any trustee of any authority bond or note issued pursuant to a certificate filed with any such state or local officer by the authority pursuant to the provisions of this section.

No agreement or lease by such organization shall be effective unless and until it is approved by or on behalf of the commissioners of the various state agencies that have jurisdiction over the project.

* NB There are 3 sub 27's

* 28. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for the Orleans County Chapter-New York State Association of Retarded Children, Inc. by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, the Orleans County Chapter-New York State Association of Retarded Children, Inc. shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 3 sub 28's

* 28. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for the New York State Association for Retarded Children, Inc., Westchester County Chapter by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, the New York State Association for Retarded Children, Inc., Westchester County Chapter shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the State of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 3 sub 28's

* 28. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for the New York State Association for Retarded Children, Inc.-Livingston-Wyoming County Chapter by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, the New York State Association for Retarded Children, Inc.-Livingston-Wyoming County Chapter shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant

to the provisions of this subdivision.
* NB There are 3 sub 28's

31. a. The dormitory authority may enter into leases, subleases or other agreements with private not-for-profit schools for the financing of and the design, construction, reconstruction, rehabilitation, improvement, renovation, acquisition or otherwise providing for, furnishing or equipping of capital facilities which are educational facilities where the total estimated cost of such facilities exceeds ten thousand dollars. The plans and specifications of such capital facilities shall be subject to the approval of the commissioner of education with respect to educational facilities. Such capital facilities may be constructed only on land owned by such private not-for-profit school or, if the land is leased, where the lease is for a period at least equal to the appropriate period of probable usefulness for such facilities as listed in section 11.00 of the local finance law, or the length of the lease, sublease or other agreement with the dormitory authority, whichever is longer.

b. Each such private not-for-profit school shall, notwithstanding any other provision of law, have the power to convey, lease, sublease or otherwise make available to the dormitory authority without consideration, title or any other rights in real property satisfactory to the dormitory authority.

c. In addition to providing for all other matters deemed necessary and proper, such leases, subleases and other agreements shall (1) require such private not-for-profit school to pay to the dormitory authority annual rentals which shall include the amount required to pay the principal of and interest on obligations of the dormitory authority issued in relation to providing such facilities and all incidental expenses of the dormitory authority incurred in relation thereto, (2) require the private not-for-profit school to include an amount sufficient to meet its obligations under the lease, sublease or other agreement in each proposed budget submitted during the term of the lease, sublease or other agreement, and (3) not be executed until such capital facilities are approved by the commissioner of education with respect to educational facilities.

d. Title or other real property rights to the capital facilities financed pursuant to this section shall remain with the dormitory authority until the dormitory authority certifies to the commissioner of education with respect to educational facilities and the comptroller the receipt by it of the amount necessary to pay the total aggregate amount of annual rentals to the dormitory authority. At such time, title or other real property rights thereto shall be transferred by the dormitory authority to such private not-for-profit school for use for educational purposes. In order to avail itself of the provisions of this section, each such private not-for-profit school must also agree to continue to operate a program for the education of children pursuant to contract with public school districts or social services districts, and such lease, sublease or other agreement with the dormitory authority shall provide that, if the private not-for-profit school shall cease to operate such a program at any time during the term of the agreement, the state will have the option to take such title or other real property rights of the dormitory authority in land, buildings, equipment and other properties which the private not-for-profit school uses for its program upon, subject to appropriations, payment by the state to the dormitory authority of the amount required to pay the total aggregate amount of annual rentals to the dormitory authority.

e. On or before November fifteenth of each year, the dormitory authority shall submit, and thereafter may resubmit, to the director of the budget, the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a report setting forth the amounts, if any, of all annual rentals estimated to become due in the succeeding state fiscal year to the dormitory authority from the private not-for-profit school pursuant to any leases, subleases or other agreements between the dormitory authority and such private not-for-profit school to provide educational facilities for such private not-for-profit school. The state comptroller shall pay over to the dormitory authority pursuant to appropriations therefor solely from moneys available in the private not-for-profit school capital facilities financing reserve fund the amount set forth in such report at the times and in the amounts set forth in the certificate filed with the comptroller by the dormitory authority pursuant to clause (iv) of subparagraph two of paragraph f of this subdivision.

f. Method of payment; reserve fund. (1) Each private not-for-profit school which elects to avail itself of the provisions of this section shall have established with the state comptroller a private not-for-profit school capital facilities financing reserve account which shall be used to pay to the dormitory authority the annual rentals payable to the dormitory authority by private not-for-profit schools which have entered into leases, subleases or other agreements with the dormitory authority to provide educational facilities pursuant to the provisions of this section. The dormitory authority shall identify to the state comptroller and to the commissioner of education with respect to educational facilities, the private not-for-profit schools with which it has leases, subleases or other agreements pursuant to this section and shall annually certify the amount of annual rentals required to be paid pursuant to such leases, subleases or other agreements.

(2) (i) There is hereby established in the custody of the state comptroller a special fund to be known as the private not-for-profit school capital facilities financing reserve fund. Within such fund, there is hereby established a special account for each private not-for-profit school which enters into a lease, sublease or other agreement with the dormitory authority pursuant to this section.

(ii) Notwithstanding the provisions of any other law, such fund shall consist of part of the tuition payments from public school districts and social services districts as determined by the commissioner of education. The comptroller shall maintain sufficient amounts in the fund in order to pay when due the annual rentals due to the dormitory authority from each such private not-for-profit school pursuant to any lease, sublease or other agreement entered into pursuant to the provisions of this section. The dormitory authority shall certify to the state comptroller the dates and amount of such annual payments as scheduled in its leases, subleases or other agreements with such private not-for-profit schools. The commissioner of education with respect to educational facilities shall certify the amount of payments due the fund from public school districts and social services districts, respectively and such public school districts and social services districts shall make such payments to the fund at such times as shall be prescribed by the commissioner with respect to educational facilities, subject to the approval of the director of the budget, and after consultation with the dormitory authority.

(iii) Revenues in any special account in the private not-for-profit school capital facilities financing reserve fund may be commingled with any other monies in such fund. All deposits of such revenues with banks and trust companies shall be secured by obligations of the United States or of the state of New York or its political subdivisions. Such obligations shall have a market value at least equal at all times to, but not less than, one hundred five percent of the amount of such deposits. All banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund may, in the discretion of the comptroller, be invested in obligations of the United States or the state or obligations the principal of and interest on which are guaranteed by the United States or by the state. Any interest earned shall be credited to such fund.

(iv) Upon receipt by the comptroller of a certificate or certificates from the dormitory authority that it requires a payment or payments from the appropriate special account established for a private not-for-profit school in order for such private not-for-profit school to comply with any lease, sublease or other agreement pursuant to this section, each of which certificates shall specify the required payment or payments and the date when the payment or payments is required, the comptroller shall pay from such special account on or before the specified date or within thirty days after receipt of such certificate or certificates, whichever is later, to the paying agent designated by the dormitory authority in any such certificate, the amount or amounts so certified.

(v) All payments of money from the private not-for-profit school capital facilities financing reserve fund shall be made on the audit and warrant of the state comptroller.

g. Notwithstanding the provisions of any contract pursuant to article eighty-one or eighty-nine of the education law between a social services district or a public school district and a private not-for-profit school. If the private not-for-profit school enters into a lease, sublease or other agreement with the dormitory authority pursuant to this section, payments due from the public school district or social services district shall be made in accordance with the provisions of this chapter.

h. All state and local officials are authorized and required to take whatever actions are necessary to carry out the provisions of this section and the provisions of any leases, subleases or other agreements entered into pursuant to this section, including making the required payments to the dormitory authority.

i. Notwithstanding any other provision of law to the contrary, the dormitory authority may execute leases, subleases, or other agreements with private not-for-profit schools authorized pursuant to this section and chapter six hundred ninety-eight of the laws of nineteen hundred ninety-one for financing of the design, construction, rehabilitation, improvement, renovation, acquisition or provision, furnishing or equipping of capital facilities; provided, however, that during the two year period commencing July first, nineteen hundred ninety-five, the amount of bonds inclusive of principal, interest and issuance costs to be issued for each individual lease, sublease, or other agreement shall not exceed fifteen million dollars annually; and provided further that the total amount of such bonds for all such leases, subleases, or agreements with private not-for-profit schools during such period exclusive of bonds for projects already approved by the division of budget as of such date shall not exceed one hundred fifteen million dollars.

On or before September first of each year, the commissioner of education shall submit to the chairs of the assembly ways and means committee, the senate finance committee and the director of the budget, a capital plan for those projects expected to be bonded for private not-for-profit schools pursuant to this section, within such one hundred fifteen million dollar allowance. After application of the principles of the capital assets preservation program pursuant to education law, such plan shall accord priority to health and safety considerations and shall specify the name, location, estimated total cost of the project at the time the project is to be bid, the anticipated bid date and the anticipated completion date and may contain any further recommendations the commissioner may deem appropriate.

* 32. For purposes of this section, the following provisions shall apply to powers in connection with the provision of dormitories for Hospice, Buffalo by the dormitory authority pursuant to this title.

Except to the extent otherwise prohibited by law, Hospice, Buffalo shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state of New York, a political subdivision, as defined in section one hundred of the general municipal law, or any social services district in the state of New York in an amount sufficient to make all payments required to be made by any such organization pursuant to any lease, sublease or other agreement entered into between such organization and the dormitory authority.

All state and local officers are hereby authorized and required to pay all such funds assigned and pledged to the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

* NB There are 2 sub 32's

* 32. (a) The dormitory authority is empowered and authorized to enter into a lease, sublease or other agreement with the state university construction fund pursuant to which an ambulatory care training facility is to be acquired, designed, constructed, reconstructed, rehabilitated, improved or otherwise provided, and furnished and equipped, provided that such lease, sublease or other agreement has been approved by the state university of New York which shall be a party thereto. Such lease, sublease or other agreement may provide for the payment of annual rentals and other payments by the state university construction fund to the dormitory authority and contain such other terms and conditions as may be agreed upon by the parties thereto, including, but not limited to, provisions relating to the maintenance and administration of the ambulatory care training facility, the establishment of reserve funds, the amounts, the source, the pledge and the timing of payments of annual

rentals and other payments by the fund to the authority indemnification and the disposition of the facility or the interest of the authority therein, if any, prior to or upon the termination or expiration of such lease, sublease or other agreement. Such lease, sublease or other agreement shall be subject to the approval of the director of the budget.

(b) Notwithstanding the provisions of the public lands law or any other law to the contrary, the state of New York, the state university of New York and the state university construction fund may sell, convey, lease, exchange or otherwise make available to the authority, for nominal consideration, the title to or an interest in real property for the purpose of providing an ambulatory care training facility and may enter into any lease, sublease or other agreement with the authority in connection with an ambulatory care training facility without public auction or bidding or restriction as to the term of such lease, sublease or other agreement.

(c) The state university construction fund shall pay over to the dormitory authority, from amounts received by the fund from the tenants, subtenants and other users of the ambulatory care training facility that are engaged in medical practice at the health sciences center at state university of New York at Stony Brook, pursuant to any lease, sublease or other agreement between the fund and the university and such tenants, subtenants and other users, an amount equal to the annual rentals and other payments due to the authority from the fund pursuant to a lease, sublease or other agreement between the authority and the fund with respect to the ambulatory care training facility. Any such lease, sublease or other agreement with any tenant, subtenant or other user shall be a general obligation of such tenant, subtenant or other user, as the case may be, and the aggregate amounts due under all such leases, subleases or other agreements shall at least equal the annual rentals and other amounts due to the dormitory authority from the state university construction fund pursuant to the lease, sublease or other agreement between the authority and the fund with respect to the ambulatory care training facility. In addition, any lease, sublease or other agreement with any tenant, subtenant or other user of the ambulatory care training facility shall provide that all revenues received by the tenants, subtenants and other users including, but not limited to, the revenues received by the medical clinical practice management plan established pursuant to the policies of the board of trustees of the state university of New York at the health sciences center at state university of New York at Stony Brook, shall be pledged and assigned to the dormitory authority to the extent required to make the annual rentals and other payments due to the authority from the fund pursuant to a lease, sublease or other agreement between the authority and the fund with respect to the ambulatory care training facility to secure the obligations of the state university construction fund undertaken pursuant thereto, and the authority shall have a first lien on any such revenues to the same extent. The state university of New York, the state university construction fund, any tenant, subtenant or other user which has entered into a lease, sublease or other agreement with the state university construction fund and the university with respect to the possession and use of such ambulatory care training facility, and the medical clinical practice management plan at the health sciences center at state university of New York at Stony Brook acting by and through any authorized representatives thereof; shall agree in writing to the pledge and assignment of all such revenues. Such pledge and assignment shall provide that (i) all revenues of such medical clinical practice management plan, including any amounts receivable by the state university of New York from such medical clinical practice management plan for the benefit of the state university of New York, shall be pledged and assigned to the dormitory authority, to the extent required to make the annual rentals and other payments due to the authority from the fund pursuant to a lease, sublease or other agreement between the authority and the fund with respect to the ambulatory care training facility and the authority shall have a first lien on any such revenues to the same extent to secure the obligations of the state university construction fund undertaken pursuant thereto; and (ii) the foregoing pledge and assignment shall be pursuant to the obligation under such medical clinical practice management plan to reimburse the state for the costs of clinical practice in accordance with such clinical practice management plan. Any such pledge and assignment of revenues to the authority may be further pledged and assigned to the holders of obligations of the dormitory authority issued to finance the acquisition, design, construction, reconstruction, rehabilitation, improvement or other provision furnishing and equipping of the ambulatory care training facility or to a trustee acting on behalf of the holders of such obligations. To the extent not so pledged and assigned, revenues of such medical clinical practice management plan shall be available for any lawful purposes of the state university of New York health sciences center at Stony Brook. Notwithstanding the provisions of article fourteen of the civil service law or any other law, rule or regulation to the contrary, neither the state of New York, the state university of New York, the medical clinical practice management plan at the state university of New York at Stony Brook, nor any other person, corporation, organization or entity shall take any action in such manner as to impair or diminish the rights and remedies of the dormitory authority pursuant to any such pledge and assignment and any lien or other security interest created pursuant hereto.

(d) In the event of the failure of the state university construction fund to receive when due, either pursuant to the leases, subleases or other agreements with the tenants, subtenants or other users of the ambulatory care training facility or pursuant to the pledge and assignment of the revenues of such tenants, subtenants or other users, including the pledge and assignment of revenues received by the medical clinical practice management plan, amounts which, in the aggregate, equal the annual rentals and other payments required to be made by the fund to the dormitory authority pursuant to the lease, sublease or other agreement between the fund and the authority with respect to the ambulatory care training facility, and subject to the right of the state university construction fund to receive payments from the state comptroller pursuant to the provisions of subdivision nineteen of this section, as added by chapter six hundred seventy-eight of the laws of nineteen hundred eighty-eight, the state university construction fund shall forthwith make and deliver to such state comptroller a certificate stating the amount of the aggregate payments required to have been made by such tenants, subtenants or other users, the amount received from such tenants, subtenants or other users and the amount remaining unpaid by such tenants, subtenants or other users. The state comptroller, after giving written notice to the director of the budget and the chancellor of state university of New York, shall pay the state university construction fund the amount set forth in such certificate as remaining unpaid, which amount shall be paid from any moneys appropriated or allocated by the state for or on account of the activities of the state university of New York at Stony Brook hospital and not yet paid. The amount required to be paid by the state comptroller pursuant to this subdivision shall be paid to the state university construction fund as soon as practicable after receipt of the certificate of the state university construction fund and notice to the director of the budget and the chancellor of the state university of New York is given, whether or not the moneys from which such payment is to be made are then due and payable to the state university.

(e) The amount of state appropriations and allocations payable to the state university of New York for the Stony Brook hospital from which the state comptroller has made a payment pursuant to this subdivision shall be reduced by the amount so paid to the state university construction fund, notwithstanding the amount appropriated or allocated and apportioned by the state to the state university of New York for the Stony Brook hospital, and the state shall not be obligated to make and the state university of New York shall not be entitled to receive for the Stony Brook hospital any additional apportionment or payment of state moneys on account of said amount paid to the state university construction fund.

(f) In the event of the failure of the state university construction fund to receive when due, either pursuant to the leases, subleases or other agreements provided for in paragraph (c) of this subdivision or pursuant to the provisions of paragraph (d) of this subdivision, and subject to the right of the state university construction fund to receive payments from the state comptroller pursuant to the provisions of subdivision nineteen of this section, as added by chapter six hundred seventy-eight of the laws of nineteen hundred eighty-eight, the state university construction fund shall forthwith make and deliver to such state comptroller a certificate stating the amount of the aggregate payments required to have been made by such tenants, subtenants or other users. The state comptroller, after giving written notice to the director of the budget and the chancellor of state university of New York, shall pay the state university construction fund the amount set forth in such certificate as remaining unpaid, which amount shall be paid from any moneys appropriated or allocated by the state for or on account of the operating costs of the state university of New York at Stony Brook and not yet paid. The amount required to be paid by the state comptroller pursuant to this subdivision shall be paid to the state university construction fund as soon as practicable after receipt of the certificate of the state university construction fund and notice to the director of the budget and the chancellor of state university of New York is given, whether or not the moneys from which such payment is to be made are then due and payable to the state university.

(g) The amount of state appropriations and allocations payable to the state university of New York at Stony Brook from which the state comptroller has made a payment pursuant to this subdivision shall be reduced by the amount so paid to the state university construction fund, notwithstanding the amount appropriated or allocated and apportioned by the state to the state university of New York at Stony Brook and the state shall not be obligated to make and the state university of New York at Stony Brook shall not be entitled to receive any additional apportionment or payment of state moneys on account of said amount paid to the state university construction fund.

(h) Bonds issued by the dormitory authority pursuant to the provisions of this subdivision to finance an ambulatory care training facility shall not be subject to the provisions of such subdivision nineteen of this section.

* NB There are 2 sub 32's

33. Notwithstanding any other provision of law, subject to the approval of the voters pursuant to sections two hundred fifty-five and two hundred sixty of the education law, a public library shall have full power and authority to assign and pledge to the dormitory authority any and all public funds to be apportioned or otherwise made payable by the state, or a political subdivision, as defined in section one hundred of the general municipal law, in an amount sufficient to make all payments required to be made by such public library pursuant to any agreement entered into between such public library and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or upon the direction of the authority to any trustee of any authority bond

or note issued, pursuant to a certificate filed with any such state or local officer by the authority as required by such agreement.

34. a. Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of an annual appropriation therefor by the legislature, in order to assist the dormitory authority in providing for the financing of the payment of the remaining principal balance of the amount to be amortized as defined in section sixteen-a of the retirement and social security law and interest accrued from March first, nineteen hundred ninety-six to the date of such payment of the remaining principal balance, into the pension accumulation fund and the New York state public employees group life insurance plan, and in consideration of the undertaking thereof and the benefits to be derived therefrom by the people of the state, the director of the budget is authorized to enter into an agreement which shall not exceed ten years in duration with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree;

b. Any agreement entered into pursuant to paragraph a of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds and notes;

c. Any such agreement shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provisions in the event the dormitory authority assigns or pledges the payments received pursuant to such agreement as security for its bonds or notes and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for that purpose, and that such obligation is subject to annual appropriations by the legislature;

d. Any agreement entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the debt service requirements of any bonds or notes of the dormitory authority issued pursuant to this subdivision; and

e. The dormitory authority shall not issue its bonds or notes to finance the amounts as described in paragraph a of this subdivision in an aggregate principal amount greater than seven hundred eighty-seven million dollars; provided, however, that in addition to such bonds, the authority may issue an aggregate principal amount of bonds sufficient to fund any reserve funds established in connection therewith, to provide capitalized interest on the bonds or notes and pay the costs incurred by the authority in connection with the issuance and servicing of any of such bonds.

35. (a) The dormitory authority is empowered and authorized to enter into a lease, sublease, lease purchase, or other agreement with the office of general services of the state of New York on behalf of the department of audit and control of the state of New York pursuant to which one or more facilities are to be designed, acquired, constructed, reconstructed, rehabilitated, improved or otherwise provided for the department of audit and control of the state of New York, the New York state and local employees' retirement system and the New York state and local police and fire retirement system and pursuant to which such facilities are to be furnished or equipped provided, however, that any contract or lease for construction, reconstruction or rehabilitation authorized by this subdivision shall be governed by article eight of the labor law. Such lease, sublease, lease purchase, or other agreement may provide for the payment of annual rentals and other payments by the department of audit and control of the state of New York to the dormitory authority from appropriations as provided in paragraph (c) of this subdivision or from payments made pursuant to any lease, sublease, lease purchase, or other agreement authorized pursuant to paragraph (f) of this subdivision and contain such other terms and conditions as may be agreed upon by the parties thereto, including but not limited to, provisions relating to the maintenance and operation of the facilities, the establishment of reserve funds, indemnities and the disposition of a facility or the interest of the dormitory authority therein, if any,

prior to or upon termination or expiration of such lease, sublease or other agreement. Such lease, sublease, lease purchase, or other agreement shall be subject to the approval of the director of the budget.

(b) Any such lease, sublease, lease purchase, or other agreement entered into pursuant to this subdivision may provide that the provisions thereof shall remain in full force and effect until the issue of the bonds of the dormitory authority to which it relates, together with interest thereon, interest on any unpaid installments of interest and the fees and expenses of the dormitory authority, are fully met and discharged, and any payments to be made by the state, the New York state and local employees' retirement system and the New York state and local police and fire retirement system pursuant to any lease, sublease, lease purchase, or other agreement authorized pursuant to paragraph (f) of this subdivision may be pledged by the dormitory authority to secure such bonds.

(c) Any agreement entered into pursuant to this subdivision by and between the dormitory authority and the office of general services on behalf of the department of audit and control shall provide for state commitments to provide annually to the department of audit and control an amount equal to the aggregate amount of all annual rentals due to the dormitory authority from the department of audit and control on account of such facilities for the department of audit and control, the New York state and local employees' retirement system and the New York state and local police and fire retirement system pursuant to any such lease, sublease, lease purchase, or other agreement. Any such lease, sublease, lease purchase or other agreement shall further provide that the obligation of the state to appropriate amounts to the department of audit and control to pay annual rentals due to the dormitory authority from the department of audit and control on account of facilities for the department of audit and control, the New York state and local employees' retirement system and the New York state and local police and fire retirement system pursuant to any such lease, sublease, lease purchase or other agreement shall not constitute a debt of the state within the meaning of any constitutional and/or statutory provisions and shall be deemed executory only to the extent state moneys are appropriated and that no liability shall be incurred by the state beyond the moneys appropriated for that purpose and that such obligation is subject to annual appropriations by the legislature.

(d) On or before November fifteenth of each year, the dormitory authority shall submit and thereafter may resubmit to the commissioner of general services, the director of the budget, the comptroller, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, a report setting forth the amounts, if any, of all annual rentals and other payments estimated to be due in the succeeding state fiscal year to the dormitory authority from the department of audit and control pursuant to any lease, sublease, lease purchase, or other agreement between the dormitory authority and the office of general services on behalf of the department of audit and control entered into on or after July first, nineteen hundred ninety-seven to provide facilities for the department of audit and control, the New York state and local employees' retirement system and the New York state and local police and fire retirement system.

(e) Notwithstanding any provision of law to the contrary, any lease, sublease, lease purchase or other agreement, including any contract for construction, reconstruction, rehabilitation or improvement entered into pursuant to this subdivision shall not be subject to public auction or bidding or any restriction as to the term of such lease, sublease, lease purchase or other agreement; provided however, that, with respect to any lease, sublease, lease purchase, or other agreement for facilities for the department of audit and control, the New York state and local employees' retirement system and the New York state and local police and fire retirement system, the dormitory authority shall determine that there has been a competitive process sufficient to comply with the authority's procurement contract guidelines as required pursuant to section twenty-eight hundred seventy-nine of this chapter.

(f) Nothing herein shall be construed to diminish the authority of the comptroller, in his capacity as trustee of the New York state and local employees' retirement system and the New York state and local police and fire retirement system, to be a party to any agreement authorized pursuant to paragraph (a) of this subdivision or, in accordance with the provisions of this title to enter into separate leases, subleases, lease purchases or other agreements with the dormitory authority pursuant to which one or more facilities are to be designed, acquired, constructed, reconstructed, rehabilitated, improved or otherwise provided for the New York state and local employees' retirement system and the New York state and local police and fire retirement system.

36. (a) The dormitory authority is empowered and authorized to enter into a lease, sublease, lease purchase, or other agreement with the office of general services of the state of New York pursuant to which one or more facilities are to be acquired, designed, constructed, reconstructed, rehabilitated, improved or otherwise made available for the provision of parking facilities for the state of New York in the city of Albany, New York and pursuant to which such facilities are to be furnished or equipped and in furtherance of such authorization, the commissioner of general services is hereby empowered to grant or convey to the dormitory authority, such lands as may be necessary for such purposes upon such terms and conditions as the commissioner of general services may fix and determine provided, however, that any contract or lease for construction, reconstruction or rehabilitation authorized by this subdivision shall be governed by article eight of the labor law. Such lease, sublease, lease purchase, or other agreement may provide for the payment of annual rentals and other payments by the state of New York on behalf of the departments or agencies having occupancy or use thereof to the dormitory authority from appropriations as provided in paragraph (c) of this subdivision and may contain such other terms and conditions as may be agreed upon by the parties thereto, including but not limited to, provisions relating to the maintenance and operation of the facilities, the establishment of reserve funds, indemnities and the disposition of a facility or the interest of the dormitory authority therein, if any, prior to or upon termination or expiration of such lease, sublease, lease purchase or other agreement. Such lease, sublease, lease purchase, or other agreement shall be subject to the approval of the director of the budget.

(b) Any such lease, sublease, lease purchase, or other agreement entered into pursuant to this subdivision may provide that the provisions thereof shall remain in full force and effect until the issue of the bonds of the dormitory authority to which it relates, together with interest thereon, interest on any unpaid installments of interest and the fees and expenses of the dormitory authority, are fully met and discharged, and any payments to be made by the state, pursuant to any lease, sublease, lease purchase, or other agreement authorized pursuant to this subdivision may be pledged by the dormitory authority to secure such bonds.

(c) Any lease, sublease, lease purchase or other agreement entered into pursuant to this subdivision by and between the dormitory authority and the state of New York by the office of general services with respect to such parking facilities shall provide for state commitments to provide annually an amount equal to the aggregate amount of all annual rental due to the dormitory authority from the state on behalf of the state departments and agencies having occupancy or use of such facilities. Any such lease, sublease, lease purchase or other agreement shall further provide that the obligation of the state to appropriate amounts to pay annual rentals due to the dormitory authority pursuant to any such lease, sublease, lease purchase or other agreement shall not constitute a debt of the state within the meaning of any constitutional and/or statutory provisions and shall be deemed executory only to the extent state moneys are appropriated and that no liability shall be incurred by the state beyond the moneys appropriated for that purpose and that such obligation is subject to annual appropriations by the legislature.

(d) On or before November fifteenth of each year, the dormitory authority shall submit to the commissioner of general services, the director of the budget, the comptroller, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, a report setting forth the amounts, if any, of all annual rentals and other payments estimated to be due in the succeeding state fiscal year to the dormitory authority pursuant to any lease, sublease, lease purchase, or other agreement between the dormitory authority and the office of general services on behalf of the state entered into hereafter to provide for parking facilities for the state of New York in the city of Albany.

(e) Notwithstanding any provision of law to the contrary, any lease, sublease, lease purchase or other agreement entered into pursuant to this subdivision shall not be subject to public auction or bidding or any restrictions as to the term of such lease, sublease, lease purchase or other agreement for the provisions of parking services in the city of

Albany.

37. For purposes of this section, the following provisions shall apply to powers in connection with the provision of facilities for UCPA of the Capital District, Inc., UCPA of Cayuga County, Inc., United Cerebral Palsy and Handicapped Children's Association of Chemung County, Inc., Finger Lakes United Cerebral Palsy, Inc., United Cerebral Palsy Associations of Fulton and Montgomery Counties, Inc., United Cerebral Palsy Association of the Tri-Counties, Inc., Franziska Racker Centers, Inc., United Cerebral Palsy Association of Nassau County, Inc., United Cerebral Palsy of New York City, Inc., United Cerebral Palsy Association of Niagara County, Inc., Orange County Cerebral Palsy Association, Inc., United Cerebral Palsy of Queens, Inc., United Cerebral Palsy Association of the Rochester Area, Inc., Jawonio, Inc., The Handicapped Children's Association of Southern New York, Inc., United Cerebral Palsy Association of Greater Suffolk, Inc., SDTC - The Center for Discovery, Inc., United Cerebral Palsy and Handicapped Children's Association of Syracuse, Inc., United Cerebral Palsy of Ulster County Inc., United Cerebral Palsy and Handicapped Person's Association of the Utica Area, Inc., United Cerebral Palsy Association of Westchester, Inc. and Unified Creative Programs, Inc., United Cerebral Palsy Association of Western New York, Inc., United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc., United Cerebral Palsy Association of the North Country, Inc., United Cerebral Palsy Associations of New York State, Inc., any not-for-profit affiliates or members of Cerebral Palsy Associations of New York State, Inc., and any successor in interest to any such organization, by the authority pursuant to this title.

Notwithstanding any other provision of law, UCPA of the Capital District, Inc., UCPA of Cayuga County, Inc., United Cerebral Palsy and Handicapped Children's Association of Chemung County, Inc., Finger Lakes United Cerebral Palsy, Inc., United Cerebral Palsy Associations of Fulton and Montgomery Counties, Inc., United Cerebral Palsy Association of the Tri-Counties, Inc., Franziska Racker Centers, Inc., United Cerebral Palsy Association of Nassau County, Inc., United Cerebral Palsy of New York City, Inc., United Cerebral Palsy Association of Niagara County, Inc., Orange County Cerebral Palsy Association, Inc., United

Cerebral Palsy of Queens, Inc., United Cerebral Palsy Association of the Rochester Area, Inc., Jawonio, Inc., The Handicapped Children's Association of Southern New York, Inc., United Cerebral Palsy Association of Greater Suffolk, Inc., SDTC - The Center for Discovery, Inc., United Cerebral Palsy and Handicapped Children's Association of Syracuse, Inc., United Cerebral Palsy of Ulster County Inc., United Cerebral Palsy and Handicapped Person's Association of the Utica Area, Inc., United Cerebral Palsy Association of Westchester, Inc. and Unified Creative Programs, Inc., United Cerebral Palsy Association of Western New York, Inc., United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc., United Cerebral Palsy Association of the North Country, Inc., United Cerebral Palsy Associations of New York State, Inc., any not-for-profit affiliates or members of Cerebral Palsy Associations of New York State, Inc., and any successor in interest to any such organization shall have the full power and authority to assign and pledge to the dormitory authority any and all public funds to be appropriated, apportioned or otherwise made payable by the federal government, any agency thereof, the state government, any agency thereof, a political subdivision as defined in section one hundred of the general municipal law, any social service district in the state of New York or by any other governmental entity in an amount sufficient to make all payments required to be made by such entity pursuant to any necessary or useful agreements entered into between such entity and the dormitory authority. All state and local officials are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued pursuant to a certificate filed with any state or local officer by the dormitory authority pursuant to the provisions of this subdivision.

38. a. The dormitory authority is empowered and authorized to enter into a lease, sublease or other agreement with any school district pursuant to which the dormitory authority may finance or refinance all or any portion of school district capital facilities and school district capital equipment for such school districts. Any such lease, sublease or other agreement may provide for joint facilities pursuant to section thirty-six hundred two of the education law pursuant to an agreement

with participating school districts as authorized in such section. Such lease, sublease or other agreement may provide for annual or other payments to the dormitory authority by or on behalf of the school district. Such lease, sublease or other agreement may contain such other terms and conditions as may be agreed upon by the parties thereto, including, but not limited to, the establishment of reserve funds and indemnities. A lease, sublease or other agreement entered into by a school district with the dormitory authority pursuant to the provisions of this section shall not be deemed to be an installment purchase contract, contract for public work or purchase contract within the meaning of article five-A of the general municipal law or any other law.

b. (1) Except as provided in subparagraph two of this paragraph, any such lease, sublease, or other agreement shall not constitute or create indebtedness of the state or a political subdivision for purposes of article seven or eight of the state constitution or section 20.00 of the local finance law, shall be deemed executory only to the extent of money appropriated annually therefor by the state or political subdivision and shall not constitute a contractual obligation in excess of the amounts so appropriated; provided however that the total amount of unpaid payments due under any such lease, sublease or agreement on account of principal due on bonds issued by the authority shall be deemed to be indebtedness within the meaning of subdivision three of paragraph a of section 135.00 of the local finance law except to the extent that any portion of the indebtedness, if issued by the school district, would be excluded pursuant to section 136.00 of the local finance law.

(2) A school district shall have full power and authority to pledge its full faith and credit for the payment of its obligations to the dormitory authority pursuant to any lease, sublease or other agreement entered into pursuant to this subdivision. Any such lease, sublease or other agreement shall be authorized in the same manner as is required for the adoption of a bond resolution by the school district under the local finance law. The total amount of all unpaid annual payments constituting the principal of any indebtedness for which the school district shall have pledged its faith and credit shall be deemed to be indebtedness of the school district within the meaning of subparagraph (b) of subdivision three of paragraph a of section 135.00 of the local

finance law and section ten of article eight of the state constitution and such lease, sublease or other agreement shall constitute indebtedness for purposes of article eight of the constitution and the local finance law.

c. Notwithstanding the provisions of any general or special law to the contrary, school districts may, subject to the requirements, if any, of voter approval contained in the education law or any other law, transfer title or grant any other property interests or rights to the dormitory authority and the dormitory authority may transfer title or grant any other real property interests to such school districts.

d. Any such lease, sublease or other agreement entered into pursuant to this subdivision may provide that the provisions thereof shall remain in force and effect until the bonds, notes or other obligations of the dormitory authority are no longer outstanding, together with interest on any unpaid installments of interest and the fees and expenses of the dormitory authority, are fully met and discharged, and any payments to be made by or on behalf of the school district to the dormitory authority may be pledged to secure such bonds. Any such lease, sublease or other agreement may provide for joint facilities pursuant to section thirty-six hundred two of the education law through an agreement with participating districts as authorized in such section.

e. (1) Whenever the dormitory authority issues bonds, notes or other obligations for a school district pursuant to any lease, sublease or other agreement, the school district is authorized to assign and pledge to the dormitory authority a sufficient portion of any and all public funds to be apportioned or otherwise to be made payable by the state of New York to the school district to cover the payments required under the lease, sublease or other agreement between the authority and the school district. All state and local officials concerned are hereby authorized to apportion and pay all such funds so assigned and pledged to the dormitory authority. Such assignment and pledge by any school district shall be irrevocable and shall continue until the date on which the liabilities of the school district and the authority for such school district capital facilities and school district capital equipment have been discharged and the bonds of the authority issued therefor have been paid or such bonds have otherwise been discharged.

(2) The total amount payable annually to the dormitory authority shall be certified by the authority to the commissioner of education, and the authority shall annually prepare and certify to the commissioner of education a statement of the total amount necessary to be paid by all school districts for the ensuing school year. The dormitory authority may provide the commissioner of education such additional statements as the authority deems necessary.

(3) The commissioner of education shall include in the certificate he or she files with the state comptroller the amount to be owed by the school district to the dormitory authority for the ensuing school year.

(4) The state comptroller shall pay to the dormitory authority and shall deduct from any state funds to become due to any such school district an amount equal to the amount required to be paid by such school district to the dormitory authority as shown by the certificate of the commissioner of education filed with the state comptroller as required by subparagraph three of this paragraph.

(5) In the event that the amount paid to the authority pursuant to subparagraph four of this paragraph by the state comptroller is insufficient to meet any payment required by the school district to the authority, any such amount still due and owing shall be paid directly to the authority by the school district pursuant to any lease, sublease or other agreement between the authority and the school district.

39. The dormitory authority shall not issue its obligations for a school district pursuant to subdivision thirty-eight of this section to refund or refinance all or any portion of any outstanding indebtedness of such school district except: (i) to refund dormitory authority obligations previously issued for such school district; or (ii) to refund or refinance all or any portion of any outstanding indebtedness issued by a school district prior to December first, two thousand one, or prior to thirty days after the effective date of this subdivision, whichever is later, for the purpose of financing facilities which were eligible for building aid pursuant to section thirty-six hundred two of the education law and for which the approved expenditures for debt service payable in any year are subsequently reduced; or (iii) to refund

or refinance all or any portion of any outstanding indebtedness issued by a school district prior to December first, two thousand one or prior to thirty days after the effective date of this subdivision whichever is later provided that present value of the total payments to become due to the authority from the school district on account of principal and interest are less than the present value of the principal and interest payments to become due on the bonds to be refunded with such present value savings to be computed as provided in subparagraph (a) of subdivision two of paragraph b of section 90.10 of the local finance law; or (iv) to refinance all or any portion of any bond anticipation notes of a school district issued to finance a school construction project. In the event that the dormitory authority issues its obligations on behalf of a school district as provided in this subdivision: (i) no lease, sublease or other agreement entered into by the school district pursuant to this subdivision shall, notwithstanding any other provision of law to the contrary, be subject to the approval of voters of the school district and (ii) the proceeds of any refunding bonds issued by the authority, including any interest earnings thereon, shall be held in trust under the terms of an escrow agreement for the benefit of the holders of such refunded obligations in an amount sufficient to provide for the payment of the principal, redemption price and interest due on the refunded obligations of the school district to their stated maturities or, if such bonds are to be called, to the call date.

40. a. Any lease, sublease or other agreement by and between the dormitory authority and any residential institution for children shall, in addition to any other provisions deemed necessary by the dormitory authority, contain the following:

(1) a requirement that the residential institution for children establish an account with a bank or trust company acceptable to the dormitory authority into which the residential institution for children shall deposit, or cause to be deposited, all amounts received by such residential institution for children from any school district, social service district or any other payor on account of the residential services provided by such residential institution for children. The residential institution for children shall grant to the dormitory

authority a security interest in such account and the moneys on deposit therein shall be subject to withdrawal by the residential institution for children only after the payment of amounts then due to the dormitory authority as provided in such lease, sublease or other agreement;

(2) a requirement that the residential institution for children grant to the dormitory authority either a mortgage on the real property used by the residential institution for children to provide residential services or such other interest in real property as is acceptable to the dormitory authority;

(3) a requirement that the residential institution for children continue to operate a residential program for foster children and/or children placed by the committee on special education of a school district pursuant to contracts with social services districts or school districts for the term of the lease, sublease or other agreement and in the event such residential institution for children fails to do so, provide for the transfer and operation of the residential facilities to a replacement not-for-profit operator that is qualified to provide such services and that has assumed the obligations of such residential institution for children pursuant to such agreement;

(4) a requirement that the residential institution for children include in each of its contracts with a social service district, school district or any other payor a provision requiring that the residential institution for children will deposit, or cause to be deposited, all of its maintenance rate payments from such social service district, school district or other payor into the separate account required by subparagraph one of this paragraph. In the event of the failure of the applicable social services district or school district to make a maintenance rate payment to the residential institution for children for residential care provided to a child in the residential institution for children, the state comptroller shall withhold state reimbursement to the applicable social services district or school district in an amount equal to the unpaid obligation for the capital financing add-on rate and pay over such sum to the dormitory authority or its trustee upon certification of the commissioner of the office of children and family services or the state education department, as applicable; and

(5) a requirement that the residential institution for children pay to the dormitory authority the amount required to pay the principal of and

interest on obligations of the dormitory authority issued in relation to providing such facilities and all incidental expenses of the dormitory authority incurred in relation thereto.

b. The dormitory authority shall not issue any bonds or notes in excess of sixty million dollars for the purpose of financing the costs related to residential institutions for children as defined in subdivision forty-four of section sixteen hundred seventy-six of this title. In calculating the amount of bonds or notes outstanding pursuant to this subdivision, the principal amount of bonds or notes issued to fund one or more debt service reserve funds, the principal amount of bonds or notes issued to pay the costs of issuance of such bonds, and the principal amount of bonds or notes issued to refund or otherwise repay such bonds and bonds or notes previously issued shall be excluded therefrom. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds or notes.

§ 1680-a. Judicial facilities in certain counties. 1. In order to effectuate the purposes of this title, the following provisions shall apply to the authority and any county, within the tenth judicial district, that does not contain a city (a "county") in connection with the provision of judicial facilities;

(a)(1) Any county for whose use judicial facilities are to be designed, constructed, reconstructed, rehabilitated, improved or otherwise provided may enter into a lease, sublease or other agreement for the provision of judicial facilities with the authority in accordance with the provisions of either paragraph b or c of this subdivision and otherwise upon such terms and conditions as the authority and the county shall determine to be reasonable, including, but not limited to, the reimbursement to the authority of all costs of such design, construction, reconstruction, rehabilitation or improvement and claims arising therefrom and provisions setting forth or providing for the calculation of rental and other payments for the use and occupancy of such judicial facilities, which payment shall be at least sufficient to pay the principal of and interest on the bonds of the authority issued to finance the cost of the design, construction, reconstruction, rehabilitation, or improvement of such judicial facilities and the fees and expenses of the authority incurred in connection therewith.

(2) Such lease, sublease or other agreement shall not be deemed to be a contract for public work or purchase within the meaning of the general municipal law.

(3) Such lease, sublease or other agreement shall provide that if the authority undertakes to design, construct, reconstruct, rehabilitate, improve, furnish or equip any judicial facilities for a county, any contract or contracts for the construction, reconstruction, rehabilitation, improvement of judicial facilities shall be awarded based upon the authority's evaluation of proposals submitted to the authority in response to a request for proposals. Such request for proposals shall be prepared in accordance with standards to be developed by the authority designed to assure the award of all contracts to contractors evidencing proven experience with projects of the scope, magnitude and complexity of the judicial facilities that are the subject of the contract and the ability to perform all work required in a professional and timely manner. The procedures governing the request for proposals shall assure that, wherever practicable, responsible contractors, meeting the above criteria, located or regularly doing business in the county for whose benefit the judicial facilities are to be provided are given the opportunity to be considered. Any contract or contracts for the purchase of furnishings and equipment shall be awarded to the lowest responsible bidder in accordance with the provisions of section one hundred three of the general municipal law.

(4) Any such lease, sublease or other agreement entered into pursuant to this paragraph (a) may provide that the provisions thereof shall remain in force and effect until the issue of bonds of the authority to which it relates, together with interest thereon, interest on any unpaid installments of interest and the fees and expenses of the authority, are fully met and discharged, and any payments to be made by a county may be pledged by the authority to secure such bonds.

(5) A county entering into such a lease, sublease or other agreement is hereby authorized to raise and appropriate such sums as shall be necessary from time to time to make any payment pursuant thereto.

(6) Any lease, sublease or other agreement entered into by the authority and a county may provide that at the termination thereof the title to the judicial facilities shall vest in the county, free and clear of any indebtedness contracted by the authority.

(b) (1) A lease, sublease or other agreement entered into pursuant to this paragraph shall be executory only to the extent of moneys appropriated and available therefor, be for the periods agreed by the parties thereto, but not exceeding thirty years.

(2) The annual payment obligation pursuant to a lease, sublease or other agreement entered into pursuant to this paragraph shall not be deemed to be "indebtedness" for the purpose of determining the gross indebtedness of a county pursuant to the provisions of section 135.00 of the local finance law or section ten of article eight of the state constitution nor shall it be deemed an evidence of indebtedness within the meaning of section 20.00 of the local finance law.

(c) (1) A lease, sublease or other agreement entered into pursuant to this paragraph may be for the periods agreed by the parties thereto, but not exceeding thirty years which is hereby determined to be the period of probable usefulness of any judicial facilities authorized to be provided pursuant to this title, which term shall be computed from the date of the first indebtedness contracted by the authority for such judicial facilities.

(2) The portion of the annual payment obligation to be made by a county to the authority pursuant to any lease, sublease or other agreement entered into pursuant to this paragraph to enable the authority to pay the principal of any indebtedness contracted by it to finance the cost of such judicial facilities shall commence within two years after any such indebtedness or portion thereof shall have been contracted and no such portion of the annual payment obligation shall be more than fifty per centum in excess of the smallest prior portion of the annual payment for such purpose.

(3) The county shall pledge its faith and credit for the payment of the portion of the annual payment described in subparagraph two of this paragraph and also for the payments required to be made to the authority to enable it to pay the interest on such indebtedness.

(4) The total amount of all unpaid annual payments in relation to the principal of any such indebtedness for which the county has pledged its

faith and credit shall be deemed to be indebtedness of the county for a capital improvement within the meaning of subparagraph b of subdivision three of paragraph a of section 135.00 of the local finance law.

(5) The portion of the annual payment by a county to the authority to enable the authority to pay the principal of any indebtedness contracted by it to finance the cost of such judicial facilities for which a county has pledged its faith and credit and the portion of the annual payment by a county to the authority to enable the authority to pay interest on any indebtedness contracted by it to finance the cost of such judicial facilities shall be deemed to be "indebtedness" and "interest" within the meaning of section ten of article eight of the state constitution.

(d) (i) In the event that a county for whose use judicial facilities are to be or have been provided fails to make its required payment, in whole or in part, to the authority pursuant to any lease, sublease or other agreement, the authority shall certify to the state comptroller that such county has failed to make such payment. Such certificate shall set forth the exact amount of payment required to satisfy the obligations of such county and the date such payment was due.

(ii) The state comptroller, upon receipt of such certificate from the authority, shall withhold from the next succeeding payment or payments of state aid or local assistance payable to such county for whose use judicial facilities are to be or have been provided, the amount of the deficiency set forth in such certificate and shall thereafter immediately pay over to the authority the amount so withheld.

(iii) The provisions of this paragraph shall not apply in any case where either the payment of the principal of or interest on bonds issued by the authority for the purpose of financing the design, construction, acquisition, reconstruction, rehabilitation and improvement, and the furnishing and equipping of judicial facilities for a county or the payment of the obligations of any such county are secured by a policy of municipal bond insurance, an irrevocable letter of credit, or other financial guarantee or credit enhancement provided by a bank, insurance company or other financial institution. Any such policy of municipal bond insurance, letter of credit, or other financial guarantee or credit enhancement shall be approved by the authority and notice of such approval shall be provided to the state comptroller.

(e) The provisions of this title may be utilized by a county, notwithstanding the provision of any general or special law, or county charter that (i) requires that any project must be constructed, reconstructed, rehabilitated or improved, operated and maintained by the county, (ii) limits the period of time for which a county may enter into a lease, sublease or otherwise agree, (iii) limits the period of time for which a county may lease its real property to any other entity, including the authority, a county being hereby authorized to lease its real property to the authority for any period of time as the county and the authority may agree where such real property will constitute the site on which judicial facilities for the use of such county will be constructed, reconstructed, rehabilitated or improved, (iv) requires that the cost shall be paid for by taxes levied for the fiscal year in which the expenditure is to be made, (v) requires that the cost shall be financed pursuant to the local finance law, or (vi) only permits any such project to be constructed, reconstructed, rehabilitated or improved subject to either mandatory or permissive referendum.

2. The state hereby covenants with the holders from time to time of bonds issued by the authority to pay the cost of the design, construction, reconstruction, rehabilitation or improvement of judicial facilities pursuant to this section that it will not limit, impair or impede the rights and remedies granted hereby to such holders; provided, however, that nothing in this paragraph contained shall be deemed or construed as giving or pledging the credit of the state or as requiring the state to continue the payment of any specific type or types of state aid or local assistance to a county, within the tenth judicial district, that does not include a city for whose benefit judicial facilities are to be or have been provided or as limiting or prohibiting the state from repealing or amending any law heretofore or hereafter enacted relating to state aid and local assistance to such county, the manner and time or payment or apportionment thereof, or the amount thereof, nor shall such bonds be a debt of the state and the state shall not be liable thereon.

§ 1680-b. Court facilities and combined occupancy structures. 1. The authority may enter into a lease, sublease or other agreement with a participating municipality pursuant to which one or more court facilities or combined occupancy structures are to be designed, acquired, constructed, reconstructed, rehabilitated or improved, or a court facility is to be furnished or equipped, provided that such lease, sublease or other agreement has been approved by the chief administrator of the courts. The authority shall not enter into any such lease, sublease or other agreement unless such lease, sublease or other agreement provides that (a) the parties thereto shall comply with such standards and administrative policies relating to court facilities as may be promulgated pursuant to section twenty-eight of article six of the constitution and (b) the court facilities or combined occupancy structures to which such lease, sublease or other agreement related shall be constructed, reconstructed, rehabilitated, improved, furnished or equipped substantially in accordance with the plans, specifications and designs approved by the chief administrator of the courts. Such lease, sublease or other agreement may contain such other terms and conditions as the authority may require, including, but not limited to, provisions relating to the maintenance and operation of the court facilities, the establishment of reserve funds and the disposition of a court facility or a combined occupancy structure or the interest of the authority therein prior to or upon the termination or expiration of such lease, sublease or other agreement. In connection with court facilities and combined occupancy structures, the authority is hereby authorized to issue bonds in an aggregate principal amount not to exceed three billion dollars; provided, however, that bonds issued or to be issued shall be excluded from such limitation if such bonds are issued to refund bonds of the authority issued in connection with court facilities and combined occupancy structures and the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby. For purposes hereof, the present value of the aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior to the issuance thereof. The maturity of such bonds, other than bonds issued to refund outstanding bonds, shall not exceed the weighted average economic life, as certified by the office of court administration, of the facilities in connection with which the bonds are issued, and in any case not later than the earlier of forty years or the expiration of the term of any lease, sublease or other agreement relating thereto; provided that no note, including renewals thereof, shall mature later than five years after the date of issuance of such note.

2. No bonds may be issued by the authority in connection with a court facility or combined occupancy structure unless:

(a) the chief administrator of the courts has certified that the court facility or facilities in connection with which such bonds are to be issued are consistent with the capital plan approved pursuant to section sixteen hundred eighty-c of this chapter; and

(b) the lease, sublease or other agreement with the participating municipality relating to such court facilities provides that the plans, specifications, designs and cost estimates for the design, construction, reconstruction, rehabilitation, improvement, furnishing or equipping of the court facilities in connection with such bonds are to be issued subject to the approval of the chief administrator of the courts pursuant to paragraph (u) of subdivision one of section two hundred twelve of the judiciary law.

3. Notwithstanding the provisions of any general, special or local law, charter or ordinance to the contrary, a participating municipality may sell, convey, lease, exchange or otherwise make available to the authority, for nominal consideration, the title to or an interest in real property for the purpose of providing court facilities or combined occupancy structures and may enter into any lease, sublease or other agreement with the authority in connection with court facilities or combined occupancy structures without public auction or bidding or restriction as to the term of such lease, sublease or other agreement, provided that such sale, conveyance, lease, exchange, or other disposition to the authority or lease, sublease or other agreement with the authority is authorized by the board of county supervisors or the county legislature of a participating municipality which is a county, or

the common council of a participating municipality which is a city other than the city of New York or, if the participating municipality is the city of New York, the board of estimate of the city of New York.

4. In the event that a participating municipality fails to pay to the authority when due all or part of the rentals and other payments payable pursuant to any lease, sublease or agreement with the authority, the chairman or another officer of the authority shall certify at the times provided in this subdivision the amount of rentals and other payments then due from such participating municipality and unpaid. The state comptroller, upon receipt of such certificate, shall deduct the amount of such rentals and other payments as remains unpaid to the authority first from the aid payable to such participating municipality from the court facilities incentive aid fund established by section ninety-four of the state finance law and, then, from the next succeeding payments of state aid apportioned to such participating municipality, as revenue sharing, per capita aid, and any other aid pursuant to section fifty-four of the state finance law and, then, from the next succeeding payments of state aid for any local governmental administrative costs that are reimbursable to the participating municipality pursuant to state law and, then, from the next succeeding payments of state aid from moneys appropriated pursuant to section six hundred eight of the public health law and pursuant to section ten-c of the highway law; provided, however, that the right of the authority to the payment of any amount deducted by the state comptroller pursuant to this section from per capita aid apportioned to the city of New York shall be subject and subordinate to the rights of the city university construction fund pursuant to section sixty-two hundred seventy-nine of the education law, the New York city housing development corporation pursuant to section six hundred fifty-six of the private housing finance law, the trustees of the police pension fund pursuant to paragraph e of subdivision seven of section fifty-four of the state finance law, and the municipal assistance corporation for the city of New York pursuant to section three thousand thirty-six-a of this chapter and subdivision one of section ninety-two-e of the state finance law. In order to insure that the amount of rentals and other payments due and unpaid by a participating municipality are paid, the authority on or within thirty

days prior to January twenty-fifth, April twenty-fifth, July twenty-fifth and October twenty-fifth of each year shall certify to the state comptroller the amount of rentals and other payments then due and unpaid by each participating municipality pursuant to any lease, sublease or other agreement. The amount required to be deducted by the state comptroller pursuant to this subdivision shall be deducted from such aid, whether or not the state aid from which such deduction is to be made is then payable to the participating municipality, and thereupon paid to the authority. The amount of state aid payable to such participating municipality shall be reduced by the amount deducted by the state comptroller notwithstanding the amount appropriated and apportioned by the state to such participating municipality, and the state shall not be obligated to make and the participating municipality shall not be entitled to receive any additional apportionment or payment of such state aid. Nothing shall be construed to create an obligation upon the state to appropriate moneys, to preclude the state from reducing the amount of moneys appropriated or level of assistance provided, or to preclude the state from altering or modifying the manner in which it provides for or provides assistance.

5. On and after the effective date of this subdivision, when bonds are issued by the authority pursuant to this section, the authority and the participating municipality shall agree in any lease, sublease or other agreement to finance the acquisition, construction, reconstruction or rehabilitation of a court facility or combined occupancy structure that, so long as such bonds remain outstanding, the participating municipality shall retain title to such court facility or combined occupancy structure free of all liens and encumbrances except as shall be expressly permitted by such lease, sublease or other agreement.

§ 1680-c. Creation of the court facilities capital review board. 1. There is hereby created a court facilities capital review board. The voting membership of the board shall consist of four persons appointed by the governor, of which one shall be upon the recommendation of the temporary president of the senate, one upon the recommendation of the speaker of the assembly, and one upon the recommendation of the chief judge of the court of appeals. The members of the board shall vote among themselves to determine who shall serve as chairman. Any determination of the board shall be evidenced by a certificate thereof executed by all the members entitled to vote on the matter so certified. Each member of the board shall be entitled to designate a representative to attend meetings of the board in his place and to vote or otherwise act on his behalf in his absence. Notice of such designation shall be furnished in writing to the board by the designating member. A representative shall serve at the pleasure of the designating member during the member's term of office. A representative shall not be authorized to delegate any of his duties or functions to any other person.

2. The governor shall also appoint two nonvoting members to the court facilities capital review board of which one shall be upon the recommendation of the minority leader of the senate and one upon the recommendation of the minority leader of the assembly. Each nonvoting member shall be entitled to designate a representative to attend meetings of the board in his place.

3. The chief executive officer of each participating municipality shall submit the capital plan pursuant to section two hundred nineteen of the judiciary law to the chief administrator of the courts. On or before January first, April first, July first, and October first of each year commencing with the year nineteen hundred eighty-eight, the chief administrator of the courts shall submit to the court facilities capital review board the capital plan of each political subdivision that has submitted such a plan pursuant to section two hundred nineteen of the judiciary law, together with the appropriate facility design and performance plan, if any, prepared by the dormitory authority pursuant to paragraph (c) of subdivision thirteen of section sixteen hundred seventy-eight of this chapter.

The court facilities capital review board shall act on each capital plan within sixty days of the submission of such plan to the board. As part of its consideration of each capital plan, the board shall review and approve overall plans and cost estimates for the design, acquisition, construction, reconstruction, rehabilitation, improvement, furnishing or equipping of facilities of the courts and court-related agencies of the unified court system. Before approving any such plans or cost estimates, the court facilities capital review board must be satisfied that the facilities to which they relate are suitable and sufficient for the transaction of the business of the unified court system. Approval of each political subdivision's capital plan shall be by unanimous vote of the voting membership of the board. In the event that the chief administrator of the courts and the chief executive officer of the political subdivision submitting a capital plan agree on the plan, the capital plan may be disapproved only by an affirmative vote of at least two voting members of the board. If the board does not act on a capital plan within sixty days of the submission of such plan to the board, the capital plan shall be approved or disapproved by the chief administrator of the courts.

The court facilities capital review board shall consider, in approving or disapproving a capital plan for each political subdivision, the legal obligation of the political subdivision under section thirty-nine of the judiciary law to provide goods, services and facilities suitable and sufficient for the transaction of the business of the unified court system, and such political subdivision's fiscal capacity, including but not limited to total taxes raised, total income generated, existing municipal debt and overall capital needs.

4. Nothing contained in this section shall be construed to limit or diminish the authority of the chief administrator of the courts pursuant to subdivision three of section thirty-nine and section thirty-nine-a of the judiciary law to determine whether a political subdivision has ceased or failed to provide goods, services or facilities suitable and sufficient for the transaction of business, and to notify the state comptroller of such determination.

§ 1680-d. Sale of bonds by the authority. 1. (a) Notwithstanding any other provision of law, the bonds of the authority issued pursuant to section one thousand six hundred eighty-b of this chapter shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect a satisfactory sale.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the executive director, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales.

2. The private or public bond sale guidelines set by the authority shall include, but not be limited to a requirement that where the interests of the state will be served by a private or public sale of bonds, the authority shall select underwriters for private or public bond sales conducted pursuant to a request for proposal process undertaken in accordance with the authority's procurement guidelines adopted pursuant to section twenty-eight hundred seventy-nine of this chapter from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business

enterprises so as to promote and assist participation by such enterprises.

3. The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this section.

4. No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the comptroller.

5. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in subdivision two of this section, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

6. (a) The authority shall annually submit its bond sale report to the comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(b) The authority shall make available to the public copies of its bond sale report upon reasonable request therefor.

7. Nothing contained in this section shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this section.

§ 1680-e. State university athletic facilities. 1. The authority may design, acquire, construct, reconstruct, rehabilitate, improve or otherwise provide, furnish and equip a state university athletic facility and for that purpose may issue its bonds in accordance with the provisions of this article.

2. The state shall annually appropriate to the authority and on June tenth and December tenth of each year pay to or upon the order of the authority on account of state university athletic facilities the sum of:

(a) the interest on bonds issued in connection with state university athletic facilities payable on the interest payment date next succeeding such June tenth or December tenth;

(b) one-half of the principal or sinking fund installments of such bonds payable on the July first next succeeding such June tenth or December tenth;

(c) the amount required by the agreement of the authority with the holders of such bonds to be paid to maintain or restore any reserve fund to the requirement for such reserve fund; and

(d) one-half of the fees, expenses, administrative costs and overhead of the authority incurred or to be incurred in connection with or allocated to state university athletic facilities or bonds issued in connection therewith, including amounts, if any, to be rebated to the department of the treasury of the United States of America pursuant to the internal revenue code of 1986, as amended, or the regulations adopted thereunder.

The amount of money required to be paid pursuant to this subdivision shall be determined from the report required to be submitted by the authority pursuant to subdivision five of this section.

The state shall receive a credit against the payments required to be made pursuant to paragraphs (a) and (b) of this subdivision in an amount equal to the amount by which the amount in the debt service fund established pursuant to the agreement of the authority and the holders of bonds issued in connection with state university athletic facilities on the date of any such payment is to be made exceeds the amount required pursuant to such resolution to be on deposit in such fund or required to pay the purchase price or redemption price, including accrued interest to the date of purchase or redemption, of bonds outstanding theretofore contracted to be purchased or called for redemption.

3. Any payments to be made by the state may be pledged and assigned by

the authority to secure the payment of the principal of and interest on bonds issued by the authority to finance the cost of the design and construction of a state university athletic facility and other costs and necessary or incidental expenses related thereto. The right of the authority to receive the payment of amounts appropriated shall be enforceable by the authority. All public officers are authorized and required to pay all such money due to the authority to the authority or its designee pursuant to a certificate filed with any such public officer pursuant to the provisions of this subdivision.

4. The state university of New York may, with respect to such state university athletic facility, transfer title or grant any other real property interests or rights to the authority, and the authority may transfer title or grant any other real property interests to the state university of New York.

5. Not later than one hundred twenty days prior to the beginning of the fiscal year of the state, the authority shall submit to the director of the budget, the state comptroller, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, a report setting forth in connection with a state university athletic facility the following:

(a) the principal and sinking fund installments of and interest on bonds issued in connection with state university athletic facilities, payable during the next succeeding fiscal year of the state;

(b) the amount required to be paid during the next succeeding fiscal year of the state pursuant to the agreement of the authority with the holders of such bonds to restore or maintain any reserve fund established pursuant to such agreement; and

(c) the fees, expenses, administrative costs and overhead estimated by the authority to be incurred by it during the next succeeding fiscal year of the state in connection with or to be allocated during the next succeeding fiscal year of the state to state university athletic facilities or bonds issued in connection therewith, including amounts, if any, to be rebated to the department of the treasury of the United States of America pursuant to the internal revenue code of 1986, as amended, or the regulations adopted thereunder.

The report submitted by the authority pursuant to this subdivision may be amended from time to time prior to any date on which payment is required to be made by the state pursuant to subdivision two of this section.

6. The state university trustees shall, notwithstanding any other provision of law, be empowered to allow employees, representatives, agents of, and persons or entities under contract to the authority to enter upon the campus of the state university of New York at Buffalo for purposes of managing the acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of the state university athletic facility, including, but not limited to, the connection of such facility with the existing infrastructure of the campus. Upon the determination by the authority that the right to enter upon the campus of the state university of New York at Buffalo created hereunder is no longer necessary for such acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing or equipping of such state university athletic facility by the authority, the authority shall relinquish its right established hereunder to enter upon the campus of the state university of New York at Buffalo. The authority shall have the power to enter into agreements with individuals, partnerships, corporations or any other entity in order to take whatever actions are necessary to carry out the provisions of this section.

7. Notwithstanding any other provision of this section, or any other provision of law, funds for any payments to the authority on account of a state university athletic facility shall be paid exclusively from appropriations intended for this purpose.

8. The authority shall not issue its bonds to finance the design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of a state university athletic facility in an aggregate principal amount greater than twenty-two million dollars; provided, however, that, in addition to such bonds, the authority may issue an aggregate principal amount of bonds sufficient to fund any reserve funds

established in connection therewith to pay the costs incurred in connection with the issuance of any of such bonds and the cost of the management of the design and construction of the state university athletic facility.

9. With respect to the financing, design, acquisition, construction, reconstruction, rehabilitation, improvement, or otherwise providing, furnishing and equipping of a state university athletic facility, any member, officer or employee of the authority is deemed to be an employee as such term is defined in and for all of the purposes of the provisions of section seventeen of the public officers law, which shall be applicable to any such member, officer or employee.

10. If a state university athletic facility or part thereof is taken by eminent domain or condemnation, or damaged or destroyed, then and in such event:

(a) if, within one hundred twenty days from the occurrence, the state university of New York notifies the authority in writing of its intention to replace or restore such state university athletic facility, the state university of New York shall proceed to replace or restore such state university athletic facility, including all fixtures, furniture, equipment and effects, to its original condition insofar as possible. The moneys required for such replacement or restoration shall be paid from the proceeds of any condemnation award or insurance received by reason of such occurrence and, to the extent that such proceeds are not sufficient, from any moneys available therefor in any fund established pursuant to the agreement of the authority with the holders of bonds issued in connection with a state university athletic facility, if any, or from moneys to be provided by the state university of New York; or

(b) if the authority has not within such one hundred twenty day period been notified in writing of the intention of the state university of New York to restore or replace such state university athletic facility, the dormitory authority in its discretion may determine that such state university athletic facility has been abandoned and is no longer useful or necessary in the operation of the state university of New York. In such event, the proceeds of any condemnation award or insurance received by reason of such occurrence shall be applied and paid in the manner and order of priority as provided in such agreement with the holders of such bonds.

§ 1680-f. Roswell Park Cancer Institute development account. The dormitory authority shall create and establish a special account to be known as the Roswell Park Cancer Institute development account and shall pay into such account any moneys which may be made available to the authority for the purpose of such account from any source, including but not limited to, moneys appropriated by and made available pursuant to appropriations by the state and any increase or interest earned by or increments to the account due to the investment thereof prior to expenditures from such account for the purposes of the Roswell Park Cancer Institute. The moneys held in or credited to the Roswell Park Cancer Institute development account established under this section shall be expended solely to carry out the development of the Roswell Park Cancer Institute by the authority.

§ 1680-g. Child care facilities development program; authority financing of eligible child care facilities development projects. 1. The dormitory authority is hereby authorized to finance eligible child care facilities development projects which are intended to serve the needs of low-income working families or an area with demonstrated child care need or to provide care for children through the age of twelve years and enrolled in school following the completion of the school day or the school year. Such projects shall be used as licensed or registered forms of child care for a period of at least ten years with an average of twenty-five percent of its available child care slots set aside for families eligible for low-income child care subsidies or for referrals of low-income or public assistance families from local social services districts. Such project shall have a useful life of at least ten years.

2. (a) Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority

in providing for the financing of eligible child care facilities development projects, the director of the budget is authorized in any state fiscal year commencing April first, nineteen hundred ninety-nine or any state fiscal year thereafter to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations.

(c) Any such service contracts shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent monies are available and that no liability shall be incurred by the state beyond the monies available for the purpose, and that such obligation is subject to annual appropriations by the legislature.

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related payments required for any bonds, notes, or other obligations of the dormitory authority issued pursuant to this section.

3. The dormitory authority in conjunction with the office of children and family services shall develop a request for applications soliciting potential applicants seeking assistance for the development of licensed child care center projects. The office of children and family services shall receive, initially review, and assess applications to determine which projects should be referred to the authority and to rank by groups the referred projects according to the capacity of such projects to meet identified needs for child care. In assessing such applications, the

office of children and family services shall consider:

(a) the needs for child care services in the area;

(b) the potential viability for a child care center to succeed in the area;

(c) the qualifications of the proposed provider to operate the proposed child care center;

(d) the potential for meeting applicable regulatory requirements;

(e) the appropriateness of the site for licensing as a child care center; and

(f) such other matters as the office of children and family services determines necessary to properly and completely evaluate an application.

Upon the timely completion of the office of children and family services' initial review and selection of applications meeting criteria, the office shall submit such selected applications and the group rankings of such applications to the dormitory authority which shall select grant recipients.

4. (a) The dormitory authority shall, from any appropriations made available for this purpose, establish a child care facilities development program that shall offer child care facilities development grants pursuant to paragraphs (d), (e) and (f) of this subdivision.

(b) Financing for child care facilities development projects authorized pursuant to this section shall only be made upon the determination by the authority, in consultation with the office of children and family services, that such a center or school-age program will increase supply and access to child care. Such centers or school-age programs shall demonstrate the potential to obtain from the office of children and family services and other appropriate governmental agencies, all necessary approvals, licenses, and other supports to operate the center.

(c) Such financing shall consist of grants for the establishment, expansion, and development of licensed child care centers.

(d) Grants shall be used for general project development costs, including but not limited to: (i) the acquisition, design, construction, improvement, or renovation of the site, and (ii) the purchase of necessary equipment.

(e) For the purposes of this subdivision, grants shall not exceed ninety percent of the total project costs. Child care facilities development grants shall not be limited to funds appropriated therefor and may consist of monies from any source, public or private, made available for such grants.

(f) Child care facilities development grants awarded pursuant to this section shall be available for not-for-profit child care facilities development projects owned or to be owned by not-for-profit corporations for use as child day care centers that will be duly approved, licensed, inspected, supervised, and regulated as may be determined to be necessary and appropriate by the authority.

5. (a) To obtain funds for the purposes of this section, the authority shall have power from time to time to issue negotiable bonds or notes. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

(b) The dormitory authority shall not issue any bonds or notes in an amount in excess of thirty million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

(c) In computing for the purposes of paragraph (b) of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory authority issued pursuant to this title, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this paragraph may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

(d) The state of New York hereby covenants with the purchasers, holders and owners from time to time of the bonds of the authority issued pursuant to this section that it will not, subject to the provisions of subparagraph (c) of subdivision two of this section, repeal, revoke, rescind, modify or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders and owners or significantly impair the prospect of payment of any such bond.

§ 1680-h. Sale of bonds by the authority. 1. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to section sixteen hundred eighty-g of this article shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a definitive trade publication of the municipal bond industry, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is sent via a definitive trade wire service of the municipal bond industry which in general makes available information regarding activity in sales of municipal bonds at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgement, may be necessary to effect a satisfactory sale.

2. Notwithstanding the provisions of subdivision one of this section, whenever in the judgement of the authority the interests of the authority will be served thereby, the authority may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales.

§ 1680-i. Judiciary; authority financing of courthouse improvements.
1. The dormitory authority is hereby authorized to finance eligible courthouse improvements.

2. (a) Subject to the provisions of chapter fifty-nine of the laws of two thousand and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing for the financing of courthouse improvements, the director of the budget is authorized in any state fiscal year commencing April first, two thousand two or any state fiscal year thereafter to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations.

(c) Any such service contracts shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent monies are available and that no liability shall be incurred by the state beyond the monies available for the purpose, and that such obligation is subject to annual appropriations by the legislature.

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related payments required for any bonds, notes, or other obligations of the dormitory authority issued pursuant to this section.

3. (a) To obtain funds for the purposes of this section, the authority shall have power from time to time to issue negotiable bonds or notes. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

(b) The dormitory authority shall not issue any bonds or notes in an amount in excess of thirty-seven million six hundred thousand dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

(c) In computing for the purposes of paragraph (b) of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory authority issued pursuant to this title, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes; provided that the amount so excluded under this paragraph may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

(d) The state of New York hereby covenants with the purchasers, holders, and owners from time to time of the bonds of the authority issued pursuant to this section that it will not, subject to the provisions of paragraph (c) of subdivision two of this section, repeal, revoke, rescind, modify, or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair, or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders, and owners or significantly impair the prospect of payment of any such bond.

*** § 1680-j. New York state higher education capital matching grant board; creation; procedure.** 1. Creation. (a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March thirty-first, two thousand nine, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not effect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

(b) The membership of the board shall consist of three persons appointed by the governor, of which one shall be upon the recommendation of the temporary president of the senate and one upon the recommendation of the speaker of the assembly. The term of the members first appointed shall continue until March thirty-first, two thousand five, and thereafter their successors shall serve for a term of one year ending on March thirty-first in each year. Upon recommendation of the nominating party, the governor shall replace any member in accordance with the provision contained in this subdivision for the appointment of members. The members of the board shall vote among themselves to determine who shall serve as chair. The board shall act by unanimous vote of the members of the board. Any determination of the board shall be evidenced by a certification thereof executed by all the members. Each member of the board shall be entitled to designate a representative to attend meetings of the board on the designating member's behalf, and to vote or otherwise act on the designating member's behalf in the designating member's absence. Notice of such designation shall be furnished in writing to the board by the designating member. A representative shall serve at the pleasure of the designating member during the member's term of office. A representative shall not be authorized to delegate any of his or her duties or functions to any other person.

(c) Every officer, employee, or member of a governing board or other board of any college or group or association of colleges, and every New York state regent, every officer or employee of the board of regents or the department of education and every trustee, officer or employee of the state university of New York or the city university of New York shall be ineligible for appointment as a member, representative, officer, employee or agent of the board.

(d) The members of the board shall serve without salary or per diem allowance but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties pursuant to this section or other provision of law, provided however that such members and representatives are not, at the time such expenses are incurred, public officers or employees otherwise entitled to such reimbursement.

(e) The members, their representatives, officers and staff to the board shall be deemed employees within the meaning of section seventeen of the public officers law.

2. Definitions. For the purposes of this section, the following terms shall have the respective meanings:

(a) "Base grant amount" shall mean a grant equal to $17.5 million distributed equally among independent colleges, provided however that for an eligible independent college with a final fall full-time equivalent enrollment for the two thousand three--two thousand four academic year as published by the state education department of less than one hundred final full-time equivalent students the base grant amount shall be one hundred thousand dollars.

(b) "Board" shall mean the New York state higher education capital matching grant board created by paragraph (a) of subdivision one of this section.

(c) "College" shall mean a public or independent college.

(d) "Endowment" shall mean the total unrestricted assets whose principal is nonexpendable and is held to the benefit of the college and invested to provide earnings for institutional use as reported within a college's independently audited financial statements as submitted to the dormitory authority. Such total shall exclude assets whose principal supports employee annuity or pension costs, or assets whose purpose is restricted to the support of the current operations of the college.

(e) "Full-time equivalent students" shall mean a college's final fall full-time equivalent enrollment for the two thousand three-two thousand four academic year as published by the state education department.

(f) "Independent college" shall mean each independent not-for-profit institution of higher education, as defined in subdivision two of section sixty-four hundred one of the education law.

(g) "Non-state funds" shall mean any funds received no earlier than one hundred eighty days before the effective date of this section, except state funds, accessible by the college for the project including, but not limited to, federal funds, local funds, private funds, and in-kind contributions provided, however that public colleges may not use funds resulting from the imposition of student tuition or fees as non-state funds.

(h) "Project" shall mean the design, acquisition, reconstruction, rehabilitation, or equipping of a facility on or near a college campus within the state of New York, including critical academic facilities, economic development and/or high technology projects, and urban renewal and/or historical preservation projects that would enhance the programmatic offerings or the student life at the college or provide economic development benefits to the area surrounding such college

campus.
(i) "Public college" shall mean each component of the state university, as defined in subdivision three of section three hundred fifty-two of the education law and in subdivision two of section sixty-three hundred one of the education law and each senior college and community college of the city university of New York, as defined in subdivisions four and five of section sixty-two hundred two of the education law.
(j) "Total academic square footage amount" shall mean an amount equal to the product of (i) 26.25 million dollars for the state university of New York or 17.5 million dollars for the city university of New York, multiplied by (ii) the eligible college's proportion of the total square footage of academic facilities operated by all components of the state university of New York, as defined in subdivision three of section three hundred fifty-two and in subdivision two of section sixty-three hundred one of the education law or all senior colleges and community colleges of the city university of New York, as defined in subdivisions four and five of section sixty-two hundred two of the education law, respectively.
(k) "Total full-time equivalent amount" shall mean an amount equal to the product of (i) 78.75 million dollars for independent colleges or 52.5 million dollars for colleges of the state university of New York or thirty-five million dollars for colleges of the city university of New York, multiplied by (ii) the eligible college's proportion of the total full-time equivalent students for all eligible independent colleges, all components of the state university of New York, as defined in subdivision three of section three hundred fifty-two and in subdivision two of section sixty-three hundred one of the education law, or all senior colleges and community colleges of the city university of New York, as defined in subdivisions four and five of section sixty-two hundred two of the education law, respectively, and calculated from an eligible college's final fall full-time equivalent enrollment for the two thousand three--two thousand four academic year as published by the state education department.
(l) "Total TAP expenditure amount" shall mean an amount equal to the product of (i) the product of forty-five percent of one hundred seventy-five million dollars for independent colleges or the product of

twenty-five percent of one hundred five million dollars for colleges of the state university of New York or the product of twenty-five percent of seventy million dollars for colleges of the city university of New York, multiplied by (ii) an eligible college's proportion of the total funding received under section six hundred sixty-seven of the education law by all eligible independent colleges, all components of the state university of New York, as defined in subdivision three of section three hundred fifty-two and in subdivision two of section sixty-three hundred one of the education law, or all senior colleges and community colleges of the city university of New York, as defined in subdivisions four and five of section sixty-two hundred two of the education law, respectively, as estimated by the higher education services corporation for the two thousand three-two thousand four academic year.

3. Powers, functions and duties of the New York state higher education capital grant board; limitations. (a) The New York state higher education capital grant board shall have the power and it shall be its duty to approve or deny applications received from colleges for higher education capital matching grants. In making such determination, the board shall verify that the criteria set forth in paragraph (e) of subdivision four of this section have been met. If necessary, the board may request additional information from the college when making such determination.

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling three hundred fifty million dollars. The public college sector and the independent college sector shall each be eligible to receive grants totaling not more than one hundred seventy-five million dollars. Each public college and independent college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such public colleges and independent colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.

(c) The board shall approve or disapprove the methodology and the resulting matching ratios developed by the dormitory authority pursuant to paragraph (c) of subdivision four of this section.

(d) The board shall approve or deny applications for waivers of the standard matching requirement under paragraph (d) of subdivision four of this section.

4. New York state higher education capital matching grant program administration and financing.

(a) The dormitory authority is hereby authorized and directed to administer the New York state higher education capital matching grant program.

(b) The dormitory authority shall serve as staff to the New York state higher education capital matching grant board, including, with the cooperation of any other state agency, the preparation of information which would assist the board in carrying out its duties.

(c) The dormitory authority of the state of New York shall develop a methodology to determine the required non-state funds contribution for colleges. Such methodology shall consider endowment per full-time equivalent student and tuition and fees. Such methodology shall require a greater contribution from those colleges with greater fiscal resources as measured by endowment per full-time equivalent student and tuition and fees. For public colleges the numerator in the matching ratio of non-state funds to grant award amount shall not be greater than two or less than 0.5 and the denominator shall be equal to one for public community colleges, the numerator in the matching ratio of non-state funds to grant award amount shall not be greater than one or less than 0.5 and the denominator shall be equal to one; and for independent colleges the numerator in the matching ratio of non-state funds to grant award amount shall not be greater than three or less than 0.5 and the denominator shall be equal to one. Such methodology and the resulting matching ratios shall be submitted to the board for approval within thirty days after the effective date of this section and shall be made available to potential applicants once approved.

(d) The standard matching requirement for the purposes of determining a college's required non-state funds contribution shall be as provided in this paragraph. For public colleges the numerator in the standard matching requirement of non-state funds to grant award amount shall be equal to two and the denominator shall be equal to one for public community colleges the numerator in the standard matching requirement of non-state funds to grant award amount shall be equal to one and the denominator shall be equal to one; and for independent colleges the numerator in the standard matching requirement of non-state funds to grant award amount shall be equal to three and the denominator shall be equal to one. Colleges may apply for a waiver of such standard matching requirement. If such waiver is approved by the board, the required non-state funds contribution shall be determined by the methodology set forth in paragraph (c) of subdivision four of this section.

(e) The dormitory authority shall develop a standard application for such grants. Such application shall require colleges to provide, at a minimum, the following:

(i) The amount of grant request, such request not to exceed the eligible grant award amount, as provided for in subdivision five of this section. No more than three and one-half of one percent of any capital matching grant issued under this program may be allocated to any college or to any subsidiary or organization associated therewith for purposes which may include, but not be limited to, any direct or indirect costs of administering the program not contained in the application requesting such capital matching grant, provided however, that no monies granted under the program shall be used to supplant any direct or indirect costs of the grant recipient;

(ii) A statement that the proposed project would enhance the programmatic offerings or the student life at the college or provide economic development benefits to the surrounding area;

(iii) Whether the project is eligible for funding under the state university or city university capital plan;

(iv) Whether the project has the participation and financial support of a consortium of colleges and/or public or private partnerships;

(v) A detailed description of the project, including projected costs including the sources and uses of funds, completion timeline, and funds necessary at each stage of project completion;

(vi) A description of the type or types of non-state funds to be utilized and the source of such funds;

(vii) Information to demonstrate the ability to access sufficient non-state funds to meet the matching ratio requirement, as provided for in paragraph (c) of this subdivision or the standard matching requirement as provided for in paragraph (d) of this subdivision;

(viii) A statement that as of the effective date of this section, construction had not begun and equipment had not been purchased for such project;

(ix) A statement whether a recurring source of revenue shall be available to support facility operations and maintenance for the project that the capital matching grant is funding; and

(x) A statement whether, the project has received all necessary regulatory approvals or can demonstrate a reasonable expectation that such approvals will be secured.

(f) Upon receipt of a matching grant application, the dormitory authority shall review such grant application for technical sufficiency and compliance with the application criteria as provided for in paragraph (e) of this subdivision. If necessary, the dormitory authority may request additional information from the applicant. When the application is complete, the dormitory authority shall submit such application with an analysis to the capital grant board for its approval or denial.

(g) In order to be eligible for such grants, colleges must provide notification to the dormitory authority of an intent to apply for a grant no later than March thirty-first, two thousand seven and must apply for such grant no later than March thirty-first, two thousand eight.

(h) If a college does not apply for a grant by March thirty-first, two thousand eight, funds associated with such potential grant shall be awarded, on a competitive basis, to other colleges. Public colleges shall be eligible to apply for unutilized public college grants within their respective systems and independent colleges shall be eligible to apply for unutilized independent college grants. The dormitory authority shall develop a request for proposals and application process, in consultation with the board, for such grants and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria shall incorporate the matching criteria contained in paragraph (c) of this subdivision, and the application criteria set forth in paragraph (e) of this subdivision. The dormitory authority shall require all applications in response to the request for proposals to be submitted by September first, two thousand eight, and the board shall act on each application for such matching grants by November first, two thousand eight.

(i) The dormitory authority shall develop a model contract provision to be used in any contract which involves a project for which a college has received a matching grant. Such provision shall indemnify and hold the state of New York harmless from any and all claims for loss or liability alleged to have been caused or resulting from any work involving such project.

(j) (i) The dormitory authority is hereby authorized and directed to assist in financing higher education projects by providing to eligible colleges higher education capital matching grants that have been approved by the New York state higher education capital matching grant board.

(ii)(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter fifty-nine of the laws of two thousand and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April first, two thousand four or any state fiscal year thereafter for a period ending on March thirty-first, two thousand nine, to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

(B) Any service contract entered into pursuant to clause (A) of this subparagraph or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations.

(C) Any such service contracts shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent monies are available and that no liability shall be incurred by the state beyond the monies available for the purpose, and that such obligation is subject to annual appropriations by the legislature.

(D) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related payments required for any bonds, notes, or other obligations of the dormitory authority issued pursuant to this section.

(iii)(A) To obtain funds for the purposes of this section, the authority shall have power from time to time to issue negotiable bonds or notes. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

(B) The dormitory authority shall not issue any bonds or notes in an amount in excess of three hundred fifty million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

(C) In computing for the purposes of clause (B) of this subparagraph, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory authority issued pursuant to this title, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes; provided that the amount so excluded under this clause may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

(D) The state of New York hereby covenants with the purchasers, holders, and owners from time to time of the bonds of the authority issued pursuant to this section that it will not, subject to the provisions of clause (C) of subparagraph (ii) of this paragraph, repeal, revoke, rescind, modify, or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair, or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders, and owners or significantly impair the prospect of payment of any such bond.

(iv) In addition to the authority with respect to financing higher education projects provided to the dormitory authority in subparagraph (iii) of this paragraph, the dormitory authority is hereby authorized to finance that portion of any higher education project approved to receive a higher education capital matching grant that is in excess of the amount of such grant and which shall be the non-state funds portion of the cost of such project to the same extent and under the same powers and procedures as if such project were named in paragraph (b) of subdivision two of section sixteen hundred seventy-six of this title and in subdivision one of section sixteen hundred eighty of this title.

5. Limitation on awards. Colleges eligible for participation in the higher education capital matching grants program pursuant to this section shall be eligible to receive a higher education capital matching grant pursuant to the following calculations:

(a) Each independent college shall be eligible to receive a grant equal to the sum of its total full-time equivalent amount, its total TAP expenditure amount and its base grant amount; and

(b) Each public college shall be eligible to receive a grant equal to the sum of its total full-time equivalent amount, its total TAP expenditure amount and its total academic square footage amount.

Provided, however, that an Independent non-profit comprehensive, non-traditional, non-instructional assessment institution whose external degree programs only validated a candidate's education experience and granted over four thousand degrees in the two thousand one--two thousand two academic year shall be eligible to receive a base grant equal to the product of (i) $17.5 million dollars; and (ii) its proportion of the total number of non-associate degrees conferred by all colleges and universities statewide for the two thousand one--two thousand two academic year as reported by the state education department.

The dormitory authority shall calculate the amount of the grants that each independent college and each public college shall be eligible to receive in accordance with the limitations set forth in this subdivision as soon as practicable but no more than forty-five days after the effective date of this section and shall make such information conveniently available to the colleges including by the use of electronic dissemination methods.

6. Contracts. (a) Each contract entered into by a college, which involves a project for which the college has received a capital grant award, shall be subject to the approval of the comptroller and, as to form and manner of execution, by the attorney general of the state of New York.

(b) Each contract entered into by a college shall include the provision as provided for in paragraph (i) of subdivision four of this section, which shall indemnify and hold the state of New York harmless from any and all claims for loss or liability alleged to have been caused or resulting from any work involving such project.

(c) Each contract entered into by a public college or made in connection with a capital matching grant made to a consortium of colleges that includes a public college regardless of which member of the consortium shall be the contracting party shall be awarded by a competitive process and shall be deemed a state contract for the purposes of article nine of the state finance law, provided, however, that any contract which would not be a state contract except for the application of this paragraph shall not be subject to section one hundred thirty-five of the state finance law.

(d) Each contract entered into by a public college or made in connection with a capital matching grant made to a consortium of colleges that includes a public college regardless of which member of the consortium shall be the contracting party shall require that the work covered by such contract shall be deemed "public work" and subject to and performed in accordance with articles eight, nine and ten of the labor law and, for the purposes of article fifteen-A of the executive law, the contracting party under such contracts shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article.

(e) Independent colleges whose contracts are not state contracts for the purposes of article nine of the state finance law and article fifteen-A of the executive law and whose projects under such contracts do not involve public work so as to be subject to articles eight, nine, and ten of the labor law, shall execute an undertaking, as a condition of receiving any capital matching grant, to voluntarily comply with article nine of the state finance law, except section one hundred thirty-five of such law, article fifteen-A of the executive law, and articles eight, nine, and ten of the labor law so far as the same would be applicable to the contracts of a public college, and to be subject to the enforcement provisions of said articles to the same extent.

7. Reporting. (a) The New York state higher education capital matching grant board shall, annually on or before December first, prepare and submit an annual report to the governor and the chair of the assembly ways and means committee and the chair of the senate finance committee. Such report shall contain at a minimum the following information: (i) a list of all applications filed by any college for a grant under the higher education capital grant program including the name of the applying college, a brief description of the project, and the amount of the grant requested; (ii) a list of the applications granted by the board specifying the amount of the grant approved if such amount is different from the amount applied for; and (iii) a statement showing the dollar amount of all grants approved by the board and the dollar amount of the remaining capacity for future grants.

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June first, two thousand seven, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November first, two thousand seven to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such report shall provide information on the progress and economic impact of each project.

* NB There are 2 § 1680-j's

* § 1680-j. Authorization for the issuance of bonds for the health care efficiency and affordability law for New Yorkers (HEAL NY) capital grant program. Notwithstanding any other provision of law to the contrary, the dormitory authority of the state of New York is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed seven hundred fifty million dollars excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purposes of financing project costs authorized under section twenty-eight hundred eighteen of the public health law. Of such seven hundred fifty million dollars, ten million dollars shall be made available to the community health centers capital program established pursuant to section twenty-eight hundred seventeen of the public health law.

1. Such bonds and notes of the dormitory authority shall not be a debt of the state and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority for debt service and related expenses pursuant to any service contract executed pursuant to subdivision two of this section, and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds. All of the provisions of the dormitory authority act relating to bonds and notes which are not inconsistent with the provisions of this section shall apply to obligations authorized by this section, including but not limited to the power to establish adequate reserves therefore and to issue renewal notes or refunding bonds thereof. The issuance of any bonds or notes

hereunder shall further be subject to the approval of the director of the division of the budget, and any projects funded through the issuance of bonds or notes hereunder shall be approved by the New York state public authorities control board, as required under section fifty-one of this chapter.

2. Notwithstanding any other law, rule or regulation to the contrary, in order to assist the dormitory authority in undertaking the administration and financing of projects authorized under this section, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority, none of which shall exceed more than thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority agree, so as to annually provide to the dormitory authority, in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for the bonds and notes issued pursuant to this section. Any service contract entered into pursuant to this subdivision shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purposes, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned or pledged by the dormitory authority as security for its bonds and notes, as authorized by this section.

3. Notwithstanding any law to the contrary, and in accordance with section four of the state finance law, the comptroller is hereby authorized and directed to transfer from the health care reform act (HCRA) resources fund (061) to the general fund, upon the request of the director of the budget, up to $6,500,000 on or before March 31, 2006, and the comptroller is further hereby authorized and directed to transfer from the healthcare reform act (HCRA); Resources fund (061) to the Capital Projects Fund, upon the request of the director of budget, up to $139,000,000 for the period April 1, 2006 through March 31, 2007, up to $171,100,000 for the period April 1, 2007 through March 31, 2008,

up to $208,100,000 for the period April 1, 2008 through March 31, 2009, up to $151,600,000 for the period April 1, 2009 through March 31, 2010, up to $215,743,000 for the period April 1, 2010 through March 31, 2011, up to $433,366,000 for the period April 1, 2011 through March 31, 2012, up to $150,806,000 for the period April 1, 2012 through March 31, 2013, up to $78,071,000 for the period April 1, 2013 through March 31, 2014, and up to $86,005,000 for the period April 1, 2014 through March 31, 2015, and up to $86,005,000 for the period April 1, 2015 through December 31, 2017.

* NB There are 2 § 1680-j's

§ 1680-k. Financing of department of agriculture and markets facilities. In order to effectuate the purpose of this title, the dormitory authority shall have the following additional powers:

1. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any provisions of law to the contrary, the dormitory authority is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed forty-one million two hundred ninety thousand dollars $41,290,000, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing the construction of the New York state agriculture and markets food laboratory. Eligible project costs may include, but not be limited to the cost of design, financing, site investigations, site acquisition and preparation, demolition, construction, rehabilitation, acquisition of machinery and equipment, and infrastructure improvements. Such bonds and notes of such authorized issuers shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuers for debt service and related expenses pursuant to any service contract executed pursuant to subdivision two of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall

only be used to pay debt service on such bonds.

2. Notwithstanding any provisions of law to the contrary, in order to assist such authorized issuers in undertaking the administration and financing of the projects authorized pursuant to subdivision one of this section, the director of the budget is hereby authorized to enter into one or more service contracts with such authorized issuers, none of which shall exceed more than twenty years in duration, upon such terms and conditions as the director of the budget and such authorized issuers shall agree, so as to annually provide to such authorized issuers, in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for the bonds and notes issued pursuant to this section. Any service contract entered into pursuant to this subdivision shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executor only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purposes, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned or pledged by such authorized issuers as security for its bonds and notes, as authorized by this section.

§ 1680-l. The special disability fund financing. 1. As used in this section the following terms shall have the following meanings:

(a) "Ancillary bond facility" means any interest rate exchange or similar agreement or any bond insurance policy, letter of credit or other credit enhancement facility, liquidity facility, guaranteed investment or reinvestment agreement, or other similar agreement, arrangement or contract.

(b) "Benefited party" means any person, firm or corporation that enters into an ancillary bond facility with the authority according to the provisions of this section.

(c) "Bonds" means any bonds, notes, certificates of participation and other evidence of indebtedness issued by the authority pursuant to subdivision five of this section.

(d) "Bond owners or owners of bonds" means any registered owners of bonds.

(e) "Chair" means the chair of the workers' compensation board.

(f) "Code" means the United States Internal Revenue Code of 1986, as amended.

(g) "Costs of issuance" means any item of expense directly or indirectly payable or reimbursable by the authority and related to the authorization, sale, or issuance of bonds, including, but not limited to, underwriting fees and fees and expenses of professional consultants and fiduciaries.

(h) "Debt service" means actual debt service, comprised of principal, interest and associated costs, as defined in subparagraph five of paragraph (h) of subdivision eight of section fifteen of the workers' compensation law.

(i) "Director of the budget" or "director" means the director of the budget of the state of New York.

(j) "Financing agreement" means any agreement authorized pursuant to subdivision four of this section between the chair and the commissioner of taxation and finance, and the authority.

(k) "Financing costs" means all costs of issuance, capitalized interest, capitalized operating expenses of the authority and, pursuant to the financing agreement, the initial capitalized operating expenses of the waiver agreement management office and debt service reserves, fees, cost of any ancillary bond facility, and any other fees, discounts, expenses and costs related to issuing, securing and marketing the bonds including, without limitation, any net original issue discount.

(l) "Investment securities" means: (i) general obligations of, or obligations guaranteed by, any state of the United States of America or political subdivision thereof, or the District of Columbia or any agency or instrumentality of any of them, receiving one of the three highest long-term unsecured debt rating categories available for such securities of at least one independent rating agency, or (ii) certificates of deposit, savings accounts, time deposits or other obligations or accounts of banks or trust companies in the state, secured, if the authority shall so require, in such manner as the authority may so determine, or (iii) obligations in which the comptroller is authorized to invest pursuant to either section ninety-eight or ninety-eight-a of the state finance law, or (iv) investments which the commissioner of taxation and finance is permitted to make with surplus or reserve moneys of the special disability fund under subparagraph seven of paragraph (h) of subdivision eight of section fifteen of the workers' compensation law.

(m) "Interest rate exchange or similar agreement" means a written contract entered into in connection with the issuance of bonds or with such bonds outstanding with a counterparty to provide for an exchange or swap of payments based upon fixed and/or variable interest rates, and shall be for exchanges in currency of the United States of America only.

(n) "Net proceeds" means the amount of proceeds remaining following each sale of bonds which are not required by the authority for purposes of this section to pay or provide for debt service or financing costs, as provided in the financing agreement.

(o) "Operating expenses" means the reasonable or necessary operating expenses of the authority for purposes of this section, including, without limitation, the costs of: retention of auditors, preparation of accounting and other reports, maintenance of the ratings on the bonds, any operating expense reserve fund, insurance premiums, ancillary bond facilities, rebate payments, annual meetings or other required activities of the authority, and professional consultants and fiduciaries.

(p) "Outstanding", when used with respect to bonds, shall exclude bonds that shall have been paid in full at maturity, or shall have otherwise been refunded, redeemed, defeased or discharged, or that may be deemed not outstanding pursuant to agreements with the holders thereof.

(q) "Pledged assessments revenues", "pledged revenues" or "pledged assessments" means receipts of special disability fund assessments imposed pursuant to subparagraph four of paragraph (h) of subdivision eight of section fifteen of the workers' compensation law and pledged for the payment of debt service on the bonds or amounts due pursuant to an ancillary bond facility, including the right to receive same.

(r) "State" means the state of New York.

(s) "Special disability fund financing agreement" means an agreement authorized and created pursuant to subparagraph five of paragraph (h) of subdivision eight of section fifteen of the workers' compensation law, as same by its terms and bond proceedings, may be amended.

(t) "Waiver agreement" means waiver agreements entered into pursuant to section thirty-two of the workers' compensation law.

(u) "Waiver agreement management office" shall mean the office described in paragraph (e) of section thirty-two of the workers' compensation law.

2. The authority is hereby authorized to finance the special disability fund established by paragraph (h) of subdivision eight of section fifteen of the workers' compensation law and to enter into one or more special disability fund financing agreements described in such subdivision. All of the provisions of the authority relating to bonds and notes which are not inconsistent with the provisions of this section shall apply to obligations authorized by this section, including but not limited to the power to establish adequate reserves therefor and to issue renewal notes or refunding bonds thereof. The provisions of this section shall apply solely to obligations authorized by this section and shall not include liabilities, assets or revenues other than liabilities, assets or revenues derived from the authority solely from the special disability fund.

3. It is found and declared that the special disability fund no longer serves the purposes for which it was created, adds to the time and expense of proceedings before the workers' compensation board and to employers' costs for workers' compensation insurance; that the creation and operation of a waiver agreement management office of the workers' compensation board, to manage, maintain and negotiate waiver agreements on behalf of the special disability fund can reduce the special disability fund's unfunded liability; that the reduction of such liability and the closing of the fund to new claims will over the long term reduce assessments paid to the fund by insurance carriers, self-insurers and the state insurance fund, as well as the employers to whom these costs are passed on; that in the absence of this section the annual cost of such assessments is expected to rise; that the settlement of claims and other actions undertaken by the waiver agreement management office will lower the administrative costs of insurance

carriers, self-insurers and the state insurance fund; that revenue obligations issued by the authority and secured by a special assessment annually levied, imposed and collected on and from insurance carriers, self-insurers and the state insurance fund for the governmental purpose of funding waiver agreements amortized over a substantial period would allow the state to settle and otherwise manage claims as a means for reducing the fund's liabilities and the assessments needed to pay them, thereby furthering the policy of the state to reduce the costs of workers' compensation and to improve the business climate in the state while compensating injured workers and honoring the obligations of the special disability fund; that all costs of the authority in relation to this section shall be paid from assessments set forth in paragraph (h) of subdivision eight of section fifteen of the workers' compensation law; and that, therefore, the provisions of this section are for the public benefit and good and the authorization as provided in this section of the issuance of revenue obligations of the authority is declared to be for a public purpose and the exercise of an essential governmental function.

4. (a) The authority, the commissioner of taxation and finance and the chair, in consultation with the special disability fund advisory committee shall execute a financing agreement prior to the issuance of any bonds. Such agreement shall contain such terms and conditions as are necessary to carry out and effectuate the purposes of this section, including covenants with respect to the assessment and enforcement of the assessments, the application and use of the proceeds of the sale of bonds to preserve the tax-exemption on the bonds, the interest on which is intended to be exempt from taxation. The state shall not be authorized to make any covenant, pledge, promise or agreement purporting to bind the state with respect to pledged revenues, except as otherwise specifically authorized by this section.

(b) The net proceeds of the bonds shall be deposited in accordance with the financing agreement and this section. The financing agreement shall provide for the application of the net bond proceeds, and such bond proceeds shall be used, for any of the following purposes: (i) funding of waiver agreements, (ii) payment of financing costs, (iii) funding anticipated liabilities of the special disability fund, (iv) funding contract awards pursuant to subparagraph two of paragraph (h) of section thirty-two of the workers' compensation law and (v) such other purposes as are set forth in the financing agreement. Not inconsistent with this section, the authority may provide restrictions on the use and investment of net proceeds of the bonds and other amounts in the financing agreement or otherwise in a tax regulatory agreement as necessary or desirable to assure that they are exempt from taxation.

5. (a) (i) The authority shall have power and is hereby authorized to issue its bonds at such times and in an aggregate principal amount not to exceed an amount to be determined by the superintendent of financial services as necessary to address all or a portion of the incurred unfunded liabilities of the special disability fund, but in no case exceeding twenty-five percent of the unfunded liability of the special disability fund as of a date no later than July first, two thousand seven, as certified to the authority by a qualified third party. The bonds shall be issued for the following corporate purposes: (A) funding of waiver agreements, (B) payment of financing costs, (C) funding anticipated liabilities of the special disability fund, (D) funding contract awards pursuant to paragraph two of subdivision (h) of section thirty-two of the workers' compensation law and (E) such other purposes as are set forth in the financing agreement. The foregoing limitation on outstanding aggregate principal shall not apply to prevent the issuance of bonds to refund bonds.

(ii) Each issuance of bonds shall be authorized by a resolution of the authority, provided, however, that any such resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to issue such bonds from time to time and to fix the details of any such issues of bonds by an appropriate certificate of such authorized officer. Every issue of the bonds of the authority for the special disability fund shall be special revenue obligations payable from and secured by a pledge of revenues and other assets, including those proceeds of such bonds deposited in a reserve fund for the benefit of bondholders, earnings on funds of the authority and such other funds and assets as may become available, upon such terms and conditions as specified by the authority in the resolution under which the bonds are issued or in a related trust indenture.

(iii) The authority shall have the power and is hereby authorized from time to time to issue bonds, in consultation with the special disability fund advisory committee to refund any bonds issued under this section by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its other corporate purposes under this section. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(b) The bonds of the authority of each issue shall be dated, shall bear interest (which, in the opinion of bond counsel to the authority, may be includable in or excludable from the gross income of the owners for federal income tax purposes) at such fixed or variable rates, payable at or prior to maturity, and shall mature at such time or times, as may be determined by the authority and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority. The principal and interest of such bonds may be made payable in any lawful medium. The resolution or the certificate of the authorized officer shall determine the form of the bonds, either registered or book-entry form, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or outside the state. If any officer whose signature or a facsimile thereof appears on any bonds shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The authority may also provide for temporary bonds and for the replacement of any bond that shall become mutilated or shall be destroyed or lost.

(c) The authority may sell such bonds in such manner, either at a public or private sale and either on a competitive or negotiated basis, provided no such bonds may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller of the state of New York. The proceeds of such bonds shall be disbursed for the purposes for which such bonds were issued under such restrictions as the financing agreement and the resolution authorizing the issuance of such bonds or the related trust indenture may provide. Such bonds shall be issued upon approval of the authority and without any other approvals, filings, proceedings or the happening of any other conditions or things other than the approvals, findings, proceedings, conditions, and things that are specified and required by this section. Provided, however, that any issuance of bonds under the authority of this section shall be considered a project for the purposes of section fifty-one of this chapter, and subject to approval under such section.

(d) Any pledge made by the authority shall be valid and binding at the time the pledge is made. The assets, property, revenues, reserves or earnings so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, irrespective of whether such parties have notice thereof. Notwithstanding any other provision of law to the contrary, neither the bond resolution nor any indenture or other instrument, including the financing agreement, by which a pledge is created or by which the authority's interest in pledged assets, property, revenues, reserves or earnings thereon is assigned need be filed, perfected or recorded in any public records in order to protect the pledge thereof or perfect the lien thereof as against third parties, except that a copy thereof shall be filed in the records of the authority.

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

(f) At the sole discretion of the authority, any bonds issued by the authority and any ancillary bond facility made under the provisions of this subdivision may be secured by a resolution or trust indenture by and between the authority and the trust indenture trustee, which may be any trust company or bank having the powers of a trust company, whether located within or outside the state, provided it is carried out in accordance with section sixty-nine-d of the state finance law. Such trust indenture or resolution providing for the issuance of such bonds may provide for the creation and maintenance of such reserves as the authority shall determine to be proper and may include covenants setting forth the duties of the authority in relation to the bonds, the income of the authority, or the financing agreement. Such trust indenture or resolution may contain provisions: (i) respecting the custody, safeguarding and application of all moneys and securities; (ii) protecting and enforcing the rights and remedies (pursuant to the trust indenture and the financing agreement) of the owners of the bonds and any other benefited party as may be reasonable and proper and not in violation of law; (iii) concerning the rights, powers and duties of the trustee appointed by bondholders pursuant to paragraph (g) of this subdivision; or (iv) limiting or abrogating the right of the bondholders to appoint a trustee. It shall be lawful for any bank or trust company which may act as depository of the proceeds of bonds or of any other funds or obligations received on behalf of the authority to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust indenture or resolution may contain such other provisions as the authority may deem reasonable and proper for priorities and subordination among the owners of the bonds and other beneficiaries. For purposes of this section, a "resolution" of the authority shall include any trust indenture authorized thereby.

(g) The authority may enter into, amend or terminate, as it determines to be necessary or appropriate, any ancillary bond facility in consultation with the special disability fund advisory committee (i) to facilitate the issuance, sale, resale, purchase, repurchase or payment of bonds, interest rate savings or market diversification or the making or performance of interest rate exchange or similar agreements, including without limitation bond insurance, letters of credit and liquidity facilities, (ii) to attempt to manage or hedge risk or achieve a desirable effective interest rate or cash flow, or (iii) to place the obligations or investments of the authority, as represented by the bonds or the investment of reserved bond proceeds or other pledged revenues or other assets, in whole or in part, on the interest rate, cash flow or other basis decided in consultation with the special disability fund advisory committee, which facility may include without limitation contracts commonly known as interest rate exchange or similar agreements, forward purchase contracts or guaranteed investment contracts and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the authority in connection with, or incidental to, entering into, or maintaining any (i) agreement which secures bonds of the authority or (ii) investment, or contract providing for investment of reserves or similar facility guaranteeing an investment rate for a period of years not to exceed the underlying term of the bonds. The determination by the authority that an ancillary bond facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. Any ancillary bond facility may contain such payment, security, default, remedy, and termination provisions and payments and other terms and conditions as determined by the authority, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

(h) The authority, subject to such agreements with bondholders as may then exist (including provisions which restrict the power of the authority to purchase bonds), or with the providers of any applicable ancillary bond facility, shall have the power out of any funds available therefor to purchase bonds of the authority, which may or may not thereupon be cancelled, at a price not substantially exceeding:

(i) if the bonds are then redeemable, the redemption price then applicable, including any accrued interest; or

(ii) if the bonds are not then redeemable, the redemption price and accrued interest applicable on the first date after such purchase upon which the bonds become subject to redemption.

(i) Neither the members of the authority nor any other person executing the bonds or an ancillary bond facility of the authority shall be subject to any personal liability by reason of the issuance or execution and delivery thereof.

(j) The maturities of the bonds shall not exceed thirty years from their respective issuance dates.

6. Neither any bond issued pursuant to this section nor any ancillary bond facility of the authority shall constitute a debt or moral

obligation of the state or a state supported obligation within the meaning of any constitutional or statutory provision or a pledge of the faith and credit of the state or of the taxing power of the state, and the state shall not be liable to make any payments thereon nor shall any bond or any ancillary bond facility be payable out of any funds or assets other than pledged revenues and other assets of the authority and other funds and assets of or available to the authority pledged therefor, and the bonds and any ancillary bond facility of the authority shall contain on the face thereof or other prominent place thereon a statement to the foregoing effect.

7. (a) Subject to the provisions of subdivision five of this section in the event that the authority shall default in the payment of principal of, or interest on, or sinking fund payment on, any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, or in the event that the authority or the state shall fail to comply with any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

(b) Such trustee, may, and upon written request of the holders of twenty-five percent in principal amount of such bonds then outstanding shall, in his or its own name:

(i) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to carry out any agreement with such holders and to perform its duties under this section;

(ii) bring suit upon such bonds;

(iii) by action or suit, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(iv) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(v) declare all such bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences, provided, however, that nothing in this subdivision shall preclude the authority from agreeing that consent of the provider of an ancillary bond facility is required for an acceleration of related bonds in the event of a default other than a failure to pay principal of or interest on the bonds when due.

(c) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

(d) Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

8. All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall either be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit, or monies of the authority may be deposited in money market funds rated in the highest short-term or long-term rating category by at least one nationally recognized rating agency. To the extent practicable, and consistent with the requirements of the authority, all such monies shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the authority or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as monies of the authority and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the

authority, be invested in accordance with law and such guidelines as are approved by the authority.

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

(b) Any bonds issued pursuant to this section, their transfer and the income therefrom shall, at all times, be exempt from taxation except for estate or gift taxes and taxes on transfers.

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

(d) In the case of any bonds of the authority, interest on which is intended to be exempt from federal income tax, the authority shall prescribe restrictions on the use of the proceeds thereof and related matters only as are necessary or desirable to assure such exemption, and the recipients of such proceeds shall be bound thereby to the extent such restrictions shall be made applicable to them. Any such recipient, including, but not limited to, the state, the state insurance fund, a public benefit corporation, and a school district or municipality is authorized to execute a tax regulatory agreement with the authority or the state, as the case may be, and the execution of such an agreement may be treated by the authority or the state as a condition to receiving any such proceeds.

10. (a) The state, solely with respect to the resources of the special disability fund and as set forth in the special disability fund financing agreement, covenants with the purchasers and all subsequent owners and transferees of bonds issued by the authority pursuant to this section in consideration of the acceptance of the payment of the bonds, until the bonds, together with the interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding on behalf of the owners, are fully met and discharged or unless expressly permitted or otherwise authorized by the terms of each special disability fund financing agreement and any contract made or entered into by the authority with or for the benefit of such owners, (i) that in the event bonds of the authority are sold as federally tax-exempt bonds, the state shall not take any action or fail to take action that would result in the loss of such federal tax exemption on said bonds, (ii) that the state will cause the workers' compensation board to impose, charge, raise, levy, collect and apply the pledged assessments and other revenues, receipts, funds or moneys pledged for the payment of debt service requirements in each year in which bonds are outstanding, and (iii) further, that the state (A) will not materially limit or alter the duties imposed on the workers' compensation board, the authority and other officers of the state by the special disability fund financing agreement and the bond proceedings authorizing the issuance of bonds with respect to application of pledged assessments or other revenues, receipts, funds or moneys pledged for the payment of debt service requirements, (B) will not issue any bonds, notes or other evidences of indebtedness, other than the bonds, having any rights arising out of paragraph (h) of subdivision eight of section fifteen of the workers' compensation law or this section or secured by any pledge of or other lien or charge on the pledged revenues or other receipts, funds or moneys pledged for the payment of debt service

requirements, (C) will not create or cause to be created any lien or charge on the pledged revenues, other than a lien or pledge created thereon pursuant to said sections, (D) will carry out and perform, or cause to be carried out and performed, each and every promise, covenant, agreement or contract made or entered into by the special disability fund financing agreement, by the authority or on its behalf with the bond owners of any bonds, (E) will not in any way impair the rights, exemptions or remedies of the bond owners, and (F) will not limit, modify, rescind, repeal or otherwise alter the rights or obligations of the appropriate officers of the state to impose, maintain, charge or collect the assessments and other revenues or receipts constituting the pledged revenues as may be necessary to produce sufficient revenues to fulfill the terms of the proceedings authorizing the issuance of the bonds, including pledged revenue coverage requirements, provided, however, (i) the remedies available to the authority and the bondholders for any breach of the pledges and agreements of the state set forth in this subclause shall be limited to injunctive relief, (ii) nothing in this subdivision shall prevent the authority from issuing evidences of indebtedness (A) which are secured by a pledge or lien which is, and shall on the face thereof, be expressly subordinate and junior in all respects to every lien and pledge created by or pursuant to said sections, or (B) which are secured by a pledge of or lien on moneys or funds derived on or after the date every pledge or lien thereon created by or pursuant to said sections shall be discharged and satisfied, and (iii) nothing in this subdivision shall preclude the state from exercising its power, through a change in law, to limit, modify, rescind, repeal or otherwise alter the character of the pledged assessments or revenues or to substitute like or different sources of assessments, taxes, fees, charges or other receipts as pledged revenues if and when adequate provision shall be made by law for the protection of the holders of outstanding bonds pursuant to the proceedings under which the bonds are issued, including changing or altering the method of establishing the special assessments.

The authority is authorized to include this covenant of the state, as a contract of the state, in any agreement with the owner of any bonds issued pursuant to this section and in any credit facility or reimbursement agreement with respect to such bonds. Notwithstanding these pledges and agreements by the state, the attorney general may in his or her discretion enforce any and all provisions related to the special disability fund, without limitation.

(b) Prior to the date which is one year and one day after the authority no longer has any bonds issued pursuant to this section outstanding, the authority shall have no authority to file a voluntary petition under chapter nine of the federal bankruptcy code or such corresponding chapter or sections as may, from time to time, be in effect, and neither any public officer nor any organization, entity or other person shall authorize the authority to be or become a debtor under chapter nine or any successor or corresponding chapter or sections during such period. The state hereby covenants with the owners of the bonds of the authority that the state will not limit or alter the denial of authority under this subdivision during the period referred to in the preceding sentence. The authority is authorized to include this covenant of the state, as a contract of the state, in any agreement with the owner of any bonds issued pursuant to this section.

(c) To the extent deemed appropriate by the authority any pledge and agreement of the state with respect to the bonds as provided in this section may be extended to, and included in, any ancillary bond facility as a pledge and agreement of the state with the authority and the benefited party.

11. The bonds of the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public

officers and bodies of the state and all municipalities, political subdivisions and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

12. (a) An action against the authority for death, personal injury or property damage or founded on tort shall not be commenced more than one year and ninety days after the cause of action thereof shall have accrued nor unless a notice of claim shall have been served on a member of the authority or officer or employee thereof designated by the authority for such purpose, within the time limited by, and in compliance with the requirements of section fifty-e of the general municipal law.

(b) The venue of every action, suit or special proceeding brought against the authority or concerning the validity of this section shall be laid in the county of Albany.

(c) The bonds, and any obligation of the authority under any ancillary bond facility, may contain a recital that they are issued or executed, respectively, pursuant to this section, which recital shall be conclusive evidence of the validity of the bonds and any such obligation, respectively, and the regularity of the proceedings of the authority relating thereto.

13. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this section, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein, except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this section in which the authority may be allowed to intervene.

§ 1680-m. Cultural education facilities. 1. Notwithstanding the provisions of any other law to the contrary, the authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for construction and rehabilitation associated with the cultural education facilities, including but not limited to acquisition costs and other state costs associated with such capital projects, and the St. Regis Mohawk elementary school. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed seventy-nine million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the authority and the urban development corporation in undertaking the financing for construction and rehabilitation associated with the cultural education facilities, including but not limited to acquisition costs and other state costs associated with such capital projects, and the St. Regis Mohawk elementary school, the director of the budget is hereby authorized to enter into one or more service contracts with the authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the authority and the urban development corporation agree, so as to annually provide to the authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed

executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 1680-n. Acquisition of state buildings and other facilities. 1. Notwithstanding the provisions of any other law to the contrary, the authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the acquisition of state buildings and other facilities. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one hundred sixty-five million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the authority and the urban development corporation in undertaking the financing of the acquisition of state buildings and other facilities, the director of the budget is hereby authorized to enter into one or more service contracts with the authority and the urban development corporation, none of which shall exceed twenty-two years in duration, upon such terms and conditions as the director of the budget and the authority and the urban development corporation agree, so as to annually provide to the authority and the urban development

corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 1680-o. Courthouse improvements and training facilities. 1. Notwithstanding the provisions of any other law to the contrary, the authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for eligible courthouse improvements and training facilities. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed seventy-six million one hundred thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the authority and the urban development corporation in

undertaking the financing of eligible courthouse improvements and training facilities, the director of the budget is hereby authorized to enter into one or more service contracts with the authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the authority and the urban development corporation agree, so as to annually provide to the authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 1680-p. Longitudinal data system. 1. Notwithstanding the provisions of any other law to the contrary, the authority is hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the implementation of a state longitudinal data system. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed twenty million four hundred thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the authority in undertaking the financing of construction of a state longitudinal data system but not limited to the development and purchase of computer hardware, software, and related equipment, such amount shall include expenses made by the State University of New York, the City University of New York and the department of education, the director of the budget is hereby authorized to enter into one or more service contracts with the authority, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the authority agree, so as to annually provide to the authority, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the authority as security for its bonds and notes, as authorized by this section.

*** § 1680-q. State university of New York dormitory facilities.** 1. As used in or referred to in this section, unless a different meaning appears from the context, the following terms shall have the following respective meanings:

(a) "Agreement" means an agreement by and between the authority and the state university entered into pursuant to this section.

(b) "Dormitory facilities revenue fund" means the fund established pursuant to subdivision three of this section.

(c) "Dormitory facilities revenues" means all moneys, including rents, fees and charges, derived from the use or occupancy of dormitory facilities.

(d) "Dormitory facility" means a dormitory, as such term is defined in paragraph (a) of subdivision two of section sixteen hundred seventy-six of this title.

(e) "Dormitory facility revenue bond" means any note or bond of the authority (i) issued on or after the first day of April, two thousand thirteen for the purposes of financing dormitory facilities or refinancing notes or bonds issued previously in connection with dormitory facilities, including notes or bonds issued to pay costs incurred in connection with the issuance of such notes or bonds, to fund any reserve for the payment of debt service on such bonds, to fund any reserve established for the improvement, repair, maintenance or operations of dormitory facilities, or to pay or provide for the payment of any note or bond previously issued for any such purpose, and (ii) is payable from moneys on deposit in the dormitory facilities revenue fund and is not payable from any revenue of the state.

(f) "Prior dormitory facility bond" means any note or bond of the authority issued prior to April first, two thousand thirteen in connection with dormitory facilities.

(g) "State university" means the state university of New York, a corporation within the state education department and within the university of the state of New York created by section three hundred fifty-two of the education law.

2. The authority may, from and after April first, two thousand thirteen, issue dormitory facility revenue bonds in an amount not to exceed one billion eight hundred forty-four million dollars. Notwithstanding any other rule or law, such bonds shall not be a debt of the state of New York or the state university nor shall the state or the state university be liable thereon, nor shall they be payable out of any funds other than those of the authority constituting dormitory facilities revenues. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, cost of issuance, original issue premium, and to refund any prior dormitory facility bonds or any dormitory facility revenue bonds. The authority and the state university are hereby authorized to enter into agreements relating to, among other things, the acquisition of property or interests therein, the construction, reconstruction, rehabilitation, improvement, equipping and

furnishing of dormitory facilities, the operation and maintenance of dormitory facilities, and the billing, collection and disbursement of dormitory facilities revenues, the title to which has been conveyed, assigned or otherwise transferred to the authority pursuant to paragraph y of subdivision two of section three hundred fifty-five of the education law. In no event shall the state university have any obligation under the agreement to make payment with respect to, on account of or to pay dormitory facilities revenue bonds, and such bonds shall be payable solely from the dormitory facilities revenues assigned to the authority by the state university. No debt shall be contracted except to finance capital works or purposes. Notwithstanding any other provision of law, dormitory facility revenues shall not be deemed to be revenues of the state. Notwithstanding any other rule or law, the state shall not be liable for any payments on any dormitory facility revenue bonds, and such bonds shall not be a debt of the state and shall not be payable out of any funds other than the dormitory facilities revenues assigned to the authority by the state university.

3. (a) There is hereby established in the custody of the commissioner of taxation and finance a special fund to be known as the dormitory facilities revenue fund. Such fund shall consist of all dormitory facilities revenues conveyed, assigned or otherwise transferred to the authority pursuant to paragraph y of subdivision two of section three hundred fifty-five of the education law, which upon receipt by the commissioner of taxation and finance shall be deposited in such fund and held by the commissioner of taxation and finance pursuant to subdivision four of section four of the state finance law. The moneys in the fund shall be the sole and exclusive property of the authority. The moneys held in the fund shall be held separate and apart from and not commingled with any moneys of the state or any other moneys in the custody of the commissioner of taxation and finance. All deposits of moneys shall, if required by the commissioner of taxation and finance, be secured by obligations of the United States of America or of the state having a market value equal at all times to the amount of such deposits and all banks and trust companies are authorized to give security for such deposits. Any moneys in such fund may, in the discretion of the commissioner of taxation and finance, be invested in

obligations described in section ninety-eight of the state finance law. The commissioner of taxation and finance shall certify to the authority and the state university not later than the fifteenth day of each month the amount of dormitory facilities revenues deposited in the fund during the preceding calendar month and the amount held in the fund as of the last day of such preceding calendar month.

(b) During each twelve month period commencing July first of a calendar year and ending on June thirtieth of the succeeding calendar year, the commissioner of taxation and finance shall pay, without appropriation, to or upon the order of the authority from the moneys in the fund the amount certified to the commissioner of taxation and finance by the authority pursuant to paragraph (c) of this subdivision. Any moneys remaining in the fund after payment to the authority of the amount so certified shall be paid by the commissioner of taxation and finance in accordance with the agreement. All rights, title and interest in and to any moneys paid to or upon the order of the state university pursuant to the agreement shall vest in the state university and be the absolute property of the state university, and the authority shall no longer have any interest in such moneys.

(c) The authority shall, not later than by the first day of June of each calendar year, certify to the commissioner of taxation and finance and to the state university: (i) the amount of the rentals, including the amounts required for payment of the principal of, and interest on prior dormitory facility bonds required to be made by the state university to the authority during the twelve month period commencing on the succeeding July first and ending on the succeeding June thirtieth pursuant to the agreement between the authority and the state university, dated as of the twentieth day of September, nineteen hundred ninety-five, as amended and restated; (ii) the amount required to maintain any reserves for the repair and replacement of dormitory facilities or the operations and maintenance of dormitory facilities in connection with the prior dormitory facility bonds; (iii) the amount required for payment of the principal of, whether at maturity or due through mandatory redemption, and interest on dormitory facility revenue bonds payable on January first of such twelve month period and on July first next succeeding such twelve month period; (iv) the amount required to maintain any reserves for the repair and replacement of dormitory facilities or the operations and maintenance of dormitory facilities in connection with the dormitory facility revenue bonds; (v) the amount required to restore any reserve for the payment of debt service on dormitory facility revenue bonds to its requirement; and (vi) the costs, expenses and overhead of the dormitory authority to be incurred during such twelve month period in connection with and reasonably related to dormitory facilities financed through the issuance of dormitory facility revenue bonds. Each such amount shall be separately stated and identified in such certificate. Any such certificate submitted by the dormitory authority may be amended by the dormitory authority from time to time as necessary to adjust the amounts set forth therein. The moneys paid to the authority pursuant to paragraph (b) of this subdivision shall be applied by the authority in the order of priority in which the amounts set forth in such certification are stated in this paragraph.

4. (a) The dormitory authority, in consultation with the state university of New York, shall prepare an annual report due on September thirtieth, commencing on September thirtieth, two thousand fourteen, of every calendar year relating to the provisions of paragraph y of subdivision two of section three hundred fifty-five of the education law; subdivision eight of section three hundred fifty-five of the education law; and this section. The report shall include, but not be limited to: (i) the total dormitory facilities revenues assigned or otherwise transferred from the state university of New York to the dormitory authority in the prior state university fiscal year and the sum of such transfers made in the five prior fiscal years; (ii) the sum of monies, if any, transferred to the state university of New York from the dormitory facilities revenue fund in the prior state university fiscal year; (iii) a list of any increase in rents, fees and other charges that relate to dormitory facilities per campus to students; (iv) a summary of all costs associated with the construction, reconstruction, rehabilitation, improvement, equipping, furnishing, repair, maintenance and operations of dormitory facilities that the dormitory authority funded with dormitory facilities revenues and the proceeds of dormitory facility revenue bonds; (v) a summary and justification of dormitory authority administrative expenses and costs incurred related to the dormitory facilities revenue fund; (vi) the issuance amounts, debt

service costs and savings, if any, of all state university of New York dormitory bonds issued prior to April first, two thousand thirteen and refinanced by the dormitory authority with dormitory facility revenue bonds; (vii) total amount of debt service payments made per year on dormitory facility revenue bonds; and (viii) an estimated date when the dormitory authority will reach the cap on dormitory facility revenue bonds.

(b) The report authorized by this section shall be submitted to the governor, the director of the budget, the speaker of the assembly, the temporary president of the senate, chairs of the senate and assembly higher education committees, the chair of the senate finance committee and the chair of the assembly ways and means committee.

* NB There are 2 § 1680-q's

*** § 1680-q. Self-insured bond financing.** 1. As used in this section the following terms shall have the following meanings:

(a) "Ancillary bond facility" means any interest rate exchange or similar agreement or any bond insurance policy, letter of credit or other credit enhancement facility, liquidity facility, guaranteed investment or reinvestment agreement, or other similar agreement, arrangement or contract.

(b) "Benefited party" means any person, firm or corporation that enters into an ancillary bond facility with the authority according to the provisions of this section.

(c) "Bonds" means any bonds, notes, certificates of participation and other evidence of indebtedness issued by the authority pursuant to subdivision five of this section.

(d) "Bond owners or owners of bonds" means any registered owners of bonds.

(e) "Chair" means the chair of the workers' compensation board.

(f) "Code" means the United States Internal Revenue Code of 1986, as amended.

(g) "Costs of issuance" means any item of expense directly or indirectly payable or reimbursable by the authority and related to the authorization, sale, or issuance of bonds, including, but not limited to, underwriting fees and fees and expenses of professional consultants and fiduciaries.

(h) "Debt service" means actual debt service, comprised of principal, interest and associated costs, as defined in section fifty-c of the workers' compensation law.

(i) "Director of the budget" or "director" means the director of the budget of the state of New York.

(j) "Financing costs" means all costs of issuance, capitalized interest, capitalized operating expenses of the authority and, pursuant to the self-insured bond financing agreement, fees, cost of any ancillary bond facility, and any other fees, discounts, expenses and costs related to issuing, securing and marketing the bonds including, without limitation, any net original issue discount.

(k) "Investment securities" shall have the same meaning as set forth in section one thousand six hundred eighty-l of this title.

(l) "Interest rate exchange or similar agreement" means a written contract entered into in connection with the issuance of bonds or with such bonds outstanding with a counterparty to provide for an exchange or swap of payments based upon fixed and/or variable interest rates, and shall be for exchanges in currency of the United States of America only.

(m) "Net proceeds" means the amount of proceeds remaining following each sale of bonds which are not required by the authority for purposes of this section to pay or provide for debt service or financing costs, as provided in the self-insured bond financing agreement.

(n) "Operating expenses" means the reasonable or necessary operating expenses of the authority for purposes of this section, including, without limitation, the costs of: retention of auditors, preparation of accounting and other reports, maintenance of the ratings on the bonds, any operating expense reserve fund, insurance premiums, ancillary bond facilities, rebate payments, annual meetings or other required activities of the authority, and professional consultants and fiduciaries.

(o) "Outstanding", when used with respect to bonds, shall exclude bonds that shall have been paid in full at maturity, or shall have otherwise been refunded, redeemed, defeased or discharged, or that may be deemed not outstanding pursuant to agreements with the holders thereof.

(p) "Pledged assessments revenues", "pledged revenues" or "pledged assessments" means receipts of the assessments imposed pursuant to section one hundred fifty-one of the workers' compensation law and pledged for the payment of debt service on the bonds or amounts due pursuant to an ancillary bond facility, including the right to receive same.

(q) "Self-insurer offset fund" shall mean the fund composed of revenues, including those obtained by the bonds issued under this section, which shall be used solely for the purposes described in subdivision four of this section.

(r) "Self-insured employer" means individual and group self-insured employers established in accordance with section fifty of the workers' compensation law.

(s) "State" means the state of New York.

(t) "Self-insured bond financing agreement" or "financing agreement" means an agreement authorized and created pursuant to subdivision four of this section and section fifty-c of the workers' compensation law, as same by its terms and bond proceedings, may be amended.

2. The authority is hereby authorized to issue bonds to reduce assessments imposed on self-insured employers under section fifty of the workers' compensation law as a result of the unfunded claims of individual and group self-insurers. The authority may enter into one or more self-insured bond financing agreements described in section fifty-c of the workers' compensation law. All of the provisions of the public authorities law relating to bonds and notes of the dormitory authority which are not inconsistent with the provisions of this section shall apply to obligations authorized by this section, including but not limited to the power to establish adequate reserves therefor and to issue renewal notes or refunding bonds thereof. The provisions of this section shall apply solely to obligations authorized by this section.

3. It is found and declared that unfunded claims in either the individual or group self-insurance trust program will, absent provision for long-term financing, result in imposition of costs on all self-insurers through assessments; that such unfunded claims and assessments may have a detrimental impact on businesses and not-for-profit corporations in New York state and on the provision of

services to New York residents; that without financing the board may be required to impose higher assessments to pay such unfunded claims; that financing will allow the workers' compensation board to purchase one or more assumptions of workers' compensation liability policies that will limit the long term losses from these unfunded claims; that the bonds will provide a more efficient means of covering unfunded claims than the current system of assessment on all self-insureds; that bonds issued by the authority and secured by assessments levied, for the governmental purpose of funding assumption of workers' compensation liability policies, amortized over a substantial period would allow the state to limit liabilities and the assessments needed to pay them, thereby furthering the policy of the state to reduce the costs of workers' compensation and to improve the business climate in the state and the ability of not-for-profit corporations to perform essential services while compensating injured workers; that all costs of the authority in relation to this section shall be paid from assessments provided for in the workers' compensation law; and that, therefore, the provisions of this section are for the public benefit and good and the authorization as provided in this section for the issuance of revenue obligations of the authority is declared to be for a public purpose and the exercise of an essential governmental function.

4. (a) The authority, the commissioner of taxation and finance and the chair, in consultation with the director of the budget shall execute a financing agreement prior to the issuance of any bonds. Such agreement shall contain such terms and conditions as are necessary to carry out and effectuate the purposes of this section, including covenants with respect to the assessments and enforcement of the assessments, the application and use of the proceeds of the sale of bonds to preserve the tax exemption on the bonds, the interest on which is intended to be exempt from taxation. The state shall not be authorized to make any covenant, pledge, promise or agreement purporting to bind the state with respect to pledged revenues, except as otherwise specifically authorized by this section.

(b) The net proceeds of the bonds shall be deposited in accordance with the self-insured bond financing agreement and this section. The self-insured bond financing agreement shall provide for the application of the net bond proceeds, and such bond proceeds shall be used, for any of the following purposes: (i) to pay unmet compensation or benefits of individual and group self-insured employers; (ii) to purchase one or more assumption of workers' compensation liability policies to discharge the liabilities incurred or to be incurred under subdivision three or three-a of section fifty of the workers' compensation law; or (iii) to pay financing costs of the bonds issued under this section. Not inconsistent with this section, the authority may provide restrictions on the use and investment of net proceeds of the bonds and other amounts in the self-insured bond financing agreement or otherwise in a tax regulatory agreement as necessary or desirable to assure that they are exempt from taxation.

5. (a) (i) The authority shall have power and is hereby authorized to issue its bonds at such times and in such aggregate principal amounts not to exceed an amount to be determined by the chair as necessary to fund the purposes of this section, but in no case exceeding nine hundred million dollars exclusive of any bonds issued to refund bonds previously issued pursuant to this chapter and any bonds issued to fund any reserve funds cost of issuance or original issue premium. The bonds shall be issued for the following corporate purposes: (A) to pay current unmet compensation or benefits of individual and group self-insured employers; (B) to purchase one or more assumptions of workers' compensation liability policies to discharge the liabilities incurred or to be incurred under subdivision three or three-a of section fifty of the workers' compensation law; or (C) to pay financing costs of the bonds issued under this section.

(ii) Each issuance of bonds shall be authorized by a resolution of the authority, provided, however, that any such resolution may delegate to an officer of the authority the power to issue such bonds from time to time and to fix the details of any such issues of bonds by an appropriate certificate of such authorized officer. Every issue of the bonds of the authority for the self-insurer offset fund shall be special revenue obligations payable from and secured by a pledge of revenues and other assets, including those proceeds of such bonds deposited in a reserve fund for the benefit of bondholders, earnings on such funds and such other funds and assets as may become available, upon such terms and conditions as specified by the authority in the resolution under which the bonds are issued or in a related trust indenture.

(iii) The authority shall have the power and is hereby authorized from time to time to issue bonds, in consultation with the chair, the commissioner of taxation and finance and the director of the budget, to refund any bonds issued under this section by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its other corporate purposes under this section. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(b) The bonds of the authority of each issue shall be dated, shall bear interest (which, in the opinion of bond counsel to the authority, may be includable in or excludable from the gross income of the owners for federal income tax purposes) at such fixed or variable rates, payable at or prior to maturity, and shall mature at such time or times, as may be determined by the authority and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority. The principal and interest of such bonds may be made payable in any lawful medium. The resolution or the certificate of the authorized officer shall determine the form of the bonds, either registered or book-entry form, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or outside the state. If any officer whose signature or a facsimile thereof appears on any bonds shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The authority may also provide for temporary bonds and for the replacement of any bond that shall become mutilated or shall be destroyed or lost.

(c) The authority may sell such bonds, either at a public or private sale and either on a competitive or negotiated basis, provided no such bonds may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller of the state of New York. The proceeds of such bonds shall be disbursed for the purposes for which such bonds were issued under such restrictions as the financing agreement and the resolution authorizing the issuance of such bonds or the related trust indenture may provide. Such bonds shall be issued without any other approvals, filings, proceedings or the happening of any other conditions other than any approvals, findings, proceedings, or other conditions that are specified and expressly required by this section; provided, however, that any issuance of bonds under the authority of this section shall be considered a project for the purposes of section fifty-one of this chapter and subject to approval under such section.

(d) Any pledge made by the authority shall be valid and binding at the time the pledge is made. The assets, property, revenues, reserves or earnings so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, irrespective of whether such parties have notice thereof. Notwithstanding any other provision of law to the contrary, neither the bond resolution nor any indenture or other instrument, including the financing agreement, by which a pledge is created or by which the authority's interest in pledged assets, property, revenues, reserves or earnings thereon is assigned need be filed, perfected or recorded in any public records in order to protect the pledge thereof or perfect the lien thereof as against third parties, except that a copy thereof shall be filed in the records of the authority.

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

(f) At the sole discretion of the authority, any bonds issued by the authority and any ancillary bond facility made under the provisions of this subdivision may be secured by a resolution or trust indenture by and between the authority and the trust indenture trustee, which may be any trust company or bank having the powers of a trust company, whether located within or outside the state, provided it is carried out in accordance with section sixty-nine-d of the state finance law. Such trust indenture or resolution providing for the issuance of such bonds may provide for the creation and maintenance of such reserves as the authority shall determine to be proper and may include covenants setting forth the duties of the authority in relation to the bonds, or the financing agreement. Such trust indenture or resolution may contain provisions: (i) respecting the custody, safe-guarding and application of all moneys and securities; (ii) protecting and enforcing the rights and remedies (pursuant to the trust indenture and the financing agreement) of the owners of the bonds and any other benefited party as may be reasonable and proper and not in violation of law; (iii) concerning the rights, powers and duties of the trustee appointed by bondholders pursuant to paragraph (g) of this subdivision; or (iv) limiting or abrogating the right of the bondholders to appoint a trustee. It shall be lawful for any bank or trust company which may act as depository of the proceeds of bonds or of any other funds or obligations received on behalf of the authority to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust indenture or resolution may contain such other provisions as the authority may deem reasonable and proper for priorities and subordination among the owners of the bonds and other beneficiaries. For purposes of this section, a "resolution" of the authority shall include any trust indenture authorized thereby.

(g) The authority may enter into, amend or terminate, as it determines to be necessary or appropriate, any ancillary bond facility in consultation with the chair and director of the budget (i) to facilitate the issuance, sale, resale, purchase, repurchase or payment of bonds, interest rate savings or market diversification or the making or performance of interest rate exchange or similar agreements, including without limitation bond insurance, letters of credit and liquidity facilities, (ii) to attempt to manage or hedge risk or achieve a desirable effective interest rate or cash flow, or (iii) to place the obligations or investments of the authority, as represented by the bonds or the investment of reserved bond proceeds or other pledged revenues or other assets, in whole or in part, on the interest rate, cash flow or other basis decided in consultation with the chair and director of the budget, which facility may include without limitation contracts commonly known as interest rate exchange or similar agreements, forward purchase contracts or guaranteed investment contracts and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the authority in connection with, or incidental to, entering into, or maintaining any agreement which secures bonds of the authority or investment, or contract providing for investment of reserves or similar facility guaranteeing an investment rate for a period of years not to exceed the underlying term of the bonds. The determination by the authority that an ancillary bond facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. Any ancillary bond facility may contain such payment, security, default, remedy, and termination provisions and payments and other terms and conditions as determined by the authority, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

(h) The authority, subject to such agreements with bondholders as may then exist (including provisions which restrict the power of the authority to purchase bonds), or with the providers of any applicable ancillary bond facility, shall have the power out of any funds available therefor to purchase bonds of the authority, which may or may not thereupon be cancelled, at a price not substantially exceeding:

(i) if the bonds are then redeemable, the redemption price then applicable, including any accrued interest; or

(ii) if the bonds are not then redeemable, the redemption price and accrued interest applicable on the first date after such purchase upon which the bonds become subject to redemption.

(i) Neither the members of the authority nor any other person executing the bonds or an ancillary bond facility of the authority shall be subject to any personal liability by reason of the issuance or execution and delivery thereof.

(j) The maturities of the bonds shall not exceed thirty years from their respective issuance.

6. Neither any bond issued pursuant to this section nor any ancillary bond facility of the authority shall constitute a debt or moral

obligation of the state or a state supported obligation within the meaning of any constitutional or statutory provision or a pledge of the faith and credit of the state or of the taxing power of the state, and the state shall not be liable to make any payments thereon nor shall any bond or any ancillary bond facility be payable out of any funds or assets other than pledged revenues and other assets of the authority and other funds and assets of or available to the authority pledged therefor, and the bonds and any ancillary bond facility of the authority shall contain on the face thereof or other prominent place thereon a statement to the foregoing effect.

7. (a) Subject to the provisions of subdivision five of this section in the event that the authority shall default in the payment of principal of, or interest on, or sinking fund payment on, any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, or in the event that the authority or the state shall fail to comply with any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

(b) Such trustee, may, and upon written request of the holders of twenty-five percent in principal amount of such bonds then outstanding shall, in his or its own name:

(i) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to carry out any agreement with such holders and to perform its duties under this section;

(ii) bring suit upon such bonds;

(iii) by action or suit, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(iv) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(v) declare all such bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences, provided, however, that nothing in this subdivision shall preclude the authority from agreeing that consent of the provider of an ancillary bond facility is required for an acceleration of related bonds in the event of a default other than a failure to pay principal of or interest on the bonds when due.

(c) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

(d) Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

8. All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall either be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit, or monies of the authority may be deposited in money market funds rated in the highest short-term or long-term rating category by at least one nationally recognized rating agency. To the extent practicable, and consistent with the requirements of the authority, all such monies shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the authority or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as monies of the authority and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the

authority, be invested in accordance with law and such guidelines as are approved by the authority.

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

(b) Any bonds issued pursuant to this section, their transfer and the income therefrom shall, at all times, be exempt from taxation except for estate or gift taxes and taxes on transfers.

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

(d) In the case of any bonds of the authority, interest on which is intended to be exempt from federal income tax, the authority shall prescribe restrictions on the use of the proceeds thereof and related matters only as are necessary or desirable to assure such exemption, and the recipients of such proceeds shall be bound thereby to the extent such restrictions shall be made applicable to them. Any such recipient, including, but not limited to, the state, the state insurance fund, a public benefit corporation, and a school district or municipality is authorized to execute a tax regulatory agreement with the authority or the state, as the case may be, and the execution of such an agreement may be treated by the authority or the state as a condition to receiving any such proceeds.

10. (a) The state, solely with respect to the resources of the self-insurer offset fund and as set forth in the self-insured bond financing agreement, covenants with the purchasers and all subsequent owners and transferees of bonds issued by the authority pursuant to this section in consideration of the acceptance of the payment of the bonds, until the bonds, together with the interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding on behalf of the owners, are fully met and discharged or unless expressly permitted or otherwise authorized by the terms of each financing agreement and any contract made or entered into by the authority with or for the benefit of such owners:

(i) that in the event bonds of the authority are sold as federally tax-exempt bonds, the state shall not take any action or fail to take action that would result in the loss of such federal tax exemption on said bonds;

(ii) that the state will cause the workers' compensation board to impose, charge, raise, levy, collect and apply the pledged assessments for the payment of debt service requirements in each year in which bonds are outstanding; and

(iii) that the state, subsequent to the issuance of bonds under this section:

(A) will not materially limit or alter the duties imposed on the workers' compensation board, the authority, and other officers of the state by the self-insured bond financing agreement and the bond proceedings authorizing the issuance of bonds with respect to application of pledged assessments for the payment of debt service requirements;

(B) will not issue any bonds, notes or other evidences of indebtedness, other than the bonds authorized by this section, having any rights arising out of subparagraph two of paragraph c of subdivision five of section fifty of the workers' compensation law or this section or secured by any pledge of or other lien or charge on the revenues pledged for the payment of debt service requirements; except for bonds authorized under subdivision eight of section fifteen of the workers' compensation law.

(C) will not create or cause to be created any lien or charge on the pledged revenues, other than a lien or pledge created thereon pursuant to said sections;

(D) will carry out and perform, or cause to be carried out and performed, each and every promise, covenant, agreement or contract made or entered into by the financing agreement, by the authority or on its behalf with the bond owners of any bonds;

(E) will not in any way impair the rights, exemptions or remedies of the bond owners; and

(F) will not limit, modify, rescind, repeal or otherwise alter the rights or obligations of the appropriate officers of the state to impose, maintain, charge or collect the assessments constituting the pledged revenues as may be necessary to produce sufficient revenues to fulfill the terms of the proceedings authorizing the issuance of the bonds, including pledged revenue coverage requirements.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision:

(i) the remedies available to the authority and the bondholders for any breach of the pledges and agreements of the state set forth in this subdivision shall be limited to injunctive relief;

(ii) nothing in this subdivision shall prevent the authority from issuing evidences of indebtedness:

(A) which are secured by a pledge or lien which is, and shall on the face thereof, be expressly subordinate and junior in all respects to every lien and pledge created by or pursuant to said sections; or

(B) which are secured by a pledge of or lien on moneys or funds derived on or after the date every pledge or lien thereon created by or pursuant to said sections shall be discharged and satisfied; and

(iii) nothing in this subdivision shall preclude the state from exercising its power, through a change in law, to limit, modify, rescind, repeal or otherwise alter the character of the pledged assessments or revenues or to substitute like or different sources of assessments, taxes, fees, charges or other receipts as pledged revenues if and when adequate provision shall be made by law for the protection of the holders of outstanding bonds pursuant to the proceedings under which the bonds are issued, including changing or altering the method of establishing the special assessments.

(c) The authority is authorized to include this covenant of the state, as a contract of the state, in any agreement with the owner of any bonds issued pursuant to this section and in any credit facility or reimbursement agreement with respect to such bonds. Notwithstanding these pledges and agreements by the state, the attorney general may in his or her discretion enforce any and all provisions related to the self-insured bond fund, without limitation.

(d) Prior to the date which is one year and one day after the authority no longer has any bonds issued pursuant to this section outstanding, the authority shall have no authority to file a voluntary petition under chapter nine of the federal bankruptcy code or such corresponding chapter or sections as may be in effect, and neither any public officer nor any organization, entity or other person shall authorize the authority to be or become a debtor under chapter nine or any successor or corresponding chapter or sections during such period. The state hereby covenants with the owners of the bonds of the authority that the state will not limit or alter the denial of authority under this subdivision during the period referred to in the preceding sentence. The authority is authorized to include this covenant of the state, as a contract of the state, in any agreement with the owner of any bonds issued pursuant to this section.

(e) To the extent deemed appropriate by the authority any pledge and agreement of the state with respect to the bonds as provided in this section may be extended to, and included in, any ancillary bond facility as a pledge and agreement of the state with the authority and the benefited party.

11. The bonds of the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers,

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

12. (a) An action against the authority for death, personal injury or property damage or founded on tort shall not be commenced more than one year and ninety days after the cause of action thereof shall have accrued nor unless a notice of claim shall have been served on a member of the authority or officer or employee thereof designated by the authority for such purpose, within the time limited by, and in compliance with the requirements of section fifty-e of the general municipal law.

(b) The venue of every action, suit or special proceeding brought against the authority or concerning the validity of this section shall be laid in the county of Albany.

(c) The bonds, and any obligation of the authority under any ancillary bond facility, may contain a recital that they are issued or executed, respectively, pursuant to this section, which recital shall be conclusive evidence of the validity of the bonds and any such obligation, respectively, and the regularity of the proceedings of the authority relating thereto.

13. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this section, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to

all other civil business pending therein, except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this section in which the authority may be allowed to intervene.

14. Notwithstanding any law to the contrary, no funds of the self-insurer offset fund may be used for any purpose other than those set forth in this section and section fifty-a of the workers' compensation law.

* NB There are 2 § 1680-q's

§ 1680-r. Authorization for the issuance of bonds for the capital restructuring financing program, the health care facility transformation programs, and the essential health care provider program. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the capital restructuring financing program for health care and related facilities licensed pursuant to the public health law or the mental hygiene law and other state costs associated with such capital projects, the health care facility transformation programs, the essential health care provider program, and other health care capital project costs. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed seven billion one hundred seventy-eight million dollars $7,178,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for the capital restructuring financing program for health care and related facilities licensed pursuant to the public health law or the mental hygiene law and other state costs associated with such capital projects, the health care facility transformation programs, and the essential health care provider program, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 1681. Moneys of the authority. 1. The moneys of the authority shall, except as otherwise provided in this section, be deposited in a general account and such other accounts as the authority may deem necessary for the transaction of its business and shall be paid out on checks signed by the chairman of the authority or by such other person or persons as the authority may authorize.

2. All moneys of the authority derived from state appropriations or the sale of bonds and all moneys constituting reserve funds shall be paid to the comptroller of the state as agent of the authority, who shall not commingle such moneys with other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on check of the comptroller on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States of America or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

3. The authority shall have power notwithstanding the provisions of this title, to contract with or for the benefit of the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with other provisions of this title. In any contract with or for the benefit of the holders of any of its bonds, the authority may pledge or assign any moneys payable or to become payable to the authority and, upon notification by the authority to any public officer directed or authorized by law to pay to the authority any moneys so pledged or assigned of the existence and the terms and conditions of such pledge or assignment, such public officer shall thereafter pay any such moneys otherwise payable directly to the authority in accordance with the terms of such pledge and assignment. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

4. Notwithstanding any other provision of law to the contrary, the authority shall have the power, for more efficient and economic

management of its affairs, to establish one or more accounts from which to pay moneys and into which it may temporarily transfer moneys of the authority held in various accounts or funds for the providing of dormitories or other facilities and, subject to such use, maintained for the benefit of various bond and noteholders; provided that (a) any such account or accounts shall be under the exclusive management and control of the authority and shall be kept separate and apart from any other moneys or assets of the authority; (b) the authority shall keep a separate accounting and accurate records of the various moneys to be transferred into such account or accounts and that any moneys to be paid from any such account to meet such liabilities of the authority shall be derived from the appropriate account or fund held to meet such liability; and (c) any pledge or security interest created for the benefit of others in the moneys to be transferred into any such account shall continue to exist while such moneys are in such account until such moneys are paid by the authority for the appropriate contractual liability and, prior to such payment by the authority, such moneys so transferred shall not be subject to the claims of others who were not previously the beneficiary of any such pledge or security interest.

5. The comptroller of the state and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating to its financial standing.

§ 1681-a. Distribution of board materials. On or before November first, nineteen hundred ninety-five, the authority shall provide to the chair of the senate finance committee and the chair of the assembly ways and means committee, copies of all board-adopted guidelines, if any, related to the financing, underwriting and programmatic review of projects related to each program of the authority. Thereafter, all materials, including but not limited to, authority board agendas and all attachments thereto, shall be provided to the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee at such time as those materials are provided to board members.

§ 1682. Bonds of the authority. 1. The authority shall have power as hereby authorized from time to time to issue negotiable bonds in conformity with applicable provisions of the uniform commercial code. The authority shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, every issue of the bonds shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

2. Such bonds shall be authorized by resolution of the board, be in such denominations and shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. Such bonds may be sold at public or private sale for such price or prices as the authority shall determine.

3. Such bonds may be issued for any corporate purposes of the authority.

4. Any resolution or resolutions authorizing any bonds may contain provisions which may be a part of the contract with the holders of the bonds, as to

(a) pledging all or any part of the moneys or property of the authority to secure the payment of its bonds, including, but not limited to, the revenues of designated dormitories, the proceeds of any grant in aid of the authority received from any private or public source, any federally guaranteed security and moneys received therefrom whether such security is initially acquired by the authority or an educational institution, any moneys received under the terms of any lease, loan or other agreement executed pursuant to section sixteen hundred seventy-eight, section sixteen hundred eighty or sixteen hundred eighty-a of this chapter or any other revenues, state aid, local assistance payments, user charges or surcharges made available in accordance with law for such purpose;

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

(c) the purpose and limitations thereon to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied, including as authorized purposes, all costs and expenses necessary or incidental to the issuance of bonds, to the acquisition of or commitment to acquire any federally guaranteed security and to the issuance and obtaining of any federally insured mortgage note;

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

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

(f) the creation of special funds into which any moneys of the authority may be deposited;

(g) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section sixteen hundred eighty-six of this chapter, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(i) any other matters, of like or different character, which in any way affect the security and protection of the bonds.

4-a. Any pledge of or other security interest in moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge or other security interest attaches, without any physical delivery of the collateral or further act. The lien of any such pledge or other security interest shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or other security interest is created nor any financing statement need be recorded or filed. This subdivision shall apply notwithstanding the provisions of the uniform commercial code. Any moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property held or received by the authority or on behalf of the authority by any lender, servicer, trustee, custodian, collection agent or institution of higher education, pursuant to any resolution, trust agreement or other agreement authorized by, or entered into in connection with, the program established pursuant to section sixteen hundred seventy nine-c of this title and pledged by the authority pursuant to a resolution, trust agreement or such other agreement for the benefit of bondholders shall constitute moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property pledged by the authority for all purposes of this subdivision.

4-b. Any resolution authorizing the issuance of bonds for the purpose of providing facilities for the city university pursuant to a lease, sublease or other agreement entered into by the city university construction fund and the dormitory authority on or after July first, nineteen hundred eighty-five, refunding any such bonds, or establishing or funding reserves for such bonds shall state the principal amount of bonds being issued in connection with senior college facilities and the principal amount of bonds being issued in connection with community college facilities. The proceeds of such bonds to be applied to the payment of the costs of providing senior college facilities shall be held separate and apart from the proceeds of such bonds to be applied to the payment of the costs of providing community college facilities. The proceeds to be applied to the payment of the costs of providing senior college facilities shall not be applied to the payment of the costs of providing community college facilities and the proceeds to be applied to the payment of the costs of providing community college facilities shall not be applied to the payment of the costs of providing senior college facilities.

5. Neither the members of the board nor any person executing such bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not exceeding the redemption price thereof. All bonds so purchased shall be cancelled.

7. In the discretion of the authority the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the dormitories or of any dormitory, and the custody, safeguarding and application of all moneys, and may provide that any dormitory shall be constructed and paid for under the supervision and approval of consulting engineers. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of any dormitory or moneys received under the terms of any

lease or loan executed pursuant to section sixteen hundred eighty of this chapter, as the case may be, to the trustee of such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. Notwithstanding the provisions of section sixteen hundred eighty-six of this chapter, if the bonds shall be secured by trust indenture the bondholders shall have no authority to appoint a separate trustee to represent them.

§ 1682-a. Financial monitoring. The authority shall periodically monitor the financial and managerial standing of each entity which has received financing from the proceeds of bonds of either the authority or the medical care facilities finance agency, for the term of such bonds.

§ 1683. State not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York nor shall the state be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1684. Bonds legal investments for fiduciaries. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees, committees, conservators and other fiduciaries in the state may properly and legally invest funds in their control.

§ 1685. Exemptions from taxation. It is hereby found, determined and declared that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, for the improvement of their education, welfare and prosperity, and is a public purpose, and that the dormitories of the authority are an essential part of the state education system, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state of New York covenants with the holders of the bonds that the authority shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of such dormitories or any moneys, revenues or other income received by the authority and that the bonds of the authority and the income therefrom shall at all times be exempt from taxation, except for transfer and estate taxes.

§ 1686. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding by instrument or instruments filed in the office of the clerk of the county in which the dormitory is located and proved or acknowledged in the same manner as a deed to be recorded may appoint a trustee to represent the bondholders for the purposes herein provided;

2. Such trustee may, and upon written request of the holders of twenty-five per centum of the principal amount of the bonds then outstanding upon any dormitory shall, in his or its own name

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority and the board to collect rental and other revenues of any dormitory adequate to carry out any agreement as to, or pledge of, such rental and other revenues, and to require the authority and the board to carry out any other agreements with the bondholders and to perform its and their duties under this title;

(b) bring suit upon the bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;
(e) declare all bonds due and payable upon any dormitory, and if all defaults shall be made good, annul, upon the written consent of the holders of twenty-five per centum in principal amount of the bonds then outstanding, such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the dormitory is located.

4. Before declaring the principal of all bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver who may enter and take possession of the dormitory or any part or parts thereof and operate and maintain the same and collect and receive all rentals and other revenues thereafter arising therefrom in the same manner as the authority itself might do and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any rentals and other revenues derived from the dormitory.

6. Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

§ 1686-a. Security by authority. Upon an appeal taken by the authority in any action or other proceeding to which the authority is a party, the service of notice of appeal shall perfect the appeal and shall stay the execution of the judgment or order appealed from without any undertaking or other security being furnished by the authority.

§ 1687. Members and employees not to profit. No officer, member or employee of the corporation shall receive or may be lawfully entitled to receive any pecuniary profit from the operation thereof except reasonable compensation for services in effecting one or more of its purposes herein set forth.

§ 1688. Visitation by regents. The regents, or the commissioner of education, or their representatives, may visit, examine into and inspect, the authority as an institution under the educational supervision of the state, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the regents or the commissioner of education shall prescribe.

§ 1689. Board of cooperative educational services school facilities. 1. For all the purposes of this section sixteen hundred eighty-nine the term "board of cooperative educational services school facilities" shall mean any interest in real property, any building, library, laboratory, classroom, or other building or structure essential, necessary or useful in a career education or other program of any board of cooperative educational services.

2. a. The authority is hereby authorized and empowered upon application of the board of cooperative educational services concerned to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip or otherwise provide a board of cooperative educational services school facility. The board for whose students any such board of cooperative educational services school facility is intended to be provided shall approve plans and specifications and the location of such board of cooperative educational services facilities.

The authority shall have the same power and authority in respect to such board of cooperative educational services school facilities erected pursuant to this section that it has relative to dormitories.

b. The authority shall have power to acquire, in the name of the authority, on terms necessary or convenient by purchase, condemnation, gift or devise, real property, leasehold interest in real property or rights of easement in relation to the board of cooperative educational services school facilities erected pursuant to this section.

c. When authorized by the voters of the board of cooperative educational services, any board of cooperative educational services shall have power to convey to the authority real property, leasehold interest in real property or rights of easement, the title of which is vested in the board, in relation to the board of cooperative educational services school facilities to be erected pursuant to this section, and, when so authorized, any board of cooperative educational services shall have power to enter into any lease or other agreement with the authority in connection with the provision of a board of cooperative educational services school facility.

d. The authority shall have power to accept gifts of real and personal property in the name of the authority for the purposes of this section.

e. The authority may lease any such board of cooperative educational services school facilities to the board for which such board of cooperative educational services school facilities are erected. At such time as the liabilities of the authority incurred for any such board of cooperative educational services school facilities have been discharged and the bonds of the authority issued therefor have been paid or such liabilities and bonds have otherwise been discharged, the authority shall transfer title to all real and personal property of such board of cooperative educational services school facilities vested in the authority to the board to which such board of cooperative educational services school facilities are then leased, provided, however, that if at such time the board of cooperative educational services school facilities are not located in any board or any successor thereto in the state of New York, then such title shall vest in the people of the state of New York.

f. Any lease of a board of cooperative educational services school facility authorized by this section may contain provisions which shall be a part of the contract with the holder of the bonds of the authority issued for such board of cooperative educational services school facility, as to

(1) pledging all or any part of the moneys, income or revenues of the lessee or other personal property of the lessee, to secure payments required under the terms of such lease;

(2) the setting aside of reserves and the creation of special funds and the regulation and disposition thereof;

(3) the procedure, if any, by which the terms of such lease may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(4) vesting in a trustee or trustees such specified properties, rights, powers and duties as shall be deemed necessary or desirable for the security of the holders of the bonds of the authority issued for such board of cooperative educational services school facilities;

(5) the obligations of the lessee with respect to the replacement, reconstruction, maintenance, operations, repairs and insurance of such board of cooperative educational services school facilities;

(6) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the lessee, and providing for the rights and remedies of the authority and of its bondholders in the event of such default;

(7) any other matters, of like or different character, which may be deemed necessary or desirable for the security or protection of the authority or the holders of its bonds.

3. Whenever the authority under the provisions of this section undertakes to construct or otherwise provide a board of cooperative educational services school facility and to lease the same to a board of cooperative educational services, such lease shall be the general obligation of the board and any successor thereto. Such lessee shall be responsible for the direct costs of operation, maintenance, repair and

replacement of such board of cooperative educational services school facility, and in addition shall be responsible for the over-all supervision of each board of cooperative educational services school facility, for the overhead and general administrative costs of the lessee which are incurred because of such board of cooperative educational services school facility and for the integration of the operation of each such board of cooperative educational services school facility into the lessee's educational program.

4. All the provisions of this title four not inconsistent with the provisions of this section sixteen hundred eighty-nine shall be applicable with respect to any bonds of the authority issued to obtain funds for any purpose authorized under this section sixteen hundred eighty-nine and with respect to the powers of the authority hereunder.

5. To obtain funds for the purposes of this section, the authority shall have power from time to time to issue negotiable bonds or notes of the authority. Unless the context shall clearly indicate otherwise whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

6. Any pledge of or other security interest in moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge or other security interest attaches, without any physical delivery of the collateral or further act. The lien of any such pledge or other security interest shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or other security interest is created nor any financing statement need be recorded or filed. This subdivision shall apply notwithstanding the provisions of the uniform commercial code.

7. Whenever the authority undertakes under the provisions of this section to construct, acquire, reconstruct, rehabilitate and improve,

and furnish and equip or otherwise provide a board of cooperative educational services school facility, each board of cooperative educational services in connection with which such board of cooperative educational services school facility is built is authorized to assign and pledge to the authority a sufficient portion of any and all public funds to be apportioned or otherwise to be made payable by the state of New York to the board of cooperative educational services to cover the payments required under the lease between the authority and the board of cooperative educational services. All state and local officials concerned are hereby authorized to apportion and pay all such funds so assigned and pledged to the authority. Such assignment and pledge by any board of cooperative educational services shall be irrevocable and shall continue until the date on which the liabilities of the authority and any such board of cooperative educational services school facilities have been discharged and the bonds of the authority issued therefor have been paid or such bonds have otherwise been discharged.

8. No board of cooperative educational services school facility shall be constructed or otherwise provided by the authority under the provisions of this section unless approved by the voters of the board of cooperative educational services and unless any and all necessary approvals of the commissioner of education under section four hundred eight of the education law have been obtained.

9. Any payment required to be made by a board of cooperative educational services to the authority shall be deemed an administrative or capital expense within the meaning of section nineteen hundred fifty of the education law.

10. a. The total amount payable annually to the authority by a board shall be certified by the authority to the commissioner of education and the authority shall annually prepare and certify to the commissioner of education a statement of the total amount necessary to be paid by all boards of cooperative educational services for the ensuing school year.

b. The commissioner of education shall include in the certificate which he files with the state comptroller showing the amount of state funds apportioned to the board of cooperative educational services a statement showing the amount to be owed by the board to the authority for the ensuing school year.

c. The comptroller shall deduct from any state funds to become due to any such board of cooperative educational services an amount equal to the amount required to be paid by such board to the authority as shown by the certificate of the commissioner of education filed with the comptroller as required by paragraph b of this subdivision.

d. The state of New York hereby covenants with the purchasers, holders and owners from time to time of the bonds of the authority that it will not repeal, revoke, rescind, modify or amend the provisions of this subdivision ten so as to limit, impair or impede the rights and remedies granted hereby or otherwise diminish the security pledged to such purchasers, holders and owners or significantly impair the prospect of payment of any such bond, nor shall any lien or charge on or pledge, assignment, diversion, withholding, payment or other use of or deduction from any state funds due or to become due or appropriated to or to be appropriated to or to be apportioned and paid to any board of cooperative educational services be created which is prior in time or superior in right to the deduction required by paragraph c of this subdivision; provided, however, that nothing herein contained shall be deemed or construed as requiring the state to continue the payment of the state aid or assistance to any board of cooperative educational services or as limiting or prohibiting the state from repealing or amending any law theretofore or hereafter enacted providing for the payment or apportionment of state aid to a board of cooperative educational services or the manner, time or amount thereof.

11. In the event that the amount paid to the authority pursuant to the provisions of subdivision ten of this section is insufficient to meet any payment required by the board of cooperative educational services to the authority any such amount still due and owing shall be paid directly to the authority by the board.

12. (a) After: (i) a proposition has been approved by the voters of a

board of cooperative educational services for the construction or providing by the authority of a board of cooperative educational services school facility or facilities and any and all necessary approvals of the commissioner of education have been obtained, all as provided by subdivision eight of this section; (ii) an agreement and a lease have been executed by and between such board of cooperative educational services and the dormitory authority relating to the construction or otherwise providing of such board of cooperative educational services school facility or facilities, the leasing thereof by the dormitory authority to such board of cooperative educational services and the financing thereof by the dormitory authority by the issuance of its obligations; and (iii) the dormitory authority has adopted its resolution authorizing obligations of the dormitory authority for such purpose, the dormitory authority may determine to provide that the validity of such agreement, lease, resolution of the authority authorizing the issuance of obligations and the obligations authorized and issued pursuant thereto may be contested only if:

1. Such agreement, lease, resolution and the obligations to be issued pursuant to such resolution are authorized for a board of cooperative educational services school facility or facilities for which the board of cooperative educational services and the dormitory authority are not authorized to execute an agreement and a lease or for which the dormitory authority is not authorized to issue obligations, or

2. The provisions of law which should be complied with at the date of the publication of the notice hereinafter provided for, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3. Such obligations are authorized in violation of the provisions of the constitution.

(b) If the dormitory authority shall determine to utilize the provisions of this subdivision, the dormitory authority shall publish or shall cause a notice to be published in the manner hereinafter provided, which notice shall be in substantially the following form:

The (here insert the name of the board of cooperative educational services) and the dormitory authority of the state of New York have entered into an agreement dated as of the ----- day of -----, 19---, and a lease dated as of the ----- day of -----, 19---, and the dormitory authority has adopted a resolution on the ----- day of -----, 19---, and the validity of such agreement, lease, resolution and the obligations issued pursuant thereto may be hereafter contested only if such agreement, lease, resolution and the obligations issued pursuant thereto were authorized for a board of cooperative educational services school facility or facilities for which such board of cooperative educational services and the dormitory authority are not authorized to enter into an agreement, lease and for which the dormitory authority is not authorized to issue such obligations or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the constitution.

By such agreement and lease such board of cooperative educational services and the dormitory authority have agreed that the dormitory authority shall provide the board of cooperative educational services school facility or facilities described therein, that the dormitory authority shall lease the same to such board of cooperative educational services, which board of cooperative educational services shall pay annual rentals as agreed upon in such lease sufficient to pay the principal of and interest on the obligations of the authority issued to finance such facility or facilities, the amounts required by such resolution to establish and maintain the reserve funds, if any, required by such resolution, any expenditures of the authority for insurance, fees and expenses of auditing and fees and expenses of the trustee, all as required by the resolution, all other expenditures reasonably and necessarily incurred by the authority by reason of its ownership, financing and leasing of the project and the annual administrative fee payable to the authority. Such resolution authorizes an issue of $----- obligations of the authority, which amount is equal to the sum of: (i) the estimated cost of construction and equipment of such board of cooperative educational services school facility or facilities after first deducting federal grants-in-aid to be received; (ii) the amount required by the authority, if any, to be paid to reserve funds created by the resolution of the authority authorizing the bonds; and (iii) the amounts required to make payments for legal, financing, administrative and other costs and expenses of the authority in connection with such board of cooperative educational services school facilities and the financing thereof.

Executed counterparts of such agreement and lease and a certified copy of the resolution of the dormitory authority authorizing such obligations are on file in the office of the clerk of such board of cooperative educational services at (here insert the address of the office of such clerk) and at the office of the dormitory authority (here insert the address of such office) and such documents may be inspected at either of said offices during regular business hours.

DORMITORY AUTHORITY OF THE STATE OF
NEW YORK and (here insert the name of the
board of cooperative educational services)

(c) The notice described in subparagraph (b) of this subdivision shall be published once in each of two newspapers, if there shall be two, or in one newspaper, if there shall be but one, having general circulation within the board of cooperative educational services, but if no newspaper shall then have general circulation therein, such notice shall be posted in at least twenty of the most public places in said board of cooperative educational services.

(d) After the publication of such notice, the validity of the obligations authorized thereby may be contested only if:

1. Such agreement, lease, resolution of the dormitory authority authorizing the obligations, and the obligations of the dormitory authority were authorized for a board of cooperative educational services school facility or facilities for which such board of cooperative educational services and the dormitory authority were not authorized to execute an agreement and a lease or for which the dormitory authority is not authorized to issue obligations, or

2. The provisions of law which should be complied with at the date of publication of the notice hereinabove provided for, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3. Such obligations are authorized in violation of the provisions of the constitution.

(e) If an action, suit or proceeding contesting the validity of such agreement, lease, resolution authorizing the obligations or the obligations authorized thereby is commenced within twenty days from the date of publication of such notice, the court in which such action, suit or proceeding is commenced shall determine whether or not such agreement, lease, resolution and obligations were authorized for a board of cooperative educational services school facility or facilities for which the board of cooperative educational services and the dormitory authority were authorized to enter into an agreement and a lease and for which the authority was authorized to issue obligations or the provisions of law which should have been complied with were substantially complied with. The court may determine that the provisions of law which should have been complied with were substantially complied with if:

1. The aggregate amount of obligations authorized does not exceed an amount equal to the sum of; (i) the estimated cost of construction and equipment of such a board of cooperative educational services school facility or facilities after first deducting federal grants-in-aid to be received; (ii) the amount, if any, required by the authority by the resolution to be paid to reserve funds created by the resolution of the authority authorizing the obligations; and (iii) the amounts estimated by the authority to be required to make payments for legal, financing, administrative and other costs and expenses of the authority in connection with the providing of the facilities and the financing thereof.

2. Such agreement and lease were executed after a proposition

authorizing the same had been submitted to and approved by a majority of the duly qualified voters of such board of cooperative educational services.

(f) Such determination of the court as described in subparagraph (e) hereof may be arrived at notwithstanding any irregularity or failure to observe a technicality in:

1. The form of such proposition approved by the duly qualified voters of such board of cooperative educational services.

2. The notice of the meeting at which such proposition was submitted.

3. The time or manner of the publication of such notice.

4. The conduct of the meeting at which such proposition was adopted.

5. Like matters in such proceedings.

(g) If the dormitory authority shall have utilized the provisions of this subdivision, the obligations of the authority issued pursuant to the resolution authorizing the same shall contain a recital substantially to the effect that the procedure for the validation of such bonds set forth in this section have been complied with and such recital shall bind the board of cooperative educational services and the dormitory authority, and twenty days after such notice shall have been published and after such obligations have been purchased in good faith and for fair value by any person, the validity of such agreement, lease, resolution and of the obligations issued pursuant to such resolution shall not be questioned by such board of cooperative educational services or by any taxpayer thereof in any court.

(h) If the dormitory authority and such board of cooperative educational services shall deem it necessary to increase the amount of obligations of the authority to be issued in connection with the construction or providing of a board of cooperative educational services school facility or facilities and shall have authorized the issuance of such additional obligations by the execution of a supplemental agreement and a supplemental lease between the dormitory authority and such board of cooperative educational services and the authority has adopted a supplemental resolution authorizing such additional obligations, the provisions of this subdivision also shall be applicable to such supplemental agreement, supplemental lease, supplemental resolution and additional obligations authorized and issued pursuant thereto.

13. No authorization given by the voters of a board of cooperative educational services prior to April first, nineteen hundred seventy-six of a lease or other agreement with the authority in connection with the provision of a board of cooperative educational services school facility shall be held invalid by reason of any irregularity or failure to observe a technicality in:

a. The form of such proposition approved by the duly qualified voters of such board of cooperative educational services,

b. The notice of the meeting at which such proposition was submitted,

c. The time or manner of the publication of such notice,

d. The conduct of the meeting at which such proposition was adopted,

e. Like matters in such proceedings, in any action or proceeding commenced more than two years after the date of approval by such voters of the proposition authorizing such lease or other agreement. The foregoing limitation shall not be construed as extending any limitation period otherwise provided by law or authorizing any action or proceeding.

§ 1689-a. Public school districts; authority financing of eligible school construction projects; rebuilding schools to uphold education (RESCUE). 1. The dormitory authority is authorized to finance eligible school construction projects for those public school districts which are approved by the commissioner of education to receive aid apportionment for rebuilding schools to uphold education (RESCUE) pursuant to subdivision ten of section thirty-six hundred forty-one of the education law.

2. (a) Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in the financing and refinancing of such eligible school construction projects, the director of the budget is authorized in any state fiscal year commencing April first, nineteen hundred ninety-nine through and inclusive of the state fiscal year commencing April first, two thousand five to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree;

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations;

(c) Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature;

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related expenses required for any bonds, notes, or other obligations.

3. (a) The commissioner of education shall certify, from time to time, to the dormitory authority, the comptroller, the director of the division of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee each school district for which he has approved an aid apportionment for authority

financing of an eligible school construction project pursuant to subdivision ten of section thirty-six hundred forty-one of the education law. Such certification, which shall be made within thirty days after such approval or as soon thereafter as is practicable, shall identify the amount of aid apportionment which has been approved for such school district and shall estimate the date or dates when such project will be undertaken to assist the authority in establishing a schedule for financing such project. The commissioner shall notify the authority if there is a change in such date.

(b) On or before November fifteenth of each year and again on or after February fifteenth of each year, the dormitory authority shall submit, and thereafter may resubmit, to the director of the budget, the state comptroller, the commissioner of education, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a report setting forth the amounts, if any, of all annual payments estimated to be appropriated to the dormitory authority pursuant to such service contracts between the dormitory authority and the director of the division of the budget pursuant to this section. An eligible school construction project shall not be financed pursuant to this section prior to the state fiscal year commencing April first, nineteen hundred ninety-nine, provided that application for approval of any such project by the commissioner of education may be processed prior to such date.

4. (a) To obtain funds for the purposes of this section, the authority shall have power from time to time, in accordance with a schedule certified to the authority by the commissioner of education identifying eligible school construction projects approved for the payment of aid apportionments pursuant to subdivision ten of section thirty-six hundred forty-one of the education law, to issue negotiable bonds or notes of the authority. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

(b) The dormitory authority shall not issue any bonds or notes in an amount in excess of one hundred ninety-five million dollars for the purposes of this section, excluding a principal amount of bonds or notes issued to fund one or more debt service reserve funds, to pay for the costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds, and bonds or notes previously issued. Except for the purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds or notes.

In computing for the purposes of this paragraph, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory authority issued pursuant to this section, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this clause may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

5. The state of New York hereby covenants with the purchasers, holders and owners from time to time of the bonds of the authority issued pursuant to this section that it will not repeal, revoke, rescind, modify or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders and owners or significantly impair the prospect of payment of any such bond.

§ 1689-b. Sale of bonds by the authority. 1. (a) Notwithstanding any other provision of law, the bonds of the authority issued pursuant to section one thousand six hundred eighty-nine-a of this article shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a definitive trade publication of the municipal bond industry, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is sent via a definitive trade wire service of the municipal bond industry which, in general, make available information regarding activity and sales of municipal bonds. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect a satisfactory sale.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the executive director, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales.

2. The authority shall annually prepare and approve a bond sale report which shall identify results of any sale of bonds pursuant to this section conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

3. The authority shall annually submit such bond sale report to the comptroller and copies thereof to the senate finance committee and the assembly ways and means committee and the director of the budget.

§ 1689-c. Capital facility program, authority financing of eligible projects. 1. The authority is authorized to finance eligible capital facility program projects pursuant to the Jobs two thousand for New York State (J2K) Act.

2. (a) Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the authority in the financing and refinancing of such eligible capital facility program projects, the director of the budget is authorized to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the authority, upon such terms as the director of the budget and the dormitory authority agree;

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the authority as security for its bonds, notes, or other obligations;

(c) Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature;

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related expenses required for any such bonds, notes, or other obligations.

(e) On or before November fifteenth of each year and again on or after February fifteenth of each year, the authority shall submit, and thereafter may resubmit, to the director of the budget, the state comptroller, the executive director of the New York state office of science, technology and academic research, the chair of the senate finance committee and the chair of the assembly ways and means committee a report setting forth the amounts, if any, of all annual payments estimated to be appropriated to the authority pursuant to such service contracts between the authority and the director of the division of the budget pursuant to this subdivision.

3. (a) To obtain funds for the purposes of this subdivision, the authority shall have power from time to time, in accordance with a schedule certified to the authority by the executive director of the New York state office of science, technology and academic research identifying eligible capital facility program projects approved for payment pursuant to the Jobs two thousand for New York State (J2K) Act, to issue negotiable bonds or notes of the authority. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

(b) The authority shall not issue any bonds or notes in an amount in excess of forty-seven million five hundred thousand dollars for the purposes of this subdivision, excluding a principal amount of bonds or notes issued to fund one or more debt service reserve funds, to pay for the costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds, and bonds or notes previously issued. Except for the purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds or notes.

In computing for the purposes of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the authority issued pursuant to this subdivision, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this paragraph may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

§ 1689-d. Bidding requirements. 1. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to section one thousand six hundred eighty-nine-c of this title shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a definitive trade publication of the municipal bond industry, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is sent via a definitive trade wire service of the municipal bond industry which, in general, make available information regarding activity and sales of municipal bonds. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the dormitory authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect a satisfactory sale.

2. Notwithstanding the provisions of subdivision one of this section, whenever in the judgment of the authority the interests of the authority will be served thereby, the authority may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales.

§ 1689-e. Biomedical facilities program, authority financing of eligible projects. 1. The authority is authorized to finance eligible biomedical facilities program projects pursuant to an appropriation contained in a chapter of the laws of 2000 to the New York state office of science, technology and academic research.

2. (a) Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the authority in the financing and refinancing of such eligible biomedical facilities program projects, the director of the budget is authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, with the authority, upon such terms as the director of the budget and the dormitory authority agree;

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the authority as security for its bonds, notes, or other obligations;

(c) Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature;

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related expenses required for any such bonds, notes, or other obligations.

3. (a) To obtain funds for the purposes of this subdivision, the authority shall have power from time to time, in accordance with a schedule certified to the authority by the executive director of the New York state office of science, technology and academic research identifying eligible biomedical facilities program projects approved for payment pursuant to a biomedical facilities program appropriation to the New York state office of science, technology and academic research, to issue negotiable bonds or notes of the authority. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

(b) The authority shall not issue any bonds or notes in an amount in excess of ten million dollars for the purposes of this subdivision, excluding a principal amount of bonds or notes issued to fund one or more debt service reserve funds, to pay for the costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds, and bonds or notes previously issued. Except for the purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds or notes.

In computing for the purposes of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the authority issued pursuant to this subdivision, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this paragraph may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

§ 1689-f. Public school districts; dormitory authority financing of payments made or to be made by the state on account of certain approved expenditures for capital outlays.

1. (a) "Eligible school district projects" shall mean capital projects eligible for a capital outlay transition grant aid apportionment pursuant to subdivision twelve of section thirty-six hundred forty-one of the education law for which payments are made, as reimbursement of approved expenditures, from a school district's general fund, capital fund, or reserved funds for capital outlays as defined in subdivision six of section thirty-six hundred two of the education law, that are incurred by the school district on or after July first, two thousand one and on or before June thirtieth, two thousand two, and are not otherwise reimbursable in the two thousand two--two thousand three school year pursuant to subdivision six of section thirty-six hundred two of the education law.

(b) Notwithstanding the provisions of any general or special law to the contrary, for purposes of this section, the term "school district" shall mean a common school district, a consolidated school district, a union free school district, a central school district, a central high school district, or a city school district.

2. (a) Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, the dormitory authority is authorized to enter into one or more service contracts, none of which shall exceed ten years in duration, with the director of the budget, upon such terms as the director of the budget and the dormitory authority agree, for the purpose of financing eligible school district projects.

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations; and may contain such other items and conditions as may be agreed upon by the parties thereto, including, but not limited to, the establishment of reserve funds and indemnities.

(c) Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature;

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or related expenses required for any bonds, notes, or other obligations, including bonds issued to fund any required debt service reserve fund for bonds, of the dormitory authority issued pursuant to paragraph (b) of subdivision four of this section.

3. (a) The commissioner of education shall certify, by September thirtieth, two thousand two, to the dormitory authority, and the director of the budget, each school district for which he has approved a capital outlay transition grant pursuant to subdivision twelve of section thirty-six hundred forty-one of the education law for an eligible school district project as reimbursement of approved expenditures for capital outlays in lieu of aid previously payable pursuant to subdivision six of section thirty-six hundred two of the education law, (1) a description of the eligible school district projects for which such aid is granted for each school district, including the cost of each project, and such other information regarding the expenditures for capital outlays requested by the dormitory authority as is necessary for the issuance of bonds, notes, or other obligations, pursuant to this section and (2) the amount of that grant.

(b) On or before October first of each year, the dormitory authority shall submit, and thereafter may resubmit, to the director of the budget a report setting forth the amounts, if any, of all annual payments required in the next state fiscal year and for the four state fiscal years following such fiscal year estimated to be appropriated to the dormitory authority pursuant to such service contract agreements between the dormitory authority and the director of the budget pursuant to this section. Such report may be incorporated into other reports required to be given by the dormitory authority to the director of the budget on or before those dates.

4. (a) To obtain funds for the purposes of this section, the authority shall have power from time to time to issue negotiable bonds or notes of the authority. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority. All the provisions of this title not inconsistent with the provisions of this section shall be applicable with respect to any bonds of the authority issued to obtain funds for the purposes authorized under this section.

(b) The dormitory authority shall not issue any bonds or notes in an amount in excess of one hundred forty million dollars for the purposes of this section, plus a principal amount of bonds or notes:

(1) to fund any debt service reserve fund, and

(2) to provide for the payment of fees and other charges and expenses, including underwriters' discount, related to the issuance of such bonds or notes, or related to the provision of any applicable bond or note facilities.

In computing for the purposes of this paragraph, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory authority issued pursuant to this title, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under the clause may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

5. The state hereby covenants with the purchasers, holders and owners from time to time of the bonds of the authority issued pursuant to this section that it will not repeal, revoke, rescind, modify or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders and owners or significantly impair the prospect of payment of any such bond.

§ 1689-g. Local government infrastructure; authority financing of eligible wireless 911 capital equipment. 1. Definition. For the purposes of this section "eligible wireless 911 capital equipment" shall include, but not be limited to, radio equipment, computer equipment, dispatch equipment, including consoles and monitors, telecommunications switches and any other equipment necessary and attendant to a 911 wireless telecommunications system.

2. Notwithstanding any other provision of law to the contrary, the authority is hereby authorized to issue bonds, notes or other obligations in one or more series including bonds, notes or other obligations issued to finance one or more debt service reserve funds, to pay the cost of issuance of such bonds, notes or other obligations, and bonds, notes or other obligations issued to refund or otherwise repay such bonds, notes or other obligations previously issued, for the

purpose of financing the costs of eligible wireless 911 capital equipment for any political subdivisions eligible to receive aid pursuant to a chapter of the laws of two thousand two. Such bonds, notes or other obligations issued by the authority shall not be a debt of the state or the political subdivision, and the state and the political subdivision shall not be liable thereon, nor shall they be payable out of any funds other than those made available by an eligible political subdivision subject to annual appropriation by the political subdivision as provided in subdivision three of this section or state aid pledged and assigned by a political subdivision to the authority for debt service payments and related expenses pursuant to any financing agreement entered into pursuant to subdivision three of this section.

3. Notwithstanding any other provision of law to the contrary, in order to assist the authority in undertaking the administration and financing of wireless 911 capital equipment authorized pursuant to subdivision two of this section, an eligible political subdivision is hereby authorized to enter into one or more financing agreements with the authority none of which shall exceed ten years in duration, upon such terms and conditions as the authority and an eligible political subdivision agree, so as to annually provide to the authority, in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for the bonds, notes or other obligations issued pursuant to this section. Any financing agreement entered into pursuant to this subdivision shall not constitute debt of an eligible political subdivision within the meaning of any constitutional or statutory provisions and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriations of the eligible political subdivision. Any such financing agreement or any payments made or to be made thereunder may be assigned or pledged by the authority as security for its bonds, notes or other obligations authorized by this section. The provisions of section one hundred nine-b of the general municipal law shall not be applicable to any financing agreement entered into between an eligible political subdivision and the authority for the issuance of any bonds, notes, or other obligations for any eligible 911 wireless capital equipment which may be financed pursuant to this section. Notwithstanding the foregoing, any political

subdivision entering into an agreement with the authority shall be subject to the provisions of subdivision five and paragraph (c) of subdivision 6 of section one hundred nine-b of the general municipal law.

4. Whenever the authority enters into a financing agreement with an eligible political subdivision, each eligible political subdivision is hereby authorized, in connection with the financing agreement, to assign and pledge to the authority, a sufficient portion of any and all public funds to be apportioned or otherwise to be made payable to the eligible political subdivision by the state of New York, for payments required under the financing agreement between the eligible political subdivision and the authority.

5. All local and state officers are hereby authorized and required to pay all funds so assigned and pledged pursuant to subdivisions three and four of this section to the authority or, upon the direction of the authority, to any trustee of any authority bond, note or other obligation issued pursuant to a certificate filed by the authority pursuant to the provisions of this section.

6. The authority shall submit annually to the governor, and the chairs of the assembly ways and means and senate finance committees a report which shall include but not be limited to, detailed information on the financing activity pursuant to this section, and a detailed summary of the financing agreements entered into with any political subdivision.

§ 1689-h. Expedited deployment funding. The authority is hereby authorized to finance eligible costs associated with expedited deployment funding in accordance with the provisions of section three hundred thirty-three of the county law.

1. (a) Notwithstanding the provisions of any general or special law to the contrary, and subject to appropriations by the legislature, in order to assist the authority in the financing and refinancing of such eligible costs, the director of the budget is authorized to enter into

one or more service contracts, none of which shall exceed thirty years in duration, with the authority, upon such terms as the director of the budget and the authority agree;

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the authority as security for its bonds, notes, or other obligations;

(c) Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature;

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related expenses required for any such bonds, notes, or other obligations.

2. The department of state shall, from any appropriations made available for this purpose, offer expedited deployment funding grants pursuant to section three hundred thirty-three of the county law. Financing for such grants authorized pursuant to this section shall only be made upon the determination by the authority, in consultation with and upon recommendation of the 911 board, that such grants will result in the expedited deployment of enhanced wireless 911 service.

3. To obtain funds for the purposes of this subdivision, the authority is hereby authorized to issue bonds or notes in an amount not to exceed one hundred million dollars excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes

previously issued, for payment of the costs of expedited deployment funding in accordance with the provisions of section three hundred thirty-three of the county law.

4. In computing, for the purposes of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the authority issued pursuant to this subdivision, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this subdivision may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the authority from the sale thereof, in each case including estimated accrued interest.

*** § 1689-i. Library construction.** 1. The dormitory authority is authorized to issue bonds, at the request of the commissioner of education, to finance eligible library construction projects pursuant to section two hundred seventy-three-a of the education law, in amounts certified by such commissioner not to exceed a total principal amount of four hundred ninety-nine million dollars $499,000,000.

2. (a) Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in the financing and refinancing of such eligible library construction projects, the director of the budget is authorized in state fiscal year

commencing April first, two thousand six to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree;

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations;

(c) Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature;

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related expenses required for any bonds, notes, or other obligations.

3. The commissioner of education shall issue one or more certifications to the dormitory authority, the comptroller, the director of the division of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee the names of all public libraries and library systems for which he has approved construction aid apportionments for authority financing of library construction projects pursuant to section two hundred seventy-three-a of the education law. Such certification, which shall be made within thirty days after such approval or as soon thereafter as is practicable, shall contain one or more projects such that the total of amounts to be financed shall be in excess of minimum amounts of bonds, in accordance with guidelines of the dormitory authority, which may be

issued so as to minimize the issuing costs of such bonds, and shall identify the amount of aid apportionment which has been approved for each such public library and library system and shall estimate the date or dates when such project will be undertaken to assist the authority in establishing a schedule for financing such project. The commissioner shall notify the authority if there is a change in such dates.

4. To obtain funds for the purposes of this section, the authority shall have power from time to time, in accordance with a schedule certified to the authority by the commissioner of education identifying eligible library construction projects approved for the payment of aid apportionments pursuant to section two hundred seventy-three-a of the education law, to issue negotiable bonds or notes of the authority. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

5. The state of New York hereby covenants with the purchasers, holders and owners from time to time of the bonds of the authority issued pursuant to this section that it will not repeal, revoke, rescind, modify or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders and owners or significantly impair the prospect of payment of any such bond.

* NB There are 2 § 1689-i's

** § 1689-i. Public school districts; authority financing of projects under the expanding our children's education and learning (EXCEL) program. 1. The dormitory authority is authorized to finance EXCEL projects for those school districts which are eligible to receive an apportionment for expanding our children's education and learning (EXCEL) pursuant to subdivision fourteen of section thirty-six hundred forty-one of the education law.

2. Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in the financing of such EXCEL projects, the director of the budget is authorized in any state fiscal year commencing April first, two thousand six and thereafter to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

3. Any service contract entered into pursuant to this section or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations.

4. Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature.

5. Any service contract or contracts entered into pursuant to this section shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related expenses required for any bonds, notes, or other obligations.

6. The commissioner of education shall certify, from time to time, to the dormitory authority, the comptroller, the director of the division of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee each school district for which

he or she has determined an aid apportionment for authority financing of an EXCEL project pursuant to subdivision fourteen of section thirty-six hundred forty-one of the education law. Such certification, which shall be made within thirty days after such determination or as soon thereafter as is practicable, shall identify the amount of aid apportionment which has been approved for such school district and shall estimate the date or dates when such project will be undertaken.

7. On or before November fifteenth of each year and again on or after February fifteenth of each year, the dormitory authority shall submit, and thereafter may resubmit, to the director of the division of the budget, the state comptroller, the commissioner of education, the chair of the senate finance committee and the chair of the assembly ways and means committee a report setting forth the estimated amounts, if any, of all annual payments required to be appropriated to the dormitory authority pursuant to such service contracts between the dormitory authority and the director of the division of the budget pursuant to this section.

8. To obtain funds for the purposes of this section, the authority shall have power from time to time, to issue negotiable bonds or notes of the authority. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

9. The dormitory authority shall not issue any bonds or notes in an amount in excess of two billion six hundred million dollars for the purposes of this section, excluding a principal amount of bonds or notes issued to fund one or more debt service reserve funds, to pay for the costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds, and bonds or notes previously issued. Except for the purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds or notes.

10. In computing for the purposes of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory

authority issued pursuant to this section, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this clause may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

11. The state of New York hereby covenants with the purchasers, holders and owners from time to time of the bonds of the authority issued pursuant to this section that it will not repeal, revoke, rescind, modify or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders and owners or significantly impair the prospect of payment of any such bond.

* NB Repealed December 31, 2029

* NB There are 2 § 1689-i's

§ 1690. Contract of the state. The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, reconstruct, equip and operate dormitories and facilities, to establish and collect rentals and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the holders of such obligations until the bonds, together with interest thereon, interest on any unpaid installments on interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

§ 1691. Actions against authority. 1. Except in an action for wrongful death, an action against the authority for personal injury or property damage or founded on tort shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall be served on an officer or employee of the authority designated by the authority for such purpose, within the time limited by, and in compliance with the requirements of, section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Neither any member of the authority nor any officer, employee, or agent of the authority, while acting within the scope of their authority, shall be subject to any personal liability resulting from the exercise or carrying out of any of the authority's purposes or powers.

§ 1693. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1694. Termination of authority. 1. The authority shall continue to operate and manage each such dormitory until such time as its liabilities thereon have been met and the bonds outstanding against such dormitory have been paid in full or such liabilities or bonds have otherwise been discharged. Thereupon, the jurisdiction of the authority over such dormitory shall cease and all the real and personal property and the title to all of the real and personal property of such dormitory vested in the authority shall pass to the state of New York and the management and authority shall thereafter be under rules and regulations of the commissioner of education approved by the regents.

2. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the authority, all of its rights and properties shall pass to and be vested in the state.

* TITLE 4-A

SMALL BUSINESS CONCERNS SET-ASIDE PURCHASES AND CONTRACTS FOR PROPERTY AND SERVICES AT THE HOSTOS COMMUNITY COLLEGE

* NB There are 2 A8 T4-A's

*** § 1695. Definitions.** As used in this article, unless the context requires otherwise:

a. "Chairman" means the chairman of the dormitory authority.

b. "Minority business concern" means a socially and economically disadvantaged applicant concern which is owned or controlled by one or more persons who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantages. Such disadvantages may arise from cultural, social or economic circumstances. Such persons include, but are not limited to, Black Americans, American Indians, Spanish-Americans, Oriental-Americans, Eskimos, Aleuts and servicemen in the armed forces during the Vietnam era.

c. "Small business" means a business which is independently owned and operated, and which is not dominant in the field of operation. The authority shall establish a detailed definition by rule, using in addition to the foregoing criteria, other criteria, including the number of employees and the dollar volume of business. When computing the size status of a bidder, annual sales and receipts of the bidder and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume which a small business may have under the rules promulgated by the authority shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries based on the criteria used by the federal Small Business Administration for loans to small businesses as set forth in Section 121.3-10 and Schedules A, C and D (or for awarding government procurements as set forth in Section 121.3-S and Schedule B) of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations, as amended, subject to the following general limitations unless the above regulations provide for other size or annual receipts standards for any industry or subindustry;

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year, nor is a construction business if its average annual receipts for the preceding three fiscal years, exceed five million dollars.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed one million dollars.

(3) No manufacturing business is a small business if it employs more than two hundred fifty persons.

d. "Small business set-aside" means a purchase request for which bids are to be invited and accepted only from small businesses by the chairman.

* NB There are 2 § 1695's

*** § 1696. Designation of small business set-asides at the Hostos Community College.** The chairman has authority to designate as small business set-asides specified commodities, equipment or services or contracts for construction, reconstruction, rehabilitation or improvement of college facilities for which purchase or work contract have been requested by the board of trustees of either the Bronx Community College or the Hostos Community College under the provisions of this title. The designation shall be made prior to the advertisement for bids as provided by law, and when the advertisement is published it shall indicate the purchases which have been designated small business set-asides. To effectuate the purposes of this title, the chairman may exercise this authority whenever there is a reasonable expectation that bids will be obtained from at least three small businesses capable of furnishing the desired property or service at a fair and reasonable price.

In the case of purchases or work contracts designated as small business set-asides, invitations to bid shall be confined to small businesses and bids from other businesses shall be rejected. The purchase, contract or expenditure of funds shall be awarded to the lowest responsible bidder among the small businesses (considering conformity with specifications and terms) in accordance with the rules and regulations for purchasing published by the authority.

It is hereby declared that a portion of small business set-asides, shall be set aside in turn as exclusively as possible, to small businesses owned or controlled by minority entrepreneurs as previously defined, and that such aforementioned businesses, shall constitute not less than twenty-five percent of the successful bidders under this title. Other contracts and business that in the opinion of the chairman can be judged to be substantially beneficial to socially or economically disadvantaged individuals may also be excluded from the general provisions and procedures applicable to the larger set-aside contracts.

Minority business concerns eligible hereunder shall be excluded from stipulated limitations of sales volume, number of employees and other factors defined in this title.

Offers must be advertised in the locality where a contract is to be effectuated. In locations where twenty-five percent or more of the population is non-English-speaking, notices shall be published in appropriate translated form. The procurement officer shall cooperate with county-wide business development organizations servicing minority communities in the formulation and maintenance of lists of qualified contractors, and shall notify such contractors of opportunities to submit bids for set-aside contracts. Minority bidders will be notified of reasons why their bids were unsuccessful. That each minority small business concern which bids is notified of reasons for failure to secure a successful bid, and that where responsibility as defined by the procurement officer or officers, agent or agents is a factor, such responsibility will be defined, and such reasons for determination of lack of responsibility will be provided the minority small business bidders.

Bonding requirements shall be negotiable for minority bidders.
* NB There are 2 § 1696's

*** § 1697. Withdrawal of designation of small business set-asides.** If the total number of small businesses responding to the invitation to bid and considered capable of meeting the specifications and terms of the invitation to bid is less than three, or if the chairman determines that acceptance of the best bid will result in the payment of an unreasonable price, the chairman shall reject all bids and withdraw the designation of small business set-aside.

If the chairman withdraws the designation of small business set-aside it shall notify the bidders of the reason why the bids were rejected. Invitations to bid containing the same or rewritten specifications and terms shall then be re-issued as otherwise so provided under this title, without the designation of small business set-aside.

* NB There are 2 § 1697's

*** § 1698. Submission of purchase order or work contract to successful bidder.** After the successful bidder has been determined, the chairman shall place an advertisement as provided by law indicating that all bids submitted on a small business set-aside have been opened and reporting the name and address of the successful bidder. The chairman shall send a purchase order or work contract to the successful bidder no sooner than fourteen days after the appearance of the advertisement announcing the successful bidder.

* NB There are 2 § 1698's

*** § 1699. Designation of contract negotiator for small business set-asides.** The chairman shall designate an experienced contract negotiator to serve as its small business procurement specialist whose duties shall include:

a. Compiling and maintaining a comprehensive bidders' list of small businesses. In this duty, he shall cooperate with the federal Small Business Administration in locating potential sources for various products and services.

b. Assisting small businesses in complying with the procedures for bidding on authority contracts at such educational institutions.

c. Examining requests from the board of trustees of the Hostos Community College for the purchase of property or services or for construction, reconstruction, rehabilitation or improvement of college facilities to help determine which invitations to bid are to be designated small business set-asides.

d. Making recommendations to the chairman for the simplification of procurement specifications and terms in order to increase the opportunities for small business participation.

e. Assisting in investigations by the chairman to determine the responsibility of bidders on small business set-asides.

* NB There are 2 § 1699's

*** § 1699-a. Legislative report.** The chairman shall annually before December first, report in writing to the legislature concerning the awarding of contracts, for specified commodities, equipment or services or for the construction, reconstruction, rehabilitation or improvement of college facilities at the Hostos Community College to small businesses and minority businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-aside.

* NB There are 2 § 1699-a's

* TITLE 4-A

SMALL BUSINESS CONCERNS SET-ASIDE PURCHASES AND CONTRACTS FOR PROPERTY AND SERVICES AT THE BRONX COMMUNITY COLLEGE

* NB There are 2 A8 T4-A's

*** § 1695. Definitions.** As used in this article, unless the context requires otherwise:

a. "Chairman" means the chairman of the dormitory authority.

b. "Minority business concern" means a socially and economically disadvantaged applicant concern which is owned or controlled by one or more persons who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantages. Such disadvantages may arise from cultural, social or economic circumstances. Such persons include, but are not limited to, Black Americans, American Indians, Spanish-Americans, Oriental-Americans, Eskimos, Aleuts and servicemen in the armed forces during the Vietnam era.

c. "Small business" means a business which is independently owned and operated, and which is not dominant in the field of operation. The authority shall establish a detailed definition by rule, using in addition to the foregoing criteria, other criteria, including the number of employees and the dollar volume of business. When computing the size status of a bidder, annual sales and receipts of the bidder and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume which a small business may have under the rules promulgated by the authority shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries based on the criteria used by the federal Small Business Administration for loans to small businesses as set forth in Section 121.3-10 and Schedules A, C and D (or for awarding government procurements as set forth in Section 121.3-S and Schedule B) of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations, as amended, subject to the following general limitations unless the above regulations provide for other size or annual receipts standards for any industry or subindustry;

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year, nor is a construction business if its average annual receipts for the preceding three fiscal years, exceed five million dollars.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed one million dollars.

(3) No manufacturing business is a small business if it employs more than two hundred fifty persons.

d. "Small business set-asides" means a purchase request for which bids are to be invited and accepted only from small businesses by the chairman.

* NB There are 2 § 1695's

*** § 1696. Designation of small business set-asides at the Bronx community college and York college.** The chairman has authority to designate as small business set-asides specified commodities, equipment or services or contracts for construction, reconstruction, rehabilitation or improvement of college facilities for which purchase or work contract have been requested by the board of trustees of the Bronx community college and York college under the provisions of this title. The designation shall be made prior to the advertisement for bids as provided by law, and when the advertisement is published it shall indicate the purchases which have been designated small business set-asides. To effectuate the purposes of this title, the chairman may exercise this authority whenever there is a reasonable expectation that bids will be obtained from at least three small businesses capable of furnishing the desired property or service at a fair and reasonable price.

In the case of purchases or work contracts designated as small business set-asides, invitations to bid shall be confined to small businesses and bids from other businesses shall be rejected. The purchase, contract or expenditure of funds shall be awarded to the lowest responsible bidder among the small businesses (considering conformity with specifications and terms) in accordance with the rules and regulations for purchasing published by the authority.

It is hereby declared that a portion of small business set-asides, shall be set aside in turn as exclusively as possible, to small businesses owned or controlled by minority entrepreneurs as previously defined, and that such aforementioned businesses, shall constitute not less than twenty-five percent of the successful bidders under this title. Other contracts and business that in the opinion of the chairman can be judged to be substantially beneficial to socially or economically disadvantaged individuals may also be excluded from the general provisions and procedures applicable to the larger set-aside contracts.

Minority business concerns eligible hereunder shall be excluded from stipulated limitations of sales volume, number of employees and other factors defined in this title.

Offers must be advertised in the locality where a contract is to be effectuated. In locations where twenty-five percent or more of the population is non-English-speaking, notices shall be published in appropriate translated form. The procurement officer shall cooperate with county-wide business development organizations servicing minority communities in the formulation and maintenance of lists of qualified contractors, and shall notify such contractors of opportunities to submit bids for set-aside contracts. Minority bidders will be notified of reasons why their bids were unsuccessful. That each minority small business concern which bids is notified of reasons for failure to secure a successful bid, and that where responsibility as defined by the procurement officer or officers, agent or agents is a factor, such responsibility will be defined, and such reasons for determination of lack of responsibility will be provided the minority small business bidders.

Bonding requirements shall be negotiable for minority bidders.

* NB There are 2 § 1696's

*** § 1697. Withdrawal of designation of small business set-asides.** If the total number of small businesses responding to the invitation to bid and considered capable of meeting the specifications and terms of the invitation to bid is less than three, or if the chairman determines that acceptance of the best bid will result in the payment of an unreasonable price, the chairman shall reject all bids and withdraw the designation of small business set-aside.

If the chairman withdraws the designation of small business set-aside it shall notify the bidders of the reason why the bids were rejected. Invitations to bid containing the same or rewritten specifications and terms shall then be re-issued as otherwise so provided under this title, without the designation of small business set-aside.

* NB There are 2 § 1697's

*** § 1698. Submission of purchase order or work contract to successful bidder.** After the successful bidder has been determined, the chairman shall place an advertisement as provided by law indicating that all bids submitted on a small business set-aside have been opened and reporting the name and address of the successful bidder. The chairman shall send a purchase order or work contract to the successful bidder no sooner than fourteen days after the appearance of the advertisement announcing the successful bidder.

* NB There are 2 § 1698's

*** § 1699. Designation of contract negotiator for small business set-asides.** The chairman shall designate an experienced contract negotiator to serve as its small business procurement specialist whose duties shall include:

a. Compiling and maintaining a comprehensive bidders' list of small businesses. In this duty, he shall cooperate with the federal Small Business Administration in locating potential sources for various products and services.

b. Assisting small businesses in complying with the procedures for bidding on authority contracts at such educational institutions.

c. Examining requests from the board of trustees of the Bronx community college for the purchase of property or services or for construction, reconstruction, rehabilitation or improvement of college facilities to help determine which invitations to bid are to be designated small business set-asides.

d. Making recommendations to the chairman for the simplification of procurement specifications and terms in order to increase the opportunities for small business participation.

e. Assisting in investigations by the chairman to determine the responsibility of bidders on small business set-asides.

* NB There are 2 § 1699's

*** § 1699-a. Legislative report.** The chairman shall annually before December first, report in writing to the legislature concerning the awarding of contracts, for specified commodities, equipment or services or for the construction, reconstruction, rehabilitation or improvement of college facilities at the Bronx community college and York college to small businesses and minority businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-asides.

* NB There are 2 § 1699-a's

TITLE 4-B

HEALTH CARE FINANCING CONSOLIDATION ACT

§ 1699-d. Short title. This title shall be known and may be cited as the "health care financing consolidation act."

§ 1699-e. Definitions. 1. "Agency" shall mean the New York state medical care facilities finance agency created by section four of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three, as amended, and operating pursuant to the New York state medical care facilities finance agency act.

2. "Authority" shall mean the dormitory authority created by section sixteen hundred seventy-seven of this article and operating pursuant to the dormitory authority act.

3. "Corporation" shall mean the facilities development corporation created by section four of section one of chapter three hundred fifty-nine of the laws of nineteen hundred sixty-eight, as amended, and operating pursuant to the facilities development corporation act.

§ 1699-f. Succession by authority to powers, duties and functions of the agency and corporation. 1. The authority hereby succeeds to the powers, duties and functions of each of the agency and the corporation, each of which shall continue its corporate existence in and through the authority. The agency shall not be deemed to have been terminated under subdivision eight of section four of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three.

2. The authority, subject to the provisions of this title, shall hereafter possess all the rights, privileges, immunities, powers and purposes of each of the agency and the corporation. All the property, real and personal, including moneys, investments, causes of action and every other asset, of each of the agency and the corporation hereby vests in the authority without further act or deed; and the title to any real estate, or interest therein, vested in the agency, corporation or authority shall not revert or be in any way impaired by reason of the succession effected hereby.

3. The authority hereby assumes and is liable for all the liabilities and obligations of each of the agency and the corporation without

further act or deed, including, without limitation, the obligation of the agency to make payments on its outstanding bonds, and notes or other obligations. No liability or obligation due or to become due, claim or demand for any cause existing against the agency or the corporation, respectively, or any officer or member thereof, shall be released or impaired, or in any respect expanded in regard to the source of payment thereof or otherwise, by the succession effected hereby. Neither the rights of creditors nor any liens upon, or security interests in, the property of the agency, the corporation or the authority shall be impaired by the succession effected hereby. No action or proceeding, whether civil or criminal, pending by or against the agency or the corporation, respectively, or any officer or member thereof, shall abate or be discontinued by the succession effected hereby, but may be enforced, prosecuted, settled or compromised as if such succession had not occurred, or the authority may be substituted in such action or special proceeding in place of either the agency or the corporation, as the case may be.

4. With respect to contracts, agreements, leases, and other similar arrangements previously made by and between the agency and the corporation or by and among the agency, the corporation and any other party, the authority shall, in succeeding to the powers, duties and functions of each of the agency and the corporation, perform all the obligations and duties of, and shall have all the rights, powers, and functions of, each of the agency and the corporation under and pursuant to such contracts, agreements, leases or other similar arrangements.

5. Except as provided in paragraph (b) of subdivision six of this section, nothing in this title shall limit or otherwise affect the power of the authority to issue bonds, notes and other obligations under and pursuant to and in accordance with the terms and conditions of the dormitory authority act, as amended. In addition, in succeeding to the powers, duties and functions of the agency, the authority is authorized to issue bonds, notes and other obligations for any purpose for which the agency has been authorized by law to issue bonds, notes or other obligations, under and pursuant to, in accordance with the terms and conditions of, and subject to the limitations in, the New York state

medical care facilities finance agency act, as amended in the public health law, the mental hygiene law, the facilities development corporation act, sections sixteen hundred ninety-nine-h through sixteen hundred ninety-nine-j of this act, and any other law.

6. (a) The exercise of powers, duties and functions of the agency to which the authority has succeeded, including without limitation the execution of contracts in connection therewith, shall be governed by applicable provisions of the medical care facilities finance agency act. The exercise of powers, duties and functions of the corporation to which the authority has succeeded, including without limitation the execution of contracts in connection therewith, shall be governed by applicable provisions of the facilities development corporation act.

(b) The financing of any project initiated on or after the effective date of this section, the entirety of which the agency would be authorized to undertake by the provisions of the medical care facilities finance agency act prior to such effective date, shall be governed by such act.

§ 1699-g. Separability. If any section, subdivision, paragraph, sentence, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid or effective and no other section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1699-h. Reports. The board of directors of the dormitory authority shall report on progress in implementing the succession of the medical care facilities finance agency and the facilities development corporation into the dormitory authority by March first, nineteen hundred ninety-six and shall issue a final report on September first, nineteen hundred ninety-six. Such reports shall be provided to the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee. Such report shall include, but not be limited to, the following information:

1. Operational, financial, procedural and organizational improvements obtained or planned as a result of the succession;

2. The source and amount of each reserve fund or account, pledged and unpledged, held by the agency or authority on March thirty-first, nineteen hundred ninety-five and on March thirty-first, nineteen hundred ninety-six with an explanation of the differences in amounts within each fund or account including identification of the amounts transferred to the state's general fund;

3. The impact, if any, on any programs and/or projects affected by such succession;

4. A list of positions affected by the succession, including but not limited to, positions of the housing finance agency estimated to have spent more than fifty percent of their time performing duties for the medical care facilities finance agency. Such list shall identify those positions transferred to the dormitory authority under provisions of this chapter and shall include each dormitory authority position's or transferred position's bargaining unit, if any, civil service status, if any, and job title; and

5. Legislative proposals to achieve further operational, financial, procedural and organizational improvements.

§ 1699-i. Transfer of employees. A transfer of employees effected as a consequence of the transfer of functions pursuant to any provision of this title shall be governed by this section:

1. Such transfers shall be subject to section seventy of the civil service law; or, where not subject to civil service, the provisions of such section seventy shall be deemed applicable, except where the context clearly requires otherwise. Any such employee who, at the time of such transfer, has a temporary or provisional appointment shall be

transferred subject to the same right of removal, examination or termination as though such transfer had not been made except to the extent such rights are modified by a collective bargaining agreement.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees, other than managerial or confidential persons (as defined in article fourteen of the civil service law), serving in positions in newly created titles shall be assigned to the appropriate bargaining unit. Nothing contained herein shall be construed to affect: (a) the rights of employees pursuant to a collective bargaining agreement; (b) the representational relationships among employee organizations or the bargaining relationships between the state and an employee organization; or (c) existing law with respect to an application to the public employment relations board, provided, however, that the merger of such negotiating units of employees shall be effected only with the consent of the recognized and certified representatives of such units and of the authority.

3. Notwithstanding the provisions of any other law to the contrary, all lawful appointees holding positions which hereinbefore were subject to the civil service law and are transferred to the authority shall continue to hold their positions without further examination or qualifications.

§ 1699-j. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to an annual management and financial audit performed by an independent certified accountant selected by the authority. The authority shall annually submit to the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee a copy of this audit.

TITLE 4-C

SMALL BUSINESS CONCERNS SET-ASIDE PURCHASES AND CONTRACTS FOR PROPERTY AND SERVICES AT THE MEDGAR EVERS COLLEGE, CITY UNIVERSITY OF NEW YORK

§ 1699-m. Definitions. In this article:

a. "Chairman" means the chairman of the dormitory authority.

b. "Minority business concern" means a socially and economically disadvantaged applicant concern which is owned or controlled by one or more persons who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantages. Such disadvantages may arise from cultural, social or economic circumstances. Such persons include, but are not limited to, Black Americans, American Indians, Spanish-Americans, Oriental-Americans, Eskimos, Aleuts and servicemen in the armed forces during the Vietnam era.

c. "Small business" means a business which is independently owned and operated, and which is not dominant in the field of operation. The authority shall establish a detailed definition by rule, using in addition to the foregoing criteria, other criteria, including the number of employees and the dollar volume of business. When computing the size status of a bidder, annual sales and receipts of the bidder and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume which a small business may have under the rules promulgated by the authority shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries based on the criteria used by the federal Small Business Administration for loans to small businesses as set forth in Section 121.3-10 and Schedules A, C and D (or for awarding government procurements as set forth in Section 121.3-S and Schedule B) of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations, as amended, subject to the following general limitations unless the above regulations provide for other size or annual receipts standards for any industry or subindustry;

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year, nor is a construction business if its average annual receipts for the preceding three fiscal years, exceed one million dollars.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed two hundred fifty thousand dollars.

(3) No manufacturing business is a small business if it employs more than two hundred fifty persons.

d. "Small business set-asides" means a purchase request for which bids are to be invited and accepted only from small businesses by the chairman.

§ 1699-n. Designation of small business set-asides at the Medgar Evers college, city university of New York. The chairman has authority to designate as small business set-asides specified commodities, equipment or services or contracts for construction, reconstruction, rehabilitation or improvement of college facilities for which purchase or work contract have been requested by the board of trustees for the Medgar Evers college, city university of New York under the provisions of this title. The designation shall be made prior to the advertisement for bids as provided by law, and when the advertisement is published it shall indicate the purchases which have been designated small business set-asides. To effectuate the purposes of this title, the chairman may exercise this authority whenever there is a reasonable expectation that bids will be obtained from at least three small businesses capable of furnishing the desired property or service at a fair and reasonable price.

In the case of purchases or work contracts designated as small business set-asides, invitations to bid shall be confined to small businesses and bids from other businesses shall be rejected. The purchase, contract or expenditure of funds shall be awarded to the lowest responsible bidder among the small businesses (considering conformity with specifications and terms) in accordance with the rules and regulations for purchasing published by the authority.

It is hereby declared that a portion of small business set-asides, shall be set aside in turn as exclusively as possible, to small businesses owned or controlled by minority entrepreneurs as previously defined, and that such aforementioned businesses, shall constitute not less than twenty-five percent of the successful bidders under this title. Other contracts and business that in the opinion of the chairman can be judged to be substantially beneficial to socially or economically disadvantaged individuals may also be excluded from the general provisions and procedures applicable to the larger set-aside contracts.

Minority business concerns eligible hereunder shall be excluded from stipulated limitations of sales volume, number of employees and other factors defined in this title.

Offers must be advertised in the locality where a contract is to be effectuated. In locations where twenty-five percent or more of the population is non-English-speaking, notices shall be published in appropriate translated form. The procurement officer shall cooperate with county-wide business development organizations servicing minority communities in the formulation and maintenance of lists of qualified contractors, and shall notify such contractors of opportunities to submit bids for set-aside contracts. Minority bidders will be notified of reasons why their bids were unsuccessful. That each minority small business concern which bids is notified of reasons for failure to secure a successful bid, and that where responsibility as defined by the procurement officer or officers, agent or agents is a factor, such responsibility will be defined, and such reasons for determination of lack of responsibility will be provided the minority small business bidders.

Bonding requirements shall be negotiable for minority bidders.

§ 1699-o. Withdrawal of designation of small business set-asides. If the total number of small businesses responding to the invitation to bid and considered capable of meeting the specifications and terms of the invitation to bid is less than three, or if the chairman determines that acceptance of the best bid will result in the payment of an unreasonable price, the chairman shall reject all bids and withdraw the designation of small business set-aside.

If the chairman withdraws the designation of small business set-aside it shall notify the bidders of the reason why the bids were rejected. Invitations to bid containing the same or rewritten specifications and terms shall then be re-issued as otherwise so provided under this title, without the designation of small business set-aside.

§ 1699-p. Submission of purchase order or work contract to successful bidder. After the successful bidder has been determined, the chairman shall place an advertisement as provided by law indicating that all bids submitted on a small business set-aside have been opened and reporting the name and address of the successful bidder. The chairman shall send a purchase order or work contract to the successful bidder no sooner than fourteen days after the appearance of the advertisement announcing the successful bidder.

§ 1699-q. Designation of contract negotiator for small business set-asides. The chairman shall designate an experienced contract negotiator to serve as its small business procurement specialist whose duties shall include:

a. Compiling and maintaining a comprehensive bidders' list of small businesses. In this duty, he shall cooperate with the federal Small Business Administration in locating potential sources for various products and services.

b. Assisting small businesses in complying with the procedures for bidding on authority contracts at such educational institutions.

c. Examining requests from the board of trustees for the Medgar Evers college for the purchase of property or services or for construction, reconstruction, rehabilitation or improvement of college facilities to help determine which invitations to bid are to be designated small business set-asides.

d. Making recommendations to the chairman for the simplification of procurement specifications and terms in order to increase the opportunities for small business participation.

e. Assisting in investigations by the chairman to determine the responsibility of bidders on small business set-asides.

§ 1699-r. Legislative report. The chairman shall annually before December first, report in writing to the legislature concerning the awarding of contracts, for specified commodities, equipment or services or for the construction, reconstruction, rehabilitation or improvement of college facilities at the Medgar Evers college to small businesses and minority businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-asides.

TITLE 6

THE NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY ACT

§ 1725. Short title. This title shall be known and may be cited as the "New York city school construction authority act".

§ 1726. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the New York city school construction authority.

2. "Board" shall mean the board of trustees of the New York city school construction authority.

3. "Council" shall mean the council of the city of New York.

4. "Chancellor" shall mean the chancellor of the city school district of the city of New York.

5. "City" shall mean the city of New York.

6. "City board" shall mean the board of education of the city school district of the city of New York.

7. "Comptroller" shall mean the comptroller of the city of New York.

8. "Director of management and budget" shall mean the director of management and budget of the city of New York.

9. "Educational facilities" shall have the meaning set forth in subdivision nine of section twenty-five hundred ninety-a of the education law.

10. "Mayor" shall mean the mayor of the city of New York.

11. "Project" shall have the meaning set forth in subdivision ten of section twenty-five hundred ninety-a of the education law.

12. "State" shall mean the state of New York.

§ 1727. New York city school construction authority. 1. There is hereby established a public benefit corporation to be known as the "New York city school construction authority".

2. The authority shall be governed by and its powers shall be exercised by a board of trustees consisting of three members. The

members shall be the chancellor, or acting chancellor if the position of chancellor is vacant, and two other members, to be appointed by the mayor. The chancellor or acting chancellor shall serve as the chairperson of the board of trustees. No member of the city board or of a community school board shall be one of the appointed members of the board, nor shall an officer or employee of the city or state be one of the appointed members of the board. The appointed members shall serve at the pleasure of the mayor.

3. Each appointed member shall continue in office until a successor has been appointed and qualifies. In the event a vacancy occurs in the office of an appointed member, the vacancy shall be filled in the same manner as was the original appointment of the trustee whose office became vacant.

4. Appointed members may engage in private employment, or in a profession or business; provided, however, that notwithstanding any otherwise applicable provision of general law, the members shall be subject to the limitations contained in sections twenty-six hundred three, twenty-six hundred four, twenty-six hundred five, and twenty-six hundred six of the New York city charter. The authority shall, for the purposes of such sections be an "agency" and such trustees shall be "public servants" for the purposes of such sections. In addition, such trustees shall be subject to the provisions of section eleven hundred sixteen of such charter and shall for the purposes of such section be "officers of the city". Notwithstanding any otherwise applicable provision of general law, employees of the authority shall be subject to such provisions of such charter and shall be deemed to be officers and employees of the city of New York for purposes of the financial disclosure requirements of section 12-110 of the administrative code of such city.

5. The board shall provide for the holding of regular meetings and such special meetings at the call of the chairman, as may be necessary. A majority of the whole number of trustees shall constitute a quorum for the transaction of business. The powers of the board shall be vested in and exercised by a majority of the whole number of the members thereof.

6. Trustees shall receive no compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred by them in the performance of their official duties as trustees of the authority.

7. The board shall appoint as president of the authority an individual who has extensive executive-level construction experience. The president, who shall not be a member of the board, shall be the chief executive officer of the authority and shall be responsible for the discharge of the executive and administrative functions and powers of the authority. The president shall serve at the pleasure of the board.

8. The authority shall continue in its corporate existence until terminated by law. Upon termination of the existence of the authority, all of the property interests of the authority shall pass to and vest in the city and the city shall assume any outstanding contractual duties or obligations of the authority, except as otherwise may be specified by law.

§ 1728. Powers and duties of the authority. The authority shall have the following powers and duties:

1. To sue and be sued;

2. To have a seal or alter the same at pleasure;

3. To make and alter by-laws for the organization and the management and regulation of its affairs;

4. To appoint officers and employees, fix their compensation and require background investigations, including but not limited to the criminal history of all applicants for employment to determine the suitability of such applicants for employment. Such investigation shall include but not be limited to the taking of fingerprints of such officers and employees as a prerequisite for employment; provided,

however, that every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed and forwarded to the federal bureau of investigation, at a rate required by such agencies for state and national criminal history record checks;

5. To design, construct, reconstruct, improve, rehabilitate, maintain, furnish, repair, equip and otherwise provide for educational facilities, as defined in section twenty-five hundred ninety-a of the education law, for the city board pursuant to agreements with the city board;

6. To acquire real and personal property, or any interest therein, by any method, including but not limited to purchase or condemnation, for the purpose of constructing, reconstructing, improving, rehabilitating, maintaining, repairing, furnishing, equipping or otherwise providing for educational facilities for the city board; provided, however, that the authority shall use such condemnation power only if the authority is unable to purchase property by negotiation or bidding and provided further that, except to the extent permitted by subdivision two of section seventeen hundred twenty-nine of this title, the authority may not condemn property dedicated to use, used or mapped as a city street or any other property owned by, or subject to any interest therein, of the city of New York;

7. To make and execute contracts and all other instruments necessary or convenient for the exercise of its functions, powers and duties, provided that the authority may not unless otherwise specifically authorized by law issue negotiable bonds or notes;

8. To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

9. To enter into agreements with the city board pursuant to which the authority will be responsible for the acquisition, design, construction, reconstruction, improvement, rehabilitation, maintaining, repairing, furnishing, equipping of and otherwise providing for educational facilities for the city board, provided, however, that (i) any agreement

under which the authority shall engage in maintenance shall be limited to maintenance that is attendant to the authority's implementation of a five-year educational facilities capital plan; (ii) nothing herein shall be deemed to diminish the rights of school custodians and custodian engineers as established in the existing collective bargaining agreement with the city board or other custodian or maintenance employees as established in their respective collective bargaining agreements; and (iii) further provided that the authority is not empowered to engage in custodial operations;

10. Notwithstanding the provisions of section two thousand five hundred four of the insurance law or any other law, to procure insurance on behalf of itself and others against any loss in connection with its activities, properties and other assets, in such amounts and from such insurers as it deems desirable; provided that the authority may enter into agreements with the city, acting by the mayor alone, providing for indemnification by the city of the authority against tort and contract judgments and claims, which agreements may contain provisions requiring legal representation of the authority by the corporation counsel of the city and specifying any insurance to be carried by the authority, which provisions shall supersede any agreements with the city board on such subject;

11. Upon completion of the design, construction, reconstruction, improvement, rehabilitation, maintaining, repairing, furnishing, equipping of or otherwise providing for educational facilities, to convey title to any such facilities to the city for use as educational facilities by the city board. In the case of educational facilities leased by the authority, the city board may occupy or sublet such facilities from the authority without compensation and without further approval and, upon transfer or assignment of the authority's interest in these facilities to the city board, the city board shall assume all rights and obligations of the authority under such lease;

12. To dispose of personal property and, with the consent of the city, acting by the mayor and the council, to dispose of real property, or any interest therein, held by the authority and not required for educational

purposes of the city board, by sale, lease, sublease or otherwise, provided that such disposition is pursuant to the implementation of a five-year educational facilities capital plan;

13. To enter into agreements with the city's department of city planning to render any services the authority may request, including but not limited to professional and technical assistance by planning experts, engineers, architects and any other staff as may be necessary, and the use of the premises, personnel, equipment, access to relevant data and personal property of the department of city planning;

13-a. To enter into agreements with the city's department of health and mental hygiene to render any services the authority may request, including but not limited to access to data necessary to develop reasonable student population projections citywide, for each community school district and for each community board;

13-b. To enter into agreements with the city's department of buildings to render any services the authority may request, including but not limited to access to building permit and construction data, including the number and size of units within buildings;

13-c. To enter into agreements with the city's department of housing preservation and development to render any services the authority may request, including but not limited to access to building permit and construction data, including the number and size of units within buildings;

13-d. To coordinate with the office of city planning, the department of buildings, the department of housing preservation and development, the department of health and mental hygiene and community boards to create uniform, citywide student population projections, community school district and community board, for a minimum of five years, based on data produced by the office of city planning, the department of buildings, the department of housing preservation and development and the department of health and mental hygiene. Such projections shall be used in the creation and implementation of the authority's five-year educational facilities capital plan;

14. To enter into agreements with the city board to render services, including but not limited to the use of the premises, personnel and personal property of the city board, and to provide for reimbursement to the city board from the authority for any expenses incurred by the city board in carrying out the terms of these agreements;

15. To enter into agreements with the city board pursuant to which the city board may make available to the authority the services of employees of the city board who are contemplated to be transferred to the authority pursuant to a plan for such transfers for the purpose of rendering assistance in establishing the operations of the authority; provided, however, that such employees shall no longer be available to the authority pursuant to the terms of this subdivision beyond one year following the effective date of this title;

* 15-a. To establish employment goals in accordance with the program established pursuant to section thirty-five hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by the president of the authority or his or her designee;

* NB Effective May 15, 2024

* NB Repealed May 15, 2029

16. To apply for or accept any gifts, grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, from the state or any agency or instrumentality thereof, from the city or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and it may comply, subject to the provisions of this title, with the terms and conditions thereof; and

17. To do any and all things necessary or convenient to carry out and exercise the powers given and granted by this section.

§ 1729. Transfer of property. 1. The city board and the city, acting by the mayor alone or by resolution of the council, may convey or transfer to the authority, with or without consideration and without any further authorization, any real, personal or mixed property (including inalienable property of the city, except for land mapped as parks), or any interest therein, in order to assist the authority in implementing a five-year educational facilities capital plan.

2. In the event the authority wishes to obtain city property for use as an educational facility pursuant to an approved five-year educational facilities capital plan, the authority shall request such property in writing and shall submit such request directly to the mayor. The mayor shall have thirty days to respond to such request. If the request is denied, the mayor shall set forth in writing the reasons for such denial, including whether the city intends to use such property for other public uses. Such response shall be made available to the public upon request. If the mayor fails to respond to such request, the authority may, at the expiration of the thirty-day period, condemn such property pursuant to its powers under subdivision six of section seventeen hundred twenty-eight of this title.

§ 1730. Exemption from land use review procedures and other requirements. 1. Except for the provisions of article eight of the environmental conservation law and article fourteen of the parks, recreation and historic preservation law, neither (a) the establishment or amendment of an educational facilities capital plan and actions relating to the financing thereof, nor (b) the establishment or revision of an educational facilities master plan and actions relating to the financing thereof, nor (c) the selection of sites for educational facilities pursuant to a five-year educational facilities capital plan, nor (d) any conveyance or other grant of property or of any interest therein by the city, the city board or any other person, firm or organization to the authority or to the city board pursuant to a five-year educational facilities capital plan, nor (e) the design, construction, reconstruction, improvement, rehabilitation, maintaining, furnishing, repairing, equipping or use of educational facilities by the authority, including any contracts, approvals, consents, agreements, permits or authorizations necessary to accomplish the same, which are pursuant to a five-year educational facilities capital plan, nor (f) the reconveyance or transfer of property to the city board or to the city by the authority or any disposition of property pursuant to a five-year educational facilities capital plan, shall be subject to the provisions of any general, special or local law, city charter, administrative code, ordinance or resolution governing uniform land use review procedures, any other land use planning review and approvals, historic preservation procedures, architectural reviews, franchise approvals and other state or local review and approval procedures governing the use of land and the improvements thereon within the city. Capital projects for educational facilities to be undertaken by the authority shall not be subject to the provisions of the charter of the city relating to site selection, land use review procedures, art commission review procedures, general standards and cost limits, project scope and design procedures, or contract registration and vouchering procedures.

2. The authority shall be deemed the lead agency for purposes of the implementation of the environmental review procedures prescribed by article eight of the environmental conservation law and the rules and regulations promulgated by the department of environmental conservation pursuant thereto.

3. The authority shall be subject to zoning regulations to the same extent that the city board is subject to such regulations, if at all.

§ 1731. Community participation. 1. Prior to the commencing of new construction or building additions of an educational facility, or the acquisition of real property or any interest therein for such purpose, the authority shall file a copy of the site plan of such facility in its offices and shall provide a copy thereof to the city board, the city planning commission and the community school district education council and the community board of the district in which the facility will be located. The authority shall also provide a copy of such plan to the council member, senator and member of assembly representing the district in which the facility will be located. Such plan shall include data on projected student population for the community school district or districts and the community board or boards affected, the source of that data and the reason the proposed action is necessary and how such plan factors and accounts for student population projections. Upon request, any other person shall be furnished with such plan or a summary thereof. The authority shall publish in a newspaper of general circulation in the city a notice of the filing of such plan and the availability of the plan and a summary thereof. Such plan shall include, in the case of any project for which the acquisition of real property or interest therein is proposed, the recommended site, any alternate sites considered, and any rationale as to why the alternate sites were not selected.

2. Within thirty days after publication of the notice required under subdivision one of this section, a public hearing with sufficient public notice shall be held by each affected community school district education council on any or all aspects of the site plan and by each affected community board on aspects of the site plan which relate to the general public use of the educational facility and to its impact on the surrounding community, including but not limited to the responsiveness of the site plan to projected changes in student population in the affected community board or boards and how such plan factors and accounts for student population projections. The affected board may request the attendance of representatives of the authority or the city board at a hearing and the authority or the city board shall comply with such requests. If the proposed project affects two or more school districts or community boards, then a hearing may be held jointly by the affected community school district education council and/or the affected community boards. Any affected community school district education council, together with any affected community board, may at their mutual discretion, elect to conduct a hearing jointly.

3. Within forty-five days after publication of such notice, each

affected community school district education council or community board shall prepare and submit to the authority, written comments on the site plan. Any other organization or person shall also have the opportunity to present written comments on the plan during this period. Each comment received by the authority on such plan at any time prior to action being taken by the authority on the plan shall be considered by the authority in connection with such action.

4. After due consideration of such comments, if any, the authority may affirm, modify or withdraw the plan.

5. Nothing herein shall preclude the authority from holding hearings on the site plan, provided, however, that any such hearings on the site plan shall be conducted within the period specified in subdivision three of this section.

§ 1732. City approval of sites. 1. Following the hearings held pursuant to section seventeen hundred thirty-one of this title, but prior to initiating construction of new educational facilities, the authority shall submit the site plan of such projects to the mayor and the council for review, provided, however, that such review shall be limited to the site selected for the project.

2. The site plan shall be deemed to be approved by the city unless within twenty days of such submission by the authority it is disapproved by the mayor or by the council, acting by a two-thirds vote. The council may, by a two-thirds vote, override any disapproval of the mayor within twenty days following receipt of notice of such disapproval from the mayor. The notice provision contained herein shall be deemed sufficient for action by the mayor and the council notwithstanding any provision of law, local or general, or charter to the contrary.

3. The city may not require the authority to conduct any further hearings or seek any further approvals as a condition for receiving city approval.

4. If the council or mayor disapproves the site plan, (a) the authority may, after consultation with the city board, revise such site plan for resubmission pursuant to section seventeen hundred thirty-one of this title and this section or (b) the authority may, with the agreement of the city board and chancellor, eliminate such site plan from the five-year educational facilities capital plan.

§ 1733. Compliance with codes. The authority shall, in the design, construction, reconstruction, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for educational facilities, comply with the requirements of the city building code, fire code and electrical code.

§ 1734. Contracts of the authority. 1. a. All contracts for the construction, reconstruction, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for educational facilities for the city board may be awarded in accordance with the provisions of this section, notwithstanding the provisions of section eight of the public buildings law, section one hundred three of the general municipal law, section one hundred thirty-five of the state finance law, section seven of the New York state financial emergency act for the city of New York or of any other provision of general, special or local law, charter or administrative code.

b. The authority shall be subject to the provisions of section one hundred one of the general municipal law.

2. a. Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of ten thousand dollars and all contracts for public work involving an estimated expenditure in excess of fifty thousand dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth. For purposes hereof, contracts for public work shall exclude contracts for personal, engineering and architectural, or professional

services.

b. The authority may reject all bids and obtain new bids in the manner provided by this section when it deems it in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such bidders or obtain new bids from such bidders. Nothing herein shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, and inspection services so long as the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

3. a. Notwithstanding the provisions of paragraph a of subdivision two of this section, the authority shall establish guidelines governing the qualifications of bidders entering into contracts for the construction, reconstruction, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for educational facilities for the city board. The bidding may be restricted to those who have qualified prior to the receipt of bids according to standards fixed by the authority; provided, however, that the award of contracts shall, to the extent not inconsistent with this paragraph, be in accordance with paragraph b of subdivision two of this section.

b. In determining whether a prospective bidder qualifies for inclusion on a list of pre-qualified bidders, the authority shall consider (1) the experience and past performance of the prospective bidder; (2) the prospective bidder's ability to undertake work; and (3) the financial capability, responsibility and reliability of prospective bidders. The authority may also consider such other factors as it deems appropriate.

c. The authority shall, not less than twice each year, publish, in a newspaper of general circulation in the city of New York, an advertisement requesting prospective bidders to submit qualification statements. Lists of pre-qualified bidders shall be reviewed and updated not less than annually by the authority. The authority shall delete from the list of pre-qualified bidders any bidder who has failed to perform adequately or satisfactorily for the authority, the city board or any other city or state agency or authority.

d. Lists of pre-qualified bidders may be established on a project-specific basis; provided, however, that any such list shall have no less than five bidders.

4. a. Advertisement for bids, when required by this section, shall be published at least once in a newspaper of general circulation in the city of New York. Publication in such a newspaper shall not be required (i) if bids for contracts for supplies, materials or equipment are of a type regularly purchased by the authority and are to be solicited from a list of potential suppliers, if such list is or has been developed consistent with the provisions of subdivision six of this section or (ii) if bids are to be solicited from a list of pre-qualified bidders pursuant to the provisions of paragraph d of subdivision three of this section. Any such advertisement shall contain a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read. At least fourteen days shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids.

b. The authority may designate any officer or employee to open the bids at the time and place bids are to be opened and may designate an officer to award the contract to the lowest responsible bidder. Such designee shall make a record of all bids in such form and detail as the authority shall prescribe. All bids received shall be publicly opened and read at the time and place specified in the advertisement or at the time of solicitation, or to which the opening and reading have been adjourned by the authority. All bidders shall be notified of the time and place of any such adjournment.

5. Notwithstanding the foregoing, the authority may by resolution

approved by a vote of its members declare (i) that competitive bidding for non-construction contracts is impractical or inappropriate because of the existence of any of the circumstances hereinafter set forth or (ii) that competitive bidding for construction contracts is impractical or inappropriate because of the existence of the circumstances set forth in paragraph a of this subdivision. Thereafter the authority may proceed to award contracts without complying with the requirements of subdivision two or three of this section. In each case where the authority declares competitive bidding impractical or inappropriate, it shall state the reason therefor in writing and summarize any negotiations that have been conducted and shall be made available upon request. Except for contracts awarded pursuant to paragraphs a, b and c of this subdivision, the authority shall not award any contract pursuant to this subdivision earlier than thirty days from the date on which the authority declares that competitive bidding is impractical or inappropriate. Competitive bidding may only be declared impractical or inappropriate where:

a. the existence of an emergency involving danger to life, safety or property requires immediate action and cannot await competitive bidding or the item to be purchased is essential to efficient operation or the adequate provision of service by the city board or the authority and as a consequence of unforeseen circumstance such purchase cannot await competitive bidding;

b. the authority receives no responsive bids or only a single responsive bid in response to an invitation for competitive bids;

c. the item is available through an existing contract between a vendor and (i) another public authority provided that such other authority utilized a process of competitive bidding or a process of competitive requests for proposals to award such contracts, or (ii) the city board, or (iii) the state of New York, or (iv) the city of New York, provided that in any case when under this paragraph the authority determines that obtaining such item thereby would be in the public interest and sets forth the reason for such determination. The authority shall accept sole responsibility for any payment due the vendor as a result of the authority's order; or

d. the authority determines that it is in the public interest to award contracts pursuant to a process for competitive requests for proposals as hereinafter set forth. For purposes of this section, a process for competitive requests for proposals shall mean a method of soliciting proposals and awarding a contract on the basis of a formal evaluation of the characteristics, such as quality, cost, delivery schedule and financing of such proposals against stated selection criteria. Public notice of the requests for proposals shall be given in the same manner as provided in subdivision three of this section and shall include the selection criteria. In the event the authority makes a material change in the selection criteria from those previously stated in the notice, it will inform all proposers of such change and permit proposers to modify their proposals.

(i) The authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of its members at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals or (B) the rejection of any or all proposals at any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

6. Upon the adoption of a resolution by the authority stating, for reasons of efficiency, economy, compatibility or maintenance reliability, that there is a need for standardization, the authority may establish procedures whereby particular supplies, materials or equipment are identified on a qualified products list. Such procedures shall provide for products or vendors to be added to or deleted from such list and shall include provisions for public advertisement of the manner in which such lists are compiled. The authority shall review such list no less than twice a year for the purpose of making such modifications.

Contracts for particular supplies, materials or equipment identified on a qualified products list may be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in accordance with this section or without competitive sealed bids in instances when the item is available from only a single source, except that the authority may dispense with advertising provided that it mails copies of the invitation to bid to all vendors of the particular item on the qualified products list.

7. The authority shall compile a list of potential sources of supplies, materials or equipment regularly purchased. The authority shall, by resolution, set forth the procedures it has established to identify new sources and to notify such new sources of the opportunity to bid for contracts for the purchase of supplies, materials or equipment. Such procedures shall include, but not be limited to advertising in trade journals.

8. The authority shall be subject to the provisions of section twenty-eight hundred seventy-nine of this chapter in awarding contracts for personal services.

9. The board shall, by resolution, establish procedures for the fair and equitable resolution of contract disputes. Prior to the establishment of such policy, the board shall publish in appropriate publications a notice of such policy and invite comment from interested parties, including, but not limited to representatives of construction organizations. Such notice shall also state that the authority will hold a public hearing to consider the policy at a specified time and place on a date not less than ten days after such publication, and the authority shall conduct the public hearing pursuant to such notice.

10. The provisions of article eight of the labor law shall be applicable to all contracts entered into directly or indirectly by the authority.

11. The provisions of subdivision one of section one hundred six-b of the general municipal law shall apply to the authority, provided,

however, that the authority may retain up to four times the value of any remaining items to be completed.

*** § 1735. Certain contracts of the authority.** 1. Notwithstanding the provisions of paragraph b of subdivision one of section seventeen hundred thirty-four of this title, the award of construction contracts by the authority between July first, nineteen hundred eighty-nine and June thirtieth, two thousand twenty-eight, shall not be subject to the provisions of section one hundred one of the general municipal law.

2. Notice of the invitation for bids for contracts to be awarded pursuant to this section shall state the time and place of the receipt and opening of bids.

3. All bidders shall submit to the authority, prior to the opening of a bid for the award of a contract under this section, a sealed list identifying the names of each subcontractor each contractor proposes to utilize under the contract for the performance of the following subdivisions of work:

a. Plumbing and gas fitting;

b. Steam heating, hot water heating, ventilating and air conditioning apparatus; and

c. Electric wiring and standard illuminating fixtures.

The low bidder shall specify in such list the estimated value to be paid each such subcontractor for the work to be performed by such subcontractor. After the authority has announced the low bidder at the bid opening, the authority shall open only such low bidder's separate sealed list and shall read aloud such subcontractors listed therein. All such sealed lists except those of the low bidder shall be returned unopened to their respective contractors following the awarding of a contract.

4. The authority shall establish a committee to review and report on contracts issued pursuant to this section and on the procedures and methodology of the authority in awarding such contracts. The review shall include, but not be limited to, the degree to which contractors awarded contracts pursuant to such paragraph, and the subcontractors utilized by them, utilize employees who are represented by labor organizations, comply with existing labor standards, maintain harmonious labor relations and recognize state approved apprentice programs. The committee shall, from time to time, issue economic and statistical reports dealing with the costs of construction under this article. Such reports shall deal with the costs of labor, material, equipment and profit. The committee shall have no authority to approve or disapprove contracts. The committee shall be composed of two representatives from the authority, one representative from the board, two representatives from construction-related labor organizations and two representatives from the construction industry, at least one of whom shall be involved in the subdivisions of work described in subdivision three of this section. The president of the authority shall designate the members of the committee, provided, however, that the president shall designate the representatives of labor organizations from a list of names submitted by the New York state AFL-CIO.

5. In awarding contracts pursuant to this section the authority shall, in addition to the factors set forth in subdivision three of section seventeen hundred thirty-four of this title, consider the following factors when establishing a list of pre-qualified bidders for construction work: (a) the degree to which a contractor or subcontractor utilizes employees who are represented by a labor organization; (b) the absence of any intentional misrepresentation with regard to lists of subcontractors previously submitted pursuant to the provisions of subdivision two of this section; and (c) the record of the bidder in complying with existing labor standards, maintaining harmonious labor relations and recognizing state approved apprentice programs.

6. The authority shall provide in its construction, erection or alteration contracts which implement a five year educational facilities capital plan a provision that shall require each contractor to make

prompt payment to its subcontractors performing each subdivision of work listed in subdivision three of this section. Within seven calendar days of the receipt of any payment from the authority, the contractor shall pay to each such subcontractor that portion of the proceeds of such payment representing the value of the work performed by such subcontractor, based upon the actual value of the subcontract, which has been approved and paid for by the authority, less an amount necessary to satisfy any claims, liens or judgments against the subcontractor which have not been suitably discharged and less any amount retained by the contractor as provided herein. For such purpose, the subcontract may provide that the contractor may retain not more than five per centum of each payment to the subcontractor or not more than ten per centum of each such payment if prior to entering into the subcontract the subcontractor is unable or unwilling to provide, at the request of the contractor, a performance bond and a labor and material bond both in the amount of the subcontract.

At the time of making a payment to the contractor for work performed by the subcontractors set forth in subdivision three of this section, the authority shall file in its office for review a record of such payment. If any such subcontractor shall notify the authority and the contractor in writing that the contractor has failed to make a payment to it as provided herein and the contractor shall fail, within five calendar days after receipt of such notice, to furnish either proof of such payment or notice that the amount claimed by the subcontractor is in dispute, the authority shall withhold from amounts then or thereafter becoming due and payable to the contractor, other than from amounts becoming due and payable to the contractor representing the value of work approved by the authority and performed by other subcontractors and which the contractor is required to pay to such subcontractors within seven calendar days as herein provided, an amount equal to one hundred fifty percent of that portion of the authority's prior payment to the contractor which the subcontractor claims to be due it, shall remit the amount when and so withheld to the subcontractor and deduct such payment from the amounts then otherwise due and payable to the contractor, which payment shall, as between the contractor and the authority, be deemed a payment by the authority to the contractor. In the event the contractor shall notify the authority as above provided that the claim of the subcontractor is in dispute, the authority shall withhold from amounts then or thereafter becoming due and payable to the contractor, other than from amounts becoming due and payable to the contractor representing the value of work approved by the authority and performed by other subcontractors and which the contractor is required to pay to such subcontractors within seven calendar days as herein provided, an amount equal to one hundred fifty percent of that portion of the authority's prior payment to the contractor which the subcontractor claims to be due it and deposit such amount when and so withheld in a separate interest-bearing account pending resolution of the dispute, and the amount so deposited together with the interest thereon shall be paid to the party or parties ultimately determined to be entitled thereto, or until the contractor and subcontractor shall otherwise agree as to the disposition thereof. In the event the authority shall be required to withhold amounts from a contractor for the benefit of more than one subcontractor, the amounts so withheld shall be applied to or for such subcontractors in the order in which the written notices of nonpayment have been received by the authority, and if more than one such notice was received on the same day, proportionately based upon the amount of the subcontractor claims received on such day. Notwithstanding the foregoing, in lieu of withholding such amount or amounts in dispute, the contractor may post a bond or other form of undertaking guaranteeing payment of such disputed amounts. Nothing herein contained shall prevent the authority from commencing an interpleader action to determine entitlement to a disputed payment in accordance with section one thousand six of the civil practice law and rules, or any successor provision thereto. In the event the authority does not withhold the required amounts within sixty days after the written notification from the subcontractor regarding failure of the contractor to make payment, the subcontractor may file a lien under article two of the lien law as the sole remedy in lieu of the remedy provided under this subdivision.

Payment to a subcontractor shall not relieve the contractor from responsibility for the work covered by the payment. Except as otherwise provided, nothing contained herein shall create any obligation on the part of the authority to pay any subcontractor, nor shall anything provided herein serve to create any relationship in contract or otherwise, implied or expressed, between the subcontractor and the authority.

The provisions of this subdivision shall not be applicable to the subcontractors of a contractor whose contract is limited to the performance of a single subdivision of work listed in subdivision three of this section.

7. The provisions of this section shall cease to be in effect in the event any of the provisions of this section shall be adjudged to be invalid by the final judgment of a court of competent jurisdiction from which judgment all appeals or applications for relief have been exhausted or the time therefor has expired, provided, however, that such appeals or applications are pursued promptly.

* NB Repealed June 30, 2028

§ 1736. Funding of the authority. 1. Each year the authority shall prepare and the board shall adopt an itemized estimate of the sum of money it deems necessary from the city board to cover the authority's operating expenses for the ensuing fiscal year. Such estimate shall take into account any prior year's surplus and shall be delivered to the city board for review at least ten business days prior to the date for submission of the city board's annual estimate pursuant to section twenty-five hundred seventy-six of the education law and shall be included as part of such city board estimate. Upon appropriation of the city's expense budget for such ensuing fiscal year, the amount of the authority's estimate shall be paid to the authority by the city in twelve equal payments, each payable on the first day of each month of the fiscal year. The authority shall not be required to present any vouchers for such payments, but shall issue quarterly reports not later than thirty days after the end of each quarter comparing actual expenditures to estimated expenditures and analyzing any significant variances. The authority shall develop procedures to ensure that it operates at all times within the amounts payable to it pursuant to this section, after taking into account funds available to the authority for such purpose from sources other than the city. Expenditures of the authority from funds paid to it by the city shall be subject to audit by the comptroller, who may recommend procedures designed to improve the authority's accounting and expenditure control expenditures. In the event the authority's cash flow projections require that funds be advanced more rapidly during a fiscal year than would occur pursuant to the payment dates set forth in this section, the authority shall advise the city board, the director of management and budget and the comptroller of such requirement. Such officials shall, in consultation with the authority, develop a schedule of advance payments to the authority designed to cover projected cash shortfalls during a fiscal year and to provide the authority with cash balances at all times sufficient to permit prompt payment of the authority's creditors.

2. The authority shall present vouchers for payment of costs incurred for projects the detailed scope of which approval has been obtained and for activities for which no such scope approval is required as provided in section twenty-five hundred ninety-p of the education law to the comptroller, which vouchers shall contain the following information: the amounts to be paid; the payees; the project or purpose for which the costs were incurred; a statement that the amounts to be paid are within city capital budget appropriations available therefor; and, with respect to projects for which scope approval has been obtained, a statement that the amounts to be paid are in accordance with such approved project scope. The authority shall not be required to furnish any additional information prior to payment of a voucher pursuant to this subdivision, and the comptroller is hereby authorized and directed to take such actions as may be necessary to make such payment.

3. The authority shall not be deemed a "covered organization" as defined in the New York state financial emergency act for the city of New York.

§ 1737. Civil service. 1. a. The authority, for the purpose of administering the state civil service law, shall be deemed to be a municipal commission provided, however, that (i) the authority may elect to delegate the administration of any or all of the provisions of the civil service law, except article fourteen of such law, to the department of personnel of the city of New York with respect to titles established at the authority and which the city has also established and promulgates; (ii) the civil service commission of the city of New York shall exercise on behalf of the authority the powers and duties of review assigned under sections fifty, seventy-two, and seventy-six of the civil service law; and (iii) the New York city office of administrative trials and hearings will be designated the hearing office and shall conduct on behalf of the authority such hearings as are required by sections seventy-one, seventy-two, seventy-three, seventy-five and eighty-one of the civil service law.

b. In the event the authority elects to delegate administration of any or all of the provisions of the civil service law pursuant to paragraph a of this subdivision, the city department of personnel shall enter into a contract with such authority for the rendition of such services. The authority shall compensate the city of New York for such services only with respect to such services rendered for or on behalf of the authority. If the city of New York and the authority cannot agree on the amount of such compensation, the city comptroller shall determine the fair and reasonable value of such services and the authority shall pay such sum to the city of New York.

2. a. Any person on an eligible list for a position with the city board in effect on the effective date of this title shall continue to hold such position on such list and shall be entitled to the same civil service rights.

b. The authority shall continue to use any new or existing civil service lists promulgated by the city department of personnel until such time as successor titles are established.

3. With respect to persons employed by the city board on the effective date of this section, the authority and the city board shall be deemed to be the same public employer only for purposes of transfer of employment under the civil service law. No civil service right of an

employee of the city board employed on the effective date of this title shall be lost, impaired or affected by reason of the enactment of this section into law.

4. A tripartite panel shall be established, consisting of one person representing the authority, one person representing the appropriate public employee organization and an impartial person selected by these representatives. This panel shall hear complaints filed by such public employee organization with respect to the creation and classification of new titles and shall render non-binding written recommendations to the public employee organization and the authority prior to the public hearing required of a municipal civil service commission pursuant to section twenty of the civil service law, provided that the hearing of the tripartite panel shall be expedited so as to avoid delay.

§ 1738. Retirement of employees. 1. Employees of the authority shall be eligible to join the board of education retirement system as established in section twenty-five hundred seventy-five of the education law and pursuant to the usual rules of that system, provided that a new employee who upon appointment by or transfer to the authority is a member of the New York city employees retirement system may remain a member of the New York city employees retirement system if, within ninety days of the effective date of the transfer to or appointment by the authority, the employee exercises an election to do so. Furthermore, the retirement rights of employees of the city board employed on the effective date of this title shall not be impaired by reason of the enactment of this title into law.

2. a. Notwithstanding the provisions of any other general or local law, administrative code or ordinance to the contrary, any employee of the authority who was suspended on or after December first, two thousand two because of economy measures taken by the authority, and who returned to such service prior to January eighth, two thousand eight, shall be deemed to have been in continuous service in determining length of service for retirement purposes; provided, however, that for retirement purposes, a member receiving such service credit shall pay the

additional member contributions prescribed by paragraph b of this subdivision. Notwithstanding any other provision of law to the contrary, a person who otherwise meets the requirements of this paragraph for obtaining retirement service credit for such period of suspension, and who, after returning to such service from such period of suspension, retired for service or disability from a position with the authority prior to the effective date of this subdivision, may obtain retirement service credit for such period of suspension by (i) filing with the retirement system an application to purchase such retirement service credit within one hundred twenty days after the effective date of this subdivision, and (ii) paying to the retirement system the amount required by paragraph b of this subdivision within one year after the effective date of this subdivision.

b. In addition to the regular member contributions that may be payable for his or her current service, such member shall pay by deductions from his or her compensation the following additional member contributions:

(i) all regular member contributions which such member would have been required to pay to the retirement system for such period of suspension if he or she had been in service during such period of suspension; and

(ii) if such member is a participant in a special plan, the additional member contributions attributable to participation in such special plan which he or she would have been required to pay to the retirement system for such period of suspension if he or she had been in service during such period of suspension; and

(iii) an amount equivalent to the additional costs to the employer of providing retirement service credit to such member for such period of suspension, as determined by the actuary for the retirement system.

c. The deductions for the additional member contributions referred to in paragraph b of this subdivision shall be made in accordance with such equitable method and over such equitable period of time as shall be prescribed by the executive director of the member's retirement system with the approval of the board of trustees.

d. The additional member contributions referred to in subparagraph (i) of paragraph b of this subdivision shall be paid into the account established by the retirement system for the deposit and accumulation of such member's regular member contributions. The additional member contributions referred to in subparagraph (ii) of paragraph b of this subdivision shall be paid into the contingent reserve fund of such retirement system and shall be subject to the provisions of law which govern additional member contributions in the special plan in which such member is a participant. The additional member contributions referred to in subparagraph (iii) of paragraph b of this subdivision shall be paid into the contingent reserve fund of such retirement system and shall not be subject to any retirement system right or privilege of such member, unless such right or privilege is granted by other provisions of law which specifically refer to additional member contributions made pursuant to subparagraph (iii) of paragraph b of this subdivision.

e. At any time prior to completion of the deductions for the additional member contributions referred to in paragraph b of this subdivision, payment of the remainder of the total of such additional contributions required by such paragraph may be made in a lump sum.

§ 1739. Collective negotiation. 1. For the purpose of article fourteen of the civil service law, the authority shall be deemed to be the public employer and as such shall negotiate with and enter into written agreements with employee organizations representing the staff of the authority that have been certified or recognized under such article. In carrying on such negotiations, the authority shall consult with and seek assistance from the office of labor relations and collective bargaining of the city board and the New York city office of municipal labor relations. The state public employment relations board shall have exclusive jurisdiction for the purpose of administering the provisions of such article and the provisions of section two hundred twelve of such article shall not be applicable to any such negotiations.

2. Employees transferred from the city board to the authority shall be included in an appropriate employer-employee negotiating unit pursuant to article fourteen of the civil service law except for those employees who are designated managerial or confidential. With respect to such

employees, the existing public employee organization recognized or certified to represent the employees of the existing negotiating unit shall be recognized as the representative for the negotiating unit of the authority.

3. Future alterations of the negotiating unit shall be made pursuant to article fourteen of the civil service law.

4. a. The authority shall consult with the appropriate public employee organization on the establishment of, and bargain all terms and conditions of, any new titles it establishes which have a community of interest with titles already represented by the public employee organization which presently has representation rights for those titles at the city board or at the city of New York.

b. Any such titles for which terms and conditions are bargained pursuant to paragraph a of this subdivision shall be deemed to be successor titles within the meaning of applicable law and, so long as the responsibilities of employees in these titles are reasonably related to the responsibilities of employees currently represented by a public employee organization, shall be accreted to the appropriate bargaining certificates for which such public employee organization shall be voluntarily recognized as the bargaining agent under procedures acceptable to the state public employment relations board.

§ 1740. Use of outside design, drafting or inspection services. 1. All design, drafting or inspection services necessary in connection with the approved educational facilities capital plan shall be performed by appropriate employees of the authority, except as otherwise provided in this section.

2. a. The authority will undertake design, drafting and inspection services with employees of the authority so that (i) not less than twenty percent of such work performed in the years ending June thirtieth, nineteen hundred eighty-nine, and June thirtieth, nineteen hundred ninety will be so undertaken; (ii) not less than thirty percent

of such work performed in the year ending June thirtieth, nineteen hundred ninety-one will be so undertaken; and (iii) not less than forty percent of such work performed in the year ending June thirtieth, nineteen hundred ninety-two and thereafter will be so undertaken. Each such percentage shall be determined by the value of the work performed for its respective fiscal year for such design, drafting and inspection services in the approved educational facilities capital plan.

b. Notwithstanding the provisions of paragraph a of this subdivision, design, drafting and inspection services may be performed by persons other than employees of the authority in any given fiscal year when the amount of services allowed to be performed by persons other than employees of the authority pursuant to the provisions of this subdivision have been exhausted for that fiscal year, and when:

(1) Performance by persons other than employees of the authority is necessary to avoid a conflict of interest, as defined in regulations promulgated by the authority, and is a direct consequence of an accident or other unforeseen circumstance; or

(2) (A) Current employees of the authority are otherwise engaged and cannot be reassigned to perform the services; (B) new employees cannot be hired within a reasonable time to perform such services; and (C) such services are needed in connection with work undertaken in response to an emergency. For purposes of this subparagraph, the term "emergency" shall mean a situation involving danger to life, safety or property which requires immediate action, is essential to efficient operation or the adequate provision of service by the city board or the authority, and is a direct consequence of an accident or other unforeseen circumstance.

3. a. Design, drafting or inspection services above the minimum percentages reserved for employees of the authority pursuant to paragraph a of subdivision two of this section may be performed by other than appropriate employees of the authority if to do so is (i) cost effective, (ii) required to obtain special expertise not available through the appropriate employees of the authority, (iii) required to perform a service of short duration, (iv) required to respond to an emergency, or (v) required to avoid a conflict of interest.

b. Prior to executing a contract for design, drafting or inspection services pursuant to paragraph a of this subdivision, the authority shall prepare a specific statement which sets forth the objective data supporting the reasons why the proposed contract meets one or more of the requirements set forth in such paragraph. Where use of the contract is stated to be in compliance with subparagraph (i) of such paragraph, such statement shall include certification that the contract will not cause the displacement of authority employees.

c. (1) Prior to the scheduled award of the contract proposed to be awarded pursuant to paragraph a of this subdivision, the authority shall provide all employee organizations that represent authority employees who would otherwise perform such work with copies of the statement rendered pursuant to paragraph b of this subdivision and the proposed contract so that each such employee organization shall have at least fifteen days to object to the proposed contract. Any employee organization which provides a timely written notice of objection and the reasons therefor shall, unless the authority agrees in writing to withdraw the proposed contract, be permitted to be heard by the authority's trustees prior to the award of the contract.

(2) Notwithstanding the provisions contained within subparagraph one of this paragraph, the employee organization may be provided less than the required fifteen days to object to the proposed contract when the contract is required to respond to an emergency as defined in subparagraph two of paragraph b of subdivision two of this section; provided, however, that all other provisions of such clause shall be observed.

4. No later than ten days prior to the date set by the city charter for the holding of hearings on the mayor's annual preliminary budget statements for capital projects, the authority shall prepare a report specifying the projects from the approved educational facilities plan which the authority plans to commit to during the next fiscal year. If the authority intends to contract for design, drafting or inspection services in connection with any project so specified, the report shall further specify (i) for which projects the services are needed; (ii) the type of services to be provided pursuant to contract; (iii) the

estimated cost of the contract; and (iv) the reason or reasons why award of the contract is consistent with this subdivision. The report shall be filed in the authority's office and in the office of the city board, and shall be available to the public upon request. The authority shall file revisions to the report so as to provide advance notice of not less than thirty days of additional projects that the authority plans to undertake on which the authority intends to contract for design, drafting or inspection services. Such revisions shall be in accordance with the criteria of this subdivision. Such revisions shall also identify projects which the authority included in its report but which the authority does not intend to pursue in the applicable fiscal year. The authority shall file such revisions in the authority's office and in the office of the city board, and such revisions shall be available to the public upon request. Such report and revisions shall not preclude the authority from entering into contracts or undertaking projects.

5. Nothing herein shall be deemed to create a cause of action against the authority challenging the board's determination to award a contract pursuant to subdivision three of this section, except to challenge a failure by the authority to adhere to the process set forth in paragraphs b and c of subdivision three of this section.

§ 1741. Deposit and investment of moneys of the authority. 1. The authority may establish and maintain funds for the purpose of receiving and expending moneys received by the authority.

2. All moneys of the authority from whatever source derived shall be paid to the authority and shall be deposited in accounts held in the authority's name in the bank or banks in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the authority upon requisition by the chairman or such other officer or officers as the authority may authorize to make such requisitions.

3. Any moneys on deposit in the accounts of the authority not required for immediate expenditure shall be invested in obligations in which a municipality may be authorized to invest in accordance with section

eleven of the general municipal law, provided, however, that such funds shall not be invested in instruments commonly known as repurchase agreements.

4. The authority shall provide the city with records and other information regarding (i) the nature of work performed by the authority's employees so as to enable the city to determine the extent to which the cost of such services may be treated as capital costs of the city and the educational facilities to which such costs pertain and (ii) the investment of funds received from the city so as to enable the city to comply with the requirements of federal tax laws and preserve the tax-exempt status of obligations issued by the city. The authority shall cooperate with the city in all respects to ensure that all investments are made in a manner that preserves the tax-exempt status of such obligations.

§ 1742. Exemption of the authority. 1. Notwithstanding any other provision of law, any real or personal property, while owned or subject to any rights of the authority, shall be exempt from all taxes, special assessments and special ad valorem levies and from the payment of any and all charges, rents or other payments to the city, other than charges for services provided by the city's water and sewer systems. In addition, any in rem actions or proceedings brought against such property by the city or any other actions or proceedings concerning any of the above brought against the authority by the city, and any such actions or proceedings shall be void and shall be subject to dismissal upon application of the authority at the sole expense of the city of New York. In no instance shall title to any such property pass to the city of New York except by deed or other appropriate document of sale, release or conveyance executed by the authority.

2. Debts of the authority shall not be considered debts of the state or debts of the city.

§ 1743. Equal employment opportunity program and minority and

women-owned business enterprise program. 1. Notwithstanding any other inconsistent provision of law, sections 8-107 and 8-108.1 of the administration code of the city of New York shall apply to the activities of the authority.

2. a. The provisions of section 6-108.1 of the administrative code of the city of New York with respect to the award of contracts to locally based enterprises shall apply to contracts entered into by the authority provided, however, that notwithstanding any provision of such section or of chapter thirteen-A of the charter of the city of New York, the authority shall exercise the powers of the mayor set forth in such section with respect to: the establishment of procedures for the certification of businesses; the approval or granting of waivers of the requirements of such section; the promulgation of rules and regulations for the purpose of implementing the provisions of such section; and the submission of annual reports concerning the administration of the program established pursuant to such section. Notwithstanding the foregoing, the limitation on gross receipts of qualified locally based enterprises set forth in clause (a) of subdivision six of paragraph a of section 6-108.1 of the administrative code of the city of New York may be raised by the authority upon a determination that a higher limitation is necessary to meet the goals of the locally based enterprise program.

b. The authority shall establish and implement reasonable procedures to secure the meaningful participation of minority and women owned business enterprises in its procurement process. In addition to procedures it has already adopted for such purpose, the authority may use the same measures, to enhance minority and women owned business enterprise participation, as are available to the city of New York pursuant to article five-A of the general municipal law, section thirteen hundred four of the New York city charter, paragraphs one and two of subdivision i of section three hundred eleven of the New York city charter, and section 6-129 of the administrative code of the city of New York.

3. The provisions of executive order fifty of the mayor of the city of New York, dated April twenty-fifth, nineteen hundred eighty, as amended,

shall apply to contracts of the authority unless and until such provisions are revoked, and the requirements of chapter thirteen-B of the charter of such city shall apply to contracts of the authority; provided, however, that with respect to such order, or any other program concerning equal employment opportunity or affirmative action to which contracts entered into by the authority are subject, such program shall be administered by an officer of the authority designated by the authority, and no other agency shall have jurisdiction over the compliance by the authority with the requirements of any such program.

§ 1744. Claims and actions against the authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority, or any member, officer, agent, or employee thereof, for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any such member, officer, agent or employee thereof, or for any other alleged tort of the authority or of such member, officer, agency or employee thereof, unless (i) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, and that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (ii) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. No action or proceeding for any cause whatever, other than the one for personal injury, death, property damage or tort, which shall be governed by subdivision one of this section, relating to the design, construction, reconstruction, improvement, rehabilitation, repair, furnishing or equipping of educational facilities, shall be prosecuted or maintained against the authority or any member, officer, agent, or employee thereof, unless (i) it shall appear by and as an allegation in

the complaint or moving papers, that a detailed, written, verified notice of each claim upon which any part of such action or proceeding is founded was presented to the board within three months after the accrual of such claim, that at least thirty days have elapsed since such notice was so presented and that the authority or the officer or body having the power to adjust or pay said claim has neglected or refused to make an adjustment or payment thereof, and (ii) the action or proceeding shall have been commenced within one year after the happening of the event upon which the claim is based; provided, however, that nothing contained in this subdivision shall be deemed to modify or supersede any provision of law or contract specifying a shorter period of time in which to commence such action or proceeding, or to excuse compliance with any other conditions required by contract to be satisfied prior to the commencement of such action or proceeding. In the case of an action or special proceeding for monies due arising out of contract, accrual of such claim shall be deemed to have occurred as of the date payment for the amount claimed was denied.

3. The notice of each claim presented pursuant to subdivision two of this section must set forth in detail with respect to such claim; (i) the amount of the claim; (ii) a specific and detailed description of the grounds for the claim, relating the dollar amount claimed to the event purportedly giving rise to the claim and indicating how the dollar amount is arrived at; and (iii) the date of the event allegedly underlying the claim.

4. The provisions of subdivision two of section twenty-five hundred sixty-two of the education law shall apply to all claims made against the authority.

5. The authority shall have power to settle or adjust all claims in favor of or against the authority.

6. Whenever a notice of claim is served upon the authority alleging personal injury, it shall have the right to demand a physical examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the

provisions of section fifty-h of the general municipal law.

7. The rate of interest to be paid by the authority upon any judgment for which it is liable, shall not exceed the rate of interest on judgments and accrued claims against municipal corporations as provided in the general municipal law from time to time.

§ 1745. Limited liability. Neither the members of the board nor any officers or employee of the authority acting on behalf thereof, while acting within the scope of such person's authority, shall be subject to any liability resulting from carrying out any of the powers expressly given in this title. A trustee, officer or employee of the authority shall be deemed an "employee" for the purposes of section fifty-k of the general municipal law, provided, however, that any trustee appointed by the governor or any employee of the state shall be deemed an "employee" for the purposes of section eighteen of the public officers law for any actions relating to their activities as a trustee of the authority created by this title.

§ 1746. Audit, annual and quarterly reports. 1. Beginning in nineteen hundred ninety and every year thereafter, the authority shall, within one hundred twenty days of the end of the city's fiscal year, submit to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, the chairs of the senate and assembly education committees and the chairs of the senate and assembly committees on corporations, authorities and commissions, the chairman of the senate committee on investigations, taxation, and government operations, the chairman of the assembly committee on oversight, analysis, and investigations, the mayor and the city board a report on its operations during such fiscal year. An annual audit of the authority shall be conducted by an independent certified public accountant, and the authority's independently audited financial statements shall be included in this report.

2. Beginning in nineteen hundred ninety, and every year thereafter,

the authority shall, on the last day of April, July, October, and January, submit to all persons set forth in subdivision one of this section a report detailing the extent of completion of all projects for construction, reconstruction, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for educational facilities for the city board, including, by project, identified shortfalls in schedule performance and providing explanation for such shortfalls. Such reports shall detail the extent of completion as existed on the last day of the month preceding each report, respectively.

§ 1747. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local or of the city charter or any local law, ordinance or resolution of the city, the provision of this title shall be controlling, provided that nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

§ 1748. Investigations. The department of investigation of the city of New York shall be authorized to conduct investigations relating to the authority pursuant to chapter thirty-four of the New York city charter.

TITLE 8

NEW YORK JOB DEVELOPMENT AUTHORITY

SUBTITLE I

GENERAL PROVISIONS

SUBTITLE II

FINANCIAL ASSISTANCE FROM SPECIAL PURPOSE FUNDS

SUBTITLE III

FINANCIAL ASSISTANCE FROM POLLUTION CONTROL FUNDS

SUBTITLE IV

FINANCIAL ASSISTANCE GENERALLY

SUBTITLE V

MISCELLANEOUS PROVISIONS

SUBTITLE V-A

LOANS TO LENDERS PROGRAM

SUBTITLE VI

EMPLOYEE OWNERSHIP ASSISTANCE

SUBTITLE VII

SPECIAL PROJECT DEVELOPMENT

SUBTITLE I

GENERAL PROVISIONS

§ 1800. Short title. This title may be cited as the "New York job development authority act."

§ 1801. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Assisted project" shall mean any project in respect of which the authority has granted a loan or guaranteed a loan.

2. "Authority" shall mean the New York job development authority created by subdivision one of section eighteen hundred two of this title.

3. "Banking organization" when used in this title shall mean (a) any organization defined by subdivision eleven of section two of the banking law, (b) any agency or branch of a foreign banking corporation licensed by the department of financial services under article five of the

banking law, (c) any national bank, federal savings and loan association and federal credit union, (d) any authorized insurer defined by paragraph ten of subsection (a) of section one hundred seven of the insurance law and (e) any public or private pension or investment fund required to file a report with any state or federal regulatory or supervisory body.

4. "Comptroller" shall mean the comptroller of the state.

5. "Eligible business facility" shall mean any type of business facility to be used or occupied by any person in an enterprise deemed to offer a reasonable likelihood for promoting the creation or retention of job opportunities in the state, and includes, but is not limited to, industrial or manufacturing plants, facilities for research and development purposes, facilities for conducting wholesale, receiving and distributing operations, facilities for conducting office operations, warehousing operations, or any other operation dealing in the exchange of goods, wares, services or other types of property of any type or description.

6. "Federal agency" shall mean the United States of America, and any officer, department, board, commissioner, bureau, division, corporation, agency or instrumentality thereof.

7. "Industrial plant" shall include a manufacturing plant and a plant used in connection with extracting, smelting, recovering, developing, preparing, compounding, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature, and shall include facilities related thereto for storage, warehousing or distribution, for research and development or for the discovery of new and the refinement of known substances, processes and products.

8. "Local development corporation" shall mean a non-profit corporation incorporated or reincorporated under the laws of this state, regardless of its particular name, which shall meet the additional requirements of section eighteen hundred twenty-five of this title.

9. "Manufacturing plant" shall include a plant used in connection with making, creating, working, preparing, processing, milling, manufacturing, finishing, fashioning, fabricating, or producing in any manner, goods, wares, merchandise, metals, fabrics, materials, products or substances of any kind or nature.

10. "Municipality" shall mean any county, city, town or village in the state.

11. a. "Loan" shall mean (i) a mortgage loan evidenced by a bond, note or other obligation of a local development corporation secured by a mortgage on a project, defined in subdivision fourteen (i) and (ii) of this section, made by a local development corporation, a project occupant or other person, firm or corporation; (ii) a loan evidenced by a bond, note or other obligation of a local development corporation, a project occupant, or other person, firm or corporation secured by a loan agreement, contract or such other instrument deemed necessary or convenient on a project defined in subdivision fourteen (iii) of this section; (iii) a loan evidenced by a bond, note or other obligation of a local development corporation, a project occupant, or other person, firm or corporation secured by a security interest in machinery and equipment as provided in section eighteen hundred fourteen; and (iv) an employee ownership assistance loan made pursuant to paragraph (v) of subdivision fourteen of this section.

b. "Loan guarantee" shall mean the guaranteeing by the authority of a loan made by a banking organization on a project as defined in subdivision fourteen of this section.

12. "Pollution control facilities" shall mean real or personal property having to do with, or the end purpose of which, is the control, abatement or prevention of land, sewer, water, air, thermal, radiational, noise or general environmental pollution resulting from the operation of an industrial, manufacturing or research plant.

13. "Plant" shall mean real property, the buildings, improvements and

structures thereon and the fixtures thereon other than machinery or equipment used by a project occupant in its operations.

14. "Project" shall mean (i) the construction of a new industrial or manufacturing plant, a new research and development building or other new eligible business facility, (ii) the acquisition, rehabilitation or improvement of a former or existing industrial or manufacturing plant, of a former or existing building to be used for research and development, of a former or existing other eligible business facility, (iii) the construction, acquisition, rehabilitation or improvement of pollution control facilities, (iv) the purchase of machinery and equipment, for which financial assistance from the authority is sought, or (v) assistance to employees under an employee ownership assistance loan agreement made pursuant to subtitle six of this title; provided, however, that any such plant, building, facility or machinery and equipment therefore shall not be primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services, or used primarily as a hotel, apartment house or other place of business which furnishes dwelling space or accommodations to either residents or transients.

15. "Project cost" shall mean the aggregate costs incurred to finance the construction, acquisition, rehabilitation, or improvement of a project, and which are determined by the authority to be or to have been reasonably necessary therefor, including, without intending thereby to limit the generality of such costs: the cost of acquiring real property therefor; the cost of constructing or reconstructing buildings and improvements thereon, including, to the extent such costs are not borne by the municipality or other taxing district within which the project is located, the cost of constructing means of access to and from such project; the cost of constructing extensions to the project site of existing utility systems if such costs are customarily borne by the consumer; insurance premiums, financing charges, interest costs, commitment fees and the like incurred prior to or during the period of construction, acquisition, rehabilitation or improvement; any fees or charges imposed by the authority in respect of an application for a mortgage loan; the cost of preparing project specifications, maps,

plans, surveys, estimates, applications and other documents, including costs related to determination of the feasibility of the project in the planning stages; and all such other costs, charges, fees, and expenses, including labor costs, overhead costs, the costs of materials and supplies, and engineering, accounting and legal expenses, as may be reasonably incident to the construction, acquisition, rehabilitation or improvement of the project; provided, however, that the term "project cost" except when used in subtitle III of this title shall not include the cost of any machinery or equipment (other than fixtures) or personal property to be used by the project occupant in its operations or any expenses related to the installation, replacement or rehabilitation thereof.

16. "Project occupant" shall mean the business enterprise which proposes to use a project after construction, acquisition, rehabilitation or improvement.

17. "Real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within the said term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments in every estate, interest or right, legal or equitable.

18. "State" shall mean the state of New York.

19. "State agency" shall mean any officer, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

§ 1802. New York job development authority. 1. There is hereby created the "New York job development authority." The authority shall be a body corporate and politic constituting a public benefit corporation. Its members shall consist of the commissioner of economic development, the commissioner of labor, the commissioner of agriculture and markets, and the superintendent of financial services, serving ex officio, and seven members to be appointed by the governor with the advice and consent of the senate. Each member appointed by the governor shall be a citizen of the United States and a resident of the state.

1-a. The commissioner of economic development, the commissioner of labor, the commissioner of agriculture and markets, and the superintendent of financial services each may designate a person from his department to represent him at all meetings of the authority from which such member may be absent. Any representative so designated shall have the power to attend and to vote at any meeting of the authority from which the member so designating him is absent, with the same force and effect as if the member designating him were present and voting. Such designation shall be by written notice to the chairman by the member making the designation. Such designation shall not limit the power of the member making the designation to attend and vote in person at any meeting of the authority.

2. Members shall continue in office until the expiration of their terms and until their successors have been appointed and confirmed. Persons appointed for full terms as their successors shall serve for four years each commencing as of January first. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, the governor shall appoint a successor with the advice and consent of the senate to serve for the balance of the unexpired term.

3. The members of the authority shall serve without salary or other compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

4. The members of the authority may engage in private employment, or in a profession or business, subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The authority shall, for the purposes of such sections, be a "state agency", and such members shall be "officers" of the agency for the purposes of

said sections. In addition, the authority may adopt such standards and procedures as it considers necessary to ensure compliance with the provisions of sections seventy-three and seventy-four of the public officers law.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the authority created by this section, provided, however, that a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

6. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him, and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days' notice. If any such member shall be removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

7. The commissioner of economic development shall be the chairman of the authority and shall preside over all meetings of the authority and shall have such other duties as the authority may direct. A vice-chairman may be elected by the authority from among its other members for one or more terms of one year each. The vice-chairman shall preside over all meetings of the authority in the absence of the commissioner of economic development and shall have such other duties as the authority may direct.

8. Six members of the authority shall constitute a quorum for the transaction of any business or the exercise of any power or function of the authority. Resolutions authorizing the issuance of bonds or notes of the authority and resolutions authorizing the granting of mortgage loans

shall be approved by not less than six members of the authority at a meeting duly called for such purpose, but for the transaction of any other business or the performance of any other power or function of the authority, the authority may act by a majority of the members present at any meeting at which a quorum is in attendance.

8-a. Determination on mortgage loan applications. The chairman of the authority shall convene meetings for the transaction of business or the exercise of any power or function of the authority at regular intervals, and whenever prudent and practical, the authority shall render a determination on an application for a mortgage loan and notify the applicant of the determination within four weeks of the receipt of such completed application. In the event that a determination cannot be reached within the four week period, the authority shall submit to the applicant a statement of the reasons for such delay upon or prior to the expiration of such four week period.

9. The authority may appoint such persons to serve as officers of the authority as it may deem advisable, including a president and a counsel, and such employees as it deems advisable, and may prescribe their duties and fix their compensation, subject to the civil service law and the rules and regulations of the civil service commission of the state.

10. The authority may appoint one or more advisory committees consisting of not more than seven members each to consider and advise the authority upon all matters submitted to them by the authority and to recommend to the authority such changes in the administration of this title and the operations of the authority as the advisory committee may deem desirable. Members of advisory committees shall serve without salary for such terms, not to exceed four years, as the authority may determine. Each member of an advisory committee shall be entitled to reimbursement for his actual and necessary travel expenses incurred in the performance of his duties.

§ 1803. Purposes of the authority. The purposes of the authority shall be:

1. To assist, promote, encourage, develop and advance the general prosperity and economic welfare of the people of the state and to improve their standard of living.

2. To improve employment opportunities in any area of the state by assisting in financing of:

(a) the cost of projects for the construction, acquisition, rehabilitation or improvement of any new, existing or former (i) industrial or manufacturing plant, (ii) building used for research and development, or (iii) other eligible business facility within the state, including the acquisition of real property therefor, by means of loans to non-profit local development corporations not to exceed forty percent of the cost of such project, the repayment of which shall be secured by a mortgage which shall not be a junior encumbrance thereon by more than fifty percent of such cost, and by means of the guarantees of the loans made by banking organizations which guaranty shall not exceed eighty percent of the cost of the project, provided, however, that such loans may be in excess of forty percent but shall not exceed sixty percent of the cost of such project for loans in economically distressed areas and to companies in need of special assistance pursuant to the provisions of subdivision seven of section eighteen hundred twenty-three of this chapter.

(b) the purchase of machinery and equipment for use within the state, by means of loans to non-profit local development corporations not to exceed forty percent of the cost of such purchase which shall be secured by a security interest in such project, and by means of the guarantee of loans made by banking organizations which guaranty shall not exceed eighty percent of the cost of the project, provided, however, that such loans may be in excess of forty percent but shall not exceed sixty percent of the cost of such project for loans in economically distressed areas and to companies in need of special assistance pursuant to the provisions of subdivision seven of section eighteen hundred twenty-three of this chapter.

3. To advance the development of industrial, manufacturing, research and development, or other eligible business enterprises throughout the

state, including those defined as small business concerns under the act of congress entitled "Small Business Investment Act of 1958".

4. To assist in financing the cost of projects for the construction, acquisition, rehabilitation or improvement of pollution control facilities, by means of loans of pollution control funds to non-profit local development corporations not to exceed ninety percent of the cost of any such project.

In carrying out the purposes of this section and in exercising the powers granted under this act, the authority shall be regarded as performing an essential governmental function.

§ 1803-a. Additional duties of the authority. It shall be the duty of the authority to make rules and regulations governing the exercise of its corporate powers and the fulfillment of its corporate purposes under this title, which rules and regulations shall be promulgated under the state administrative procedure act with the assistance of the commissioner of economic development and in consultation with the department of economic development and shall be consistent with the program plan required by subdivision nineteen of section one hundred of the economic development law.

§ 1804. General powers and duties of the authority. Subject to the other provisions of this title and the provisions of any contract with bondholders or noteholders, the authority shall have the following powers in addition to the powers specifically conferred upon the authority elsewhere in this title:

1. To sue and be sued;

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

3. To make and alter by-laws for its organization and internal management;

4. To make rules and regulations governing the exercise of its corporate powers and the fulfillment of its corporate purposes under this title, which rules and regulations shall be filed with the department of state in the manner provided by section one hundred two of the executive law and to maintain its system of internal controls in conformity with the relevant standards specified by authoritative national standard setting bodies;

5. To make loans and loan guaranties secured by loan agreements, mortgages, contracts and all other instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this title; and to require the inclusion in any lease or other agreement in respect of a project (a) such provisions as to the use of the project as the authority may deem necessary or desirable for the fulfillment of its corporate purposes and (b) such provisions as to the reporting to it by the parties to such lease or other agreement of such information as it deems necessary to monitor (i) compliance by such parties with the provisions of this title and with the provisions of any rules and regulations adopted pursuant to this title and (ii) the progress of the project occupant or of the business enterprise described in section eighteen hundred twenty-seven of this title in achieving the representations made in the application submitted pursuant to section eighteen hundred twenty-four of this title;

6. In connection with loans, loan guarantees, or any applications or commitments therefor, to make and collect such fees and charges as the authority shall determine to be reasonable;

7. To purchase, receive, lease or otherwise acquire, and hold in the name of the state or otherwise, or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase, or otherwise, and to sell, convey, mortgage, lease, pledge or otherwise dispose of, upon such terms and conditions as the authority may deem advisable, real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and to the use thereof, including but not restricted to any real or personal

property acquired by the authority from time to time upon foreclosure of any mortgage or in the satisfaction of debts or in the enforcement of obligations; provided, however, that the terms and conditions of any sale or other disposition by the authority of property conveyed to it pursuant to section eighteen hundred thirty-a of this title including the consideration involved, shall be subject to the approval of the director of the budget, prior to such sale or other disposition;

8. To sell at public or private sale, or pledge or assign, any loan made by the authority and any mortgage or other obligation securing a loan made by the authority;

9. To foreclose on any real or personal property in respect of which it has made a loan or issued a loan guarantee or commence or join in any action or proceeding to protect or enforce any right conferred upon it by law or by contract and to bid for and purchase such property at any foreclosure or at any other sale or acquire or take possession of any such property; and in such event the authority may operate, maintain, administer, pay the principal of and interest on any obligation incurred in connection with such property, and otherwise deal with, such property, in such manner as may be necessary or desirable to protect the interest of the authority therein; and further with regard to loans and loan guarantees made by the authority, it shall have the right to require at the time of the making of the loan or issuance of the loan guarantee, or at any time thereafter, in a form acceptable to it, a deed to all rights and interest in the real or personal property as a security interest, such deed to be termed a "deed in lieu of foreclosure", and shall be empowered hereby to record such deed upon a default in the payment or terms of any loan made by or guaranteed by the authority, and to thereby transfer to the authority by such recording both title and all rights of ownership in such property in accordance with section eighteen hundred four-a of this article;

10. To enter into agreements to pay annual sums in lieu of taxes to any municipality or taxing district of the state in respect of any real property which is owned by the authority and located in such municipality or taxing district, provided, however, that the amount so

paid for any year upon any such property shall not exceed the sum last paid as taxes on such property to such municipality or taxing district prior to the time of its acquisition by the authority;

11. To procure insurance against any loss in connection with loans or with real and personal property or other assets of the authority of any nature whatsoever in such amounts, and from such insurers, as it deems desirable;

12. To consent to the modification of the time of payment of any installment of principal or interest, the rate of interest (within the limits prescribed by sections eighteen hundred sixteen and eighteen hundred twenty-one), the security, or any other terms of any loan, loan guarantee, loan commitment, contract or agreement of any kind to which the authority is a party whenever it deems it necessary or desirable in the fulfillment of the purposes of this title;

13. To encourage the organization of local development corporations and to cooperate with such corporations in the formation of plans for improving employment opportunities within their areas of operation;

13-a. To develop and annually update a five year strategic plan setting forth the goals and objectives of the authority for each of the next five years and annual operational targets that are designed to ensure the efficient and effective use of the authority's resources in meeting such goals and objectives. Such strategic plan shall also include, but not be limited to, information as to the areas of the state, if any, and the categories of project occupants or business enterprises as described in section eighteen hundred twenty-seven of this title, if any, where, and in regard to which, it will seek to increase its lending activity, and information as to the steps which it plans on taking to so direct its lending activity. In developing and updating such strategic plan the authority shall utilize any area employment opportunity improvement plans formulated in accordance with subdivision thirteen of this section and such other information which it deems appropriate. Such categories shall include but not be limited to minority and women-owned businesses; firms located in economically distressed rural and urban communities; firms employing displaced workers or economically disadvantaged individuals, or participants in job training programs for economically disadvantaged individuals or displaced workers; or firms, including, but not limited to, cooperative corporations, involved in acquiring existing businesses that the current owners have proposed closing or have closed;

13-b. To adopt and, as necessary, revise criteria and methods to be used by the authority and by local development corporations in evaluating loan applications in accordance with the provisions of section eighteen hundred twenty-six of this title and with such other standards and procedures which it deems necessary and appropriate.

13-c. To adopt and, as necessary, revise criteria to be used in determining the portion of the cost of individual projects which should be financed by the authority. Such criteria shall encourage different levels or degrees of financial assistance by the authority. Copies of such criteria and methods shall be provided to all local development corporations;

13-d. To require that any new employment opportunities created in connection with industrial or commercial projects financed through loans or loan guarantees from the authority shall be listed with the New York state department of labor job service division and with the administrative entity of the service delivery area created pursuant to the federal job training partnership act (P.L. 97-300) in which the project is located and shall first consider for such employment opportunities persons eligible to participate in federal job training partnership act programs who shall be referred to such firms by such administrative entities or by the job service division of the department of labor; provided, however, that nothing contained herein shall be construed to require project occupants or business entities as defined in section eighteen hundred twenty-seven of this title, to violate any existing collective bargaining agreement with respect to the hiring of new employees. Such listing shall be in a manner and form prescribed by the authority in consultation with the commissioner of labor and the commissioner of economic development.

13-e. To implement, on behalf of any local development corporation so requesting, the responsibilities assigned to such corporation by subdivision four of section eighteen hundred twenty-five of this title.

14. To cooperate and act in conjunction with any organization, public or private, or federal or state agency the objects of which within any area of the state are similar to the purposes of the authority;

15. To accept gifts, grants or loans from, and enter into contracts or other transactions with, any federal or state agency, any municipality, any private organization or any other source;

16. To engage the services of bond counsel, accountants or other private consultants on a contract basis for rendering professional and technical assistance and advice;

17. To procure insurance to secure the payment of principal and interest on any bonds, notes or other obligations of the authority;

18. To do any and all things necessary or convenient to (a) carry out its corporate purposes, (b) exercise the powers given and granted in this title, and (c) further the goals and objectives and achieve the operational targets set forth in the strategic plan adopted pursuant to subdivision thirteen of this section.

§ 1804-a. Deed in lieu of foreclosure. 1. The authority is hereby authorized to require at the time of the making of the loan or issuance of the loan guarantee, or at any time thereafter, in a form acceptable to it, a deed to all rights and interests in the real or personal property, as a security interest, such deed to be termed a "deed in lieu of foreclosure", and is empowered hereby to record such deed upon a default in the payment or terms of any loan made or guaranteed by the authority. By such recording title to and all rights of ownership in such property shall be thereby transferred to the authority notwithstanding the existence of any other deeds which are, or may be, recorded after the filing of a notice by the authority concerning the existence of such deed in lieu of foreclosure in accordance with subdivision six of this section and such later recorded deeds except for the deed in lieu of foreclosure shall be void and unenforceable.

2. Notwithstanding such transfer, all liens upon such property which are duly perfected prior to the recording of such deed in lieu of foreclosure, including any lien of the authority, shall continue in full effect and shall be subject to foreclosure at the suit of any of the lienholders, including the authority, and such lienholders' mortgage or other security interest shall not be deemed merged or unenforceable by such transfer.

3. Such deed given prior to recording shall be fully effective in passing title and all rights of ownership upon recording thereof by the authority notwithstanding the passage of time or changes in the ownership and officers of the project owner.

4. Notice that such deed in lieu of foreclosure exists shall be recorded in the office of the clerk of the county where such real or personal property is situated and shall be in the form prescribed in subdivision six of this section.

5. After the recording of such deed by the authority, the authority shall commence a foreclosure action upon its lien within one hundred twenty days in accordance with the real property actions and proceedings law. The grantor and former project owner may commence an action to compel the authority to foreclose its lien after such period of time, and is entitled to the excess of funds received from the foreclosure sale over the total liens outstanding on the property.

6. Such notice shall be in the form of a deed, duly acknowledged by the grantor and stating on its face "This is a security interest held by the New York job development authority and shall pass title to the within described property upon the recording of such deed in accordance with section eighteen hundred four-a of the public authorities law".

§ 1805. Issuance of bonds and notes by the authority. 1. Subject to the limitations of other provisions of this title, the authority shall have the power and is hereby authorized to borrow money and to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making of loans, the issuing of loan guarantees, the payment of interest on bonds and notes of the authority, the establishment of reserves to secure such bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

2. Bonds and notes shall be authorized by resolution of the authority, and shall be dated and shall mature as such resolution or resolutions may provide, except that no note or any renewal thereof shall mature more than seven years after the date of issue of the original note and no bond shall mature more than thirty years from the date of its issue. Bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide.

3. Special purpose bonds and notes may be sold by the authority at public or private sale in such manner and on such terms and at such price or prices as the authority, with the approval of the comptroller, shall determine. If special purpose bonds are sold by the authority at public sale, such sale shall take place not less than six nor more than forty days after a notice of such sale has been published at least once in a newspaper published in Albany and in a financial newspaper published and circulating in New York city, which shall state the terms of sale as determined by the authority. Pollution control bonds and notes of the authority may be sold by the authority, at public or private sale, in such manner and on such terms and at such price or prices as the authority shall determine but shall not be sold by the authority at private sale unless such sale and the terms thereof have

been approved in writing by the comptroller where such sale is not to the comptroller, or by the director of the budget where such sale is to the comptroller.

4. In the discretion of the authority any bonds or issue of bonds or notes or issue of notes may be secured under resolutions of the authority or by a trust indenture by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company in the state or by a secured loan agreement or other instrument. The authority, in connection with any bonds or issue of bonds or notes or issue of notes and for the security or protection thereof and as a part of the contract with the holders thereof, by means of any such resolution, trust indenture, loan agreement or other instrument may (a) make and enter into any and all such covenants and agreements with the holders of such bonds or notes as the authority may determine to be necessary or desirable, including without limitation of the foregoing, covenants, provisions, limitations and agreements as to the application, use and disposition of the proceeds of any bonds or notes or of sale or other disposition of any mortgage or other property or of any other receipts, moneys or assets of the authority, or in which it has an interest, the exercise by the authority of its powers under this title with respect to loans and the revenues and receipts to be derived by the authority from such loans, the assignment of any right, title and interest in any mortgage in which the authority has an interest, the terms and amount of other bonds or notes to be issued by the authority, and the vesting in a trustee or trustees of funds or other property, rights, powers and duties in trust which may include any and all of the rights, powers and duties of a trustee appointed pursuant to section eighteen hundred eighteen of this title and limiting or abrogating the right of the bondholders or noteholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee, (b) pledge or assign any moneys, mortgages, loan agreements, leases or agreements as to the use of projects or other assets of the authority either presently in hand or to be received in the future, or both, and any right, title and interest in any mortgage or evidence of indebtedness secured thereby or other assets or property, and (c) provide for any other matters of like or different character

which in any way affect the security or protection of the bonds or notes, provided, however, that the principal of bonds and notes shall not be declared due and payable prior to maturity under or pursuant to any such resolution, trust indenture, loan agreement or other instrument by any trustee or agent for the bondholders or noteholders, unless the trustee or agent shall first give notice in writing to the governor, to the authority, to the comptroller and to the attorney general of the state, and if when any such notice is given the legislature shall be in session, the trustee or agent shall not declare the principal of bonds or notes due and payable before the legislature adjourns sine die, or if the legislature be not then in session, the trustee or agent shall not declare the principal of such bonds and notes due and payable until the adjournment sine die of the next regular session of the legislature. If at such session the legislature shall take any action as a result of which the past due principal and interest on such bonds and notes, with interest, together with the fees, counsel fees and expenses of the trustee or agent, and all costs and disbursements allowed by a court of competent jurisdiction shall be paid within sixty days of adjournment sine die, default in the payment thereof shall thereby be cured.

5. It is the intention of the legislature that any pledge made in respect of such bonds or notes shall be valid and binding from the time when the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution, trust indenture nor any other instrument by which a pledge is created need be recorded.

6. Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

7. Subject to such agreements with bondholders or noteholders as may

then exist, the authority shall have power to purchase special purpose bonds or notes of the authority out of any special purpose funds available therefor and to purchase pollution control bonds or notes of the authority out of any pollution control funds available therefor, at a price not exceeding (a) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment due thereon, or (b) if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds or notes become subject to redemption plus accrued interest to said date. Bonds and notes so purchased shall thereupon be cancelled.

8. The state does hereby pledge to and agree with the holders of any bonds or notes issued under this title and with any federal agency which loans or contributes funds in respect of an assisted project, that the state will not limit or alter the rights and powers vested in the authority by this title to fulfill the terms of any contract made by the authority with such holders or federal agency, or in any way impair the rights and remedies of such holders until such bonds and notes, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of any bonds or notes of the authority, in any contract with such holders and insofar as it relates to a federal agency, in any contract with such agency.

§ 1806. Exemption from taxation of the property and income of the authority. The property of the authority and its income and operations shall be exempt from taxation.

§ 1807. Exemption from taxation of bonds and notes of the authority. The state covenants with the purchasers and with all subsequent holders and transferees of bonds and notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds and notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 1808. Bonds and notes of the authority legal investments for fiduciaries. The bonds and notes of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provision of law, the bonds and notes of the authority are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1809. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per cent of their face value and accrued interest or at such lesser redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption.

§ 1810. Moneys of the authority. 1. All moneys of the authority, from whatever source derived, shall be paid to the commissioner of taxation and finance as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on checks signed by the commissioner of taxation and finance on requisition of the president of the authority or of such other officer or employee or officers or employees of the authority as the authority shall authorize to make such requisition. All deposits of such moneys shall, if required by the commissioner of taxation and finance or the authority, be secured by obligations of the United States of America or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

2. Notwithstanding the provisions of subdivision one of this section, the authority shall have power, subject to the approval of the commissioner of taxation and finance, to contract with the holders of any of its bonds or notes, as to the custody, collection, securing, investment and payment of any moneys of the authority, or of any moneys held in trust or otherwise for the payment of bonds or notes, and to carry out such contracts. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

3. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested by the commissioner of taxation and finance in accordance with all of the otherwise consistent provisions of section ninety-eight-a of the state finance law.

4. Subject to the provisions of any contract with bondholders and noteholders and to the approval of the comptroller, the authority shall prescribe a system of accounts.

SUBTITLE II

FINANCIAL ASSISTANCE FROM SPECIAL PURPOSE FUNDS

§ 1811. Application of subtitle. Subject to the provisions of sections eighteen hundred twenty-two and eighteen hundred twenty-three of this title, the authority shall have the power and is hereby authorized to make mortgage loans to local development corporations and loan guarantees to banking organizations with special purpose funds pursuant to this subtitle for costs of projects and to make loans and loan guarantees as provided in section eighteen hundred fourteen to improve employment opportunities in any area of the state.

§ 1812. Special purpose bonds and notes. 1. The authority shall have the power and is hereby authorized to issue at one time or in series from time to time special purpose bonds in an aggregate principal amount which shall not at any one time exceed seven hundred fifty million dollars, excluding special purpose bonds issued to refund outstanding special purpose bonds, and special purpose notes in anticipation of the issuance of such special purpose bonds.

2. The authority shall have power from time to time to renew special purpose notes or to issue renewal notes for such purpose, to issue special purpose bonds to pay special purpose notes, and whenever it

deems refunding expedient, to refund any special purpose bond by the issuance of new special purpose bonds, whether the bonds to be refunded have or have not matured, and may issue special purpose bonds partly to refund special purpose bonds then outstanding and partly for the purposes specified in this subtitle. The bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

§ 1813. Guaranty by the state. To the extent authorized by the constitution at the time of the issuance of the special purpose bonds or notes of the authority, the punctual payment of such special purpose bonds and notes shall be, and the same hereby is, fully and unconditionally guaranteed by the state, both as to principal and interest, according to their terms; and such guaranty shall be expressed upon the face thereof by the signature or facsimile signature of the comptroller or a deputy comptroller. In the event that the authority shall fail to pay when due, the principal of, or interest on, such special purpose bonds or notes, the comptroller shall set apart from the first revenues thereafter received, applicable to the general fund of the state, a sum sufficient to pay such principal or interest, as the case may be, and shall so apply the moneys thus set apart and thereupon the state shall be subrogated to the rights of the bondholders or noteholders so paid. The comptroller may be required to set aside and apply such revenues as aforesaid, at the suit of any holder of such bonds or notes.

§ 1814. Loans and loan guarantees for machinery and equipment. 1. Notwithstanding any other provisions of this title, the authority may make loans to local development corporations to assist in financing the cost of machinery and equipment, provided, however,

(a) that the amount of such loan shall not exceed forty percent of the cost of such machinery and equipment, except as provided in paragraph (b) of subdivision two of section eighteen hundred three and paragraph (a) of subdivision seven of section eighteen hundred twenty-three of this chapter;

(b) that the loan shall be evidenced by a bond, note or other obligation of a local development corporation, a project occupant, or other person, firm or corporation and secured by a security agreement, chattel paper, loan agreement, or such other instruments or documents deemed necessary or convenient to perfect a security interest in the machinery and equipment financed and to protect the interests of the authority; and

(c) that such security interest taken by the authority shall not be subordinate, but may be a participating interest which, when added to the security interests of other lenders, does not exceed ninety percent of the cost of such machinery and equipment.

2. Notwithstanding any other provisions of this title, the authority may issue a loan guarantee to a banking organization to assist in financing the cost of machinery and equipment, provided, however,

(a) that the amount of the loan guarantee shall not exceed eighty percent of the amount of the cost of the machinery and equipment; and

(b) that the loan of the banking organization shall be evidenced by a bond, note or other obligation of a project occupant, or other person, firm or corporation and secured by a security agreement, chattel paper, loan agreement, or such other instruments or documents deemed necessary or convenient by the authority to perfect a security interest in the machinery and equipment financed and to protect the interests of the authority.

§ 1815. Special purpose funds. 1. The following shall constitute special purpose funds of the authority and shall, except as provided in paragraph (g) of subdivision two of this section, be kept separate and apart from all other funds of the authority: (a) the proceeds of sale of special purpose bonds and notes, (b) any moneys made available by the state for the purposes of this subtitle only, (c) any moneys made available to the authority for the purposes of this subtitle only from any other source or sources, including, without limitation, any federal agency, (d) any moneys received by the authority as payments on account of loans and loan guarantees made by the authority pursuant to this subtitle and any moneys now on hand or hereafter received by the authority as payments on account of mortgage loans heretofore made by the authority pursuant to subtitle three, (e) any fees, charges or other moneys received by the authority in respect of projects assisted by the authority pursuant to this subtitle or on account of applications therefor, (f) any income or interest earned by, or increment to, any special purpose funds due to the investment thereof, and (g) the proceeds of the sale of general purpose bonds or notes heretofore issued; provided, however, amounts received by the authority in respect of loan guarantees, issued or to be issued, shall be kept separate and apart from all other funds of the authority in a special purpose loan guarantee insurance fund as provided in subdivision three of this section.

2. Subject to the terms of any agreement with special purpose bondholders and noteholders, special purpose funds may be used by the authority only (a) to make mortgage loans to local development corporations for costs of projects and loans for machinery and equipment as provided in section eighteen hundred fourteen hereof to improve employment opportunities in any area of the state, (b) to pay the expenses of the authority referred to in clause (i) of subdivision one of section eighteen hundred twenty-eight of this title, (c) to repay advances from the state for use as special purpose funds in accordance with any provision of law or repayment agreement between the authority and the director of the budget, (d) to pay the principal and redemption price of or interest on special purpose bonds or notes, (e) to purchase special purpose bonds or notes, (f) to pay the principal and redemption price of or interest on any general purpose bonds or notes heretofore issued, (g) to make deposits in the special purpose loan guarantee insurance fund created by paragraph a of subdivision three of this section, or (h) in connection with projects financed with special purpose funds to exercise any of the powers conferred in this title.

3. Special purpose loan guarantee insurance fund.

a. There is hereby created a special purpose loan guarantee insurance fund for special purpose funds in respect of loan guarantees which shall be kept separate and apart from all other funds of the authority.

b. The authority is hereby directed and authorized to charge the following expenses against the special purpose loan guarantee insurance fund:

(i) any expenses which are clearly attributable, in the opinion of the authority, to the exercise of any of the authority's powers in respect of loan guarantees issued or reasonably expected to be issued;

(ii) any payments and all expenses attendant thereto which are required to be paid by the authority because of a default in the payment or in the other terms of a loan guaranteed by the authority;

(iii) all expenses and payments for the protection of the authority's interests in connection with defaulted or delinquent loans guaranteed by the authority, or in property possessed in consequences thereof;

(iv) all amounts required in the opinion of the authority to be set aside to provide a reasonable reserve for losses expected to be incurred by the authority as a result of defaults or expected defaults in the terms and payment of loans guaranteed by the authority;

(v) all amounts required to repay advances from the state for use as special purpose funds in respect of loan guarantees in accordance with any provision of law or repayment agreement between the authority and the director of the budget;

(vi) all amounts required to pay the principal and redemption price of or interest on special purpose bonds and notes specially issued for the purpose of providing funds to the special purpose loan guarantee insurance fund; and

(vii) all amounts required to purchase special purpose bonds or notes issued for the purpose of providing funds to the special purpose loan guarantee insurance fund.

c. The following shall constitute special purpose funds in respect of a loan guarantee:

(i) the proceeds of the issuance and sale of special purpose bonds and notes issued for the purpose of providing funds to the special purpose loan guarantee insurance fund;

(ii) any moneys made available by the state for the purposes of providing funds to the special purpose loan guarantee insurance fund and any other moneys made available for the purpose of providing funds to the special purpose loan guarantee insurance fund from any other source or sources, including, without limitation, any federal agency;

(iii) any moneys received in respect of loan guarantees including amounts received as loan guarantee insurance premiums or fees, or assets or property of any kind or nature received by the authority as a result of a default or delinquency with respect to loans guaranteed by the authority including the proceeds from the sale, disposal, lease or rental of real or personal property which the authority may receive in respect of a loan guarantee;

(iv) any moneys deposited in the special purpose loan guarantee insurance fund pursuant to paragraph (g) of subdivision two of this section.

§ 1816. Rate of interest. Any loan made by the authority with special purpose funds shall bear interest at such rate as the authority may determine but such rate shall not be less than a rate which is one percent below the average annual net interest cost to the authority, as determined by the authority, on special purpose bonds the proceeds of which, in the opinion of the authority, are available to make such loan, or if no such proceeds are then available in a sufficient amount to make such loan, the average annual net interest cost to the authority, as determined by the authority not more than six months previous to the making of such loan, which would have been incurred by the authority on special purpose bonds having an average maturity of twenty years if such bonds had been issued on a date within thirty days of such determination. The rental or other amount required to be paid by a project occupant or by a business enterprise described in section eighteen hundred twenty-seven to a local development corporation under a lease or other agreement for use of the said project shall include an interest element computed at such rate as the authority shall determine but such rate shall not be less than the interest rate charged by the authority to the local development corporation in accordance with the preceding sentence of this section.

SUBTITLE III

FINANCIAL ASSISTANCE FROM POLLUTION CONTROL FUNDS

§ 1817. Application of subtitle. Subject to the provisions of sections eighteen hundred twenty-two and eighteen hundred twenty-three of this title, the authority shall have the power and is hereby authorized to make loans with pollution control funds pursuant to this subtitle to local development corporations for costs of projects located in any area of the state for the acquisition, construction, rehabilitation or improvement of pollution control facilities.

§ 1818. Pollution control bonds and notes. 1. The authority shall have the power and is hereby authorized to issue at one time or in series from time to time (a) pollution control bonds in the aggregate principal amount of not exceeding seventy-five million dollars, excluding pollution control bonds issued to refund outstanding pollution control bonds, and (b) pollution control notes in anticipation of the issuance of such pollution control bonds.

2. The authority shall have power from time to time to renew pollution control notes or to issue pollution control renewal notes for such purpose, to issue pollution control bonds to pay pollution control notes, and whenever it deems refunding expedient, to refund any pollution control bonds by the issuance of new pollution control bonds, whether the bonds to be refunded have or have not matured, and may issue pollution control bonds partly to refund pollution control bonds then outstanding and partly for the purposes specified in this subtitle. The bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

3. The holders of pollution control bonds and notes shall have the following rights and remedies, subject to the terms of the resolution authorizing such bonds and notes or any trust indenture, secured loan agreement or other instrument related thereto.

a. In the event that the authority shall default in the payment of principal of or interest on any issue of pollution control bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any contract made with the holders of any issue of pollution control bonds or notes, the holders of twenty-five per cent in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk in the county of Albany and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

b. Such trustee may, and upon written request of the holders of twenty-five per cent in principal amount of such bonds or notes then outstanding shall, in his or its own name:

(i) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the pollution control bondholders or noteholders, including any right to require the authority to collect revenues adequate to carry out the provisions of any agreement with the holders of such bonds or notes and to perform its duties under this title;

(ii) bring suit upon such bonds or notes;

(iii) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(iv) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(v) subject to the provisions of subdivision four of section eighteen hundred five of this title, declare all such bonds or notes due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per cent of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

c. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the pollution control bondholders or noteholders in the enforcement and protection of their rights.

d. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

§ 1819. State not liable on pollution control bonds and notes. The state shall not be liable on pollution control bonds and notes of the authority, and such bonds and notes shall contain on the face thereof a statement to that effect.

§ 1820. Pollution control funds. 1. The following shall constitute pollution control funds of the authority and shall be kept separate and apart from all other funds of the authority: (a) the proceeds of sale of pollution control bonds and notes (b) any moneys appropriated and made available by the state for the purposes of this subtitle only, (c) any moneys made available to the authority for the purposes of this subtitle only from any other source or sources, (d) any moneys received by the authority as payments on account of loans made by the authority pursuant to this subtitle, (e) any fees, charges or other moneys received by the authority in respect of projects assisted by the authority pursuant to this subtitle or on account of applications therefor, and (f) any income or interest earned by, or any increment added to, any pollution control funds due to the investment thereof.

2. The authority shall further create and establish a separate fund to be known as the "pollution control capital reserve fund" and shall pay into such capital reserve fund (1) any moneys apportioned and paid by the state for the purposes of such fund pursuant to subdivision two of section eighteen hundred twenty-eight of this title, (2) any proceeds of sale of pollution control bonds or notes to the extent provided in the resolution of the authority authorizing the issuance thereof, (3) any pollution control funds directed to be transferred by the authority to such capital reserve fund, and (4) any other moneys which may be made available to the authority for the purposes of such fund from any other source or sources.

The moneys credited to such pollution control capital reserve fund shall be used, except as hereinafter provided, solely for the payment of the principal of pollution control bonds of the authority, as the same mature, the purchase of pollution control bonds, the payment of interest on pollution control bonds, and the payment of principal and any redemption premium required to be paid upon a redemption of such bonds prior to maturity; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all pollution control bonds of the authority then outstanding, except for the purpose of paying the principal of and interest on the pollution control bonds of the authority maturing and becoming due for the payment of which other moneys of the authority are not available.

Moneys in the pollution control capital reserve fund not required for immediate use or disbursement may be invested in accordance with all the otherwise consistent provisions of section ninety-eight-a of the state finance law. In computing the amount of the pollution control capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par or, if purchased at less than par, at their cost to the authority. The authority shall not issue pollution control bonds at any time secured by the pollution control capital reserve fund if the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the pollution control bonds then to be issued and on all other pollution control bonds of the authority then outstanding will exceed the amount of the pollution control capital reserve fund at the time of issuance unless the authority, at the time of issuance of such pollution control bonds, shall deposit in such fund from the proceeds of the pollution control bonds to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the pollution control bonds then to be issued and on all other pollution control bonds of the authority then outstanding.

Any excess in the pollution control capital reserve fund at the close of any fiscal year of the authority over the maximum amount of the principal and interest maturing and becoming due in any succeeding calendar year on all pollution control bonds of the authority then outstanding shall be withdrawn by the authority from said capital reserve fund and, subject to the provisions of subdivision four of section eighteen hundred twenty-eight of this title, used as pollution control funds.

3. Subject to the terms of any agreement with pollution control bondholders and noteholders, pollution control funds may be used by the authority (a) to make loans to local development corporations for costs of projects specified in section eighteen hundred seventeen in any area of the state, (b) to pay the expenses of the authority referred to in any of the clauses of subdivision one of section eighteen hundred twenty-eight of this title, (c) to make payments to the pollution control capital reserve fund, (d) to repay advances from the state for use as pollution control funds in accordance with any provision of law or repayment agreement between the authority and the director of the budget, (e) to pay the principal and redemption price of or interest on pollution control bonds or notes, (f) to purchase pollution control bonds or notes, or (g) in connection with projects financed with pollution control funds to exercise any of the powers conferred in this title. Investment proceeds and repayments from borrowers credited to the pollution control fund may, to the extent that they are not required

pursuant to the preceding sentence of this subdivision, be used for other purposes of the authority.

§ 1821. Rate of interest to project occupant. Any loan made by the authority pursuant to this subtitle to a local development corporation for a project shall bear interest at such rate as the authority may determine but such rate shall not be less than the average annual net interest cost to the authority, as determined by the authority, on pollution control bonds the proceeds of which, in the opinion of the authority, are available to make such loan, or if no such proceeds are then available in a sufficient amount to make such loan, the average annual net interest cost to the authority, as determined by the authority not more than six months previous to the making of such loan, which would have been incurred by the authority on pollution control bonds having an average maturity of twenty years if such bonds had been issued on a date within thirty days of such determination. The rental or other amount required to be paid by a project occupant to a local development corporation under a lease or other agreement for use of the said project shall include an interest element computed at such rate as the authority shall determine but such rate shall not be less than the interest rate charged by the authority to the local development corporation in accordance with the preceding sentence of this section.

SUBTITLE IV

FINANCIAL ASSISTANCE GENERALLY

§ 1822. Loans to local development corporations. a. No mortgage loan shall be made by the authority under the provisions of subtitle II with respect to a project unless: (1) the local development corporation has obtained firm commitments satisfactory to the authority from responsible financial sources, which may but need not include a federal agency or the project occupant, for the total project cost exclusive of any loan requested from the authority, (2) the local development corporation has obtained a firm commitment satisfactory to the authority from the project occupant or from a business enterprise described in section eighteen hundred twenty-seven to lease or use the project after construction, acquisition, rehabilitation or improvement is completed, (3) the authority approves the terms of such lease or use and is satisfied that the project occupant or a business enterprise described in section eighteen hundred twenty-seven may reasonably be expected to comply with the terms thereof, (4) the principal amount of such loan is forty percent or less of the project cost, except as set forth in paragraphs (a) and (b) of subdivision two of section eighteen hundred three and paragraph (a) of subdivision seven of section eighteen hundred twenty-three of this chapter, (5) such loan is secured by a mortgage on the project, and (6) such mortgage is not a junior encumbrance on the project by more than fifty percent of the project cost.

b. No loan shall be made by the authority under the provisions of subtitle III with respect to a project unless: (1) the local development corporation has obtained firm commitments satisfactory to the authority from responsible financial sources, which may but need not include a federal agency or the project occupant, for the total project cost exclusive of any loan requested from the authority, (2) the local development corporation has obtained a firm commitment satisfactory to the authority from the project occupant to lease or use the project after construction, acquisition, rehabilitation or improvement is completed, (3) the authority approves the terms of such lease or use and is satisfied that the project occupant may reasonably be expected to comply with the terms thereof, (4) the amount of such loan is ninety per cent or less of the project cost and the term of such loan is twenty years or less, (5) the authority finds that the facilities to be financed through the loan are intended to meet or exceed applicable state or federal requirements to abate, prevent or control a pollution, and the commissioner of environmental conservation approves the construction plans for any such facilities.

c. No loan shall be guaranteed by the authority with respect to a project unless: (1) the project occupant has obtained firm commitments satisfactory to the authority from banking organizations for the financing of the project cost exclusive of the amount to be provided by the project occupant, (2) the authority is satisfied that the project occupant may be reasonably expected to comply with the terms of any loan for which a guarantee is sought, (3) the amount of the guarantee is eighty percent or less of the project cost, (4) the loan is secured by a mortgage or security instrument which is not a junior encumbrance on the project.

§ 1823. Further restrictions on loans and loan guarantees. In addition to other provisions of this title limiting the power of the authority to make loans to local development corporations in respect of a particular project, and to guarantee loans made by banking organizations, the following restrictions shall also apply:

1. No funds of the authority shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant or research and development facility or other eligible business facility of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the authority shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

2. No funds of the authority shall be used in respect of any project if the authority would be required to operate, service or maintain the project pursuant to any lease or other agreement except upon foreclosure or except upon the occurrence of a default in the payment or terms of

any loan guaranteed by the authority, provided, however, notwithstanding any other provision of this subtitle, the authority may take title to a project under a financing lease which does not require the authority to operate, service or maintain the project itself, and which provides for payments in lieu of property taxes as approved by the local taxing jurisdiction which are equal to or less than any property taxes which would have been due had the authority not taken title to the property. Nothing shall prevent the authority from transferring such property to the project occupant or its designee at the end of the term of such financing.

3. No funds of the authority shall be used for a project unless the applicant shows to the satisfaction of the authority that funds equal to the amount of the proposed loan from the authority are not reasonably available from other sources at a comparable cost of borrowing.

4. No funds of the authority shall be used in violation of any further restrictions imposed by general rule or regulation of the authority in relation to assisted projects and the authority is hereby authorized to adopt rules and regulations containing such restrictions as it may deem necessary or appropriate to effectuate its corporate purposes.

5. No provision of this title shall prevent the inclusion in a mortgage, lease or other agreement relating to an assisted project of a provision granting the project occupant the right to purchase such project upon such terms and conditions as the authority may approve.

6. No funds of the authority shall be loaned or used for any project unless the applicant demonstrates to the authority that such project has a valid permit or permits for the following, when such permits are required pursuant to applicable federal, state or local law: the generation, treatment, storage and disposal of hazardous wastes; the discharge of pollutants into the waters of the state, or, if such a plant or facility is in violation thereof, that the project contemplated includes the elimination of any such violation or violations.

7. Loans in economically distressed areas and to companies in need of

special assistance. (a) Loans by the authority pursuant to paragraphs (a) and (b) of subdivision two of section eighteen hundred three of this chapter may exceed forty percent but shall not exceed sixty percent of the cost of the project for:

(i) projects which are or will be located in empire zones designated pursuant to article eighteen-b of the general municipal law or in areas that meet, in accordance with the most recent census data available, the following criteria:

(A) the area must have a poverty rate of at least twenty percent for the year to which the data relate; and

(B) the area must have an unemployment rate of at least one hundred twenty-five percent of the statewide unemployment rate for the year to which the data relate;

(ii) projects involving companies in need of special assistance as determined by the findings of the members of the authority that such companies are unable to obtain a sufficient amount of financing at prevailing market rates of interest for businesses of similar size in the same industry in New York state.

(b) In determining eligibility for loans involving companies in need of special assistance pursuant to subparagraph (ii) of paragraph (a) of this subdivision, the members of the authority shall consider:

(i) the applicant's potential for creating jobs in New York state;

(ii) the benefits derived from the project in the community in which the project is or will be located;

(iii) the interaction of a project with economic development programs administered by the department of economic development, the New York state urban development corporation and the New York state science and technology foundation;

(iv) the meaningful participation of minority and women-owned business enterprises and minority group members and women in a project;

(v) the degree to which the project will support apprenticeship training;

(vi) compliance with the provisions of section eighteen hundred twenty-six of this chapter with regard to the project occupant; and

(vii) in consultation with the department of economic development, the eligibility of the applicant for assistance under the industrial effectiveness program pursuant to article seven of the economic development law.

(c) In addition to the rules and regulations promulgated with regard to loans made by the authority under other provisions of this title, the members of the authority shall also promulgate rules and regulations pertaining to the loans made under subparagraphs (i) and (ii) of paragraph (a) of this subdivision by December first, nineteen hundred ninety-two.

(d) On an annual basis, the authority shall compile and publish:

(i) in consultation with the department of economic development, a listing of economically distressed areas as defined in subparagraph (i) of paragraph (a) of this subdivision.

(ii) the criteria for determining the eligibility of a project that is in need of special assistance under subparagraph (ii) of paragraph (a) of this subdivision.

(e) All otherwise applicable requirements and restrictions of this title shall apply to projects that are described in paragraph (a) of this subdivision, provided, however, that in the case of projects which involve the relocation of economic activity from another municipality within New York state, the authority shall also find that the project occupant has made reasonable efforts to carry out the project within the municipality from which the project occupant intends to move an industrial, or manufacturing plant, or research and development facility, or other eligible business facility.

§ 1824. Applications for loans and for loan guarantees. a. A local development corporation may request a loan from the authority pursuant to the provisions of this title by filing an application therefor, which shall be verified by an officer of the corporation duly authorized so to do, in such form and with such exhibits and supporting data as the authority may prescribe and by paying the fees or charges, if any, established by the authority to defray the cost of investigating and processing applications for loans and to the extent that the application contains information or representations provided to or made to the corporation by the project occupant or by a business enterprise described in section eighteen hundred twenty-seven of this title, such officer, in such application, shall, in a form to be prescribed by the authority, certify the nature of the corporation's review of such information and representations.

b. A banking organization may request a loan guarantee from the authority pursuant to the provisions of this title by filing an application therefor, which shall be verified by an officer of the banking organization duly authorized to do so, in such form and with such exhibits and supporting data as the authority may prescribe and by paying the fees or charges, if any, established by the authority to defray the cost of investigating and processing applications for loan guarantees.

§ 1825. Local development corporations. To be eligible for loans from the authority, a local development corporation shall meet the following requirements in addition to any others imposed by the provisions of this title:

1. The corporation shall (a) be incorporated or reincorporated under section fourteen hundred eleven of the not-for-profit corporation law, or (b) be incorporated under article four of the not-for-profit corporation law, in addition to other purposes, to construct new industrial or manufacturing plants or new research and development buildings and acquire machinery and equipment deemed related thereto or acquire, rehabilitate, and improve for use by others, industrial or manufacturing plants in the area of the state in which an assisted project is to be located, to assist financially in such construction, acquisition, rehabilitation and improvement and to maintain such plants, buildings and equipment for others, and may also be authorized to study and promote, alone or in concert with local officials and interested local groups, the economic growth and business prosperity of the area and the solution of other civic problems of the region which includes such areas.

2. The corporation shall have no member or employee thereof who owns beneficially more than five per cent of the capital stock of the project occupant, or of the business enterprise described in section eighteen

hundred twenty-seven and if any member or employee of the corporation has any material financial interest in, is employed by, or is a consultant to any such project occupant or business enterprise or any other business enterprise including a bank or other lending institution having a material financial relationship with such project occupant or business enterprise, such member or employee shall fully disclose any such interest or involvement to the corporation and to the authority in such form and manner as the authority board shall prescribe and such member or employee shall not participate in any evaluation of, or decision concerning, an application pursuant to section eighteen hundred twenty-four of this title regarding such project applicant or business enterprise.

3. The corporation shall agree to be bound by the rules and regulations of the authority relating to assisted projects and the operations of local development corporations, including the use of the loan evaluation criteria and methods established by the authority pursuant to subdivision thirteen-b of section eighteen hundred four of this title and the criteria established by the authority pursuant to subdivision thirteen-c of section eighteen hundred four of this title, and shall submit to examination of its books of account and corporate records by the authority at such times as the authority may require during the term of any loan made to it by the authority.

4. The corporation shall develop, promote and ensure that, where possible, minority groups which traditionally have been disadvantaged, and women, are afforded equal opportunity for loans from the authority through the corporation and for contracts in connection with the construction of the projects financed by loans from the authority through the corporation; provided, however, that the corporation may request that the authority implement the provisions of this subdivision.

§ 1826. The project occupant. The project occupant must be found by the authority to be financially responsible and presumptively able to comply with the terms and conditions of any lease, mortgage or other agreement made by it with the authority or a local development corporation in respect of the project. In making this finding, the authority shall consider all information reasonably available to it, including information as to the business reputation of the project occupant, the character and ability of its management, the adequacy of its financial resources, the market demand for its products, the adequacy of its distribution methods, its past earnings and the likelihood that it can successfully meet any required payments under such lease, mortgage or other agreement out of current income.

§ 1827. Loans for multi-tenant facilities. When in the judgment of the authority a need exists for additional space for industrial, manufacturing, research and development use or other eligible business facilities in an area of the state, it may make a loan to a local development corporation or issue a loan guarantee to a banking organization to assist in financing a project for a business enterprise which proposes to lease the project to two or more tenants to be used for manufacturing, industrial or research and development purposes, or to be used as an eligible business facility, provided that the authority shall make a finding in lieu of the findings referred to in section eighteen hundred twenty-six, that such business enterprise is financially responsible and presumptively able to comply with any lease, mortgage or other agreement made by it with the authority, banking organization or a local development corporation in connection with the project.

SUBTITLE V

MISCELLANEOUS PROVISIONS

§ 1828. Expenses and reserve funds. 1. There shall be included in the financial information to be submitted annually by the authority pursuant to the provisions of section eighteen hundred twenty-nine of the public authorities law, and in the annual report referred to in said section, items separately showing the respective totals during the last completed fiscal year of the authority, of (i) all expenses of the authority clearly attributable to its operations under subtitle II of this title, (ii) all expenses of the authority clearly attributable to its operations under subtitle III of this title, and (iii) expenses of the authority not clearly attributable to a category set forth in clauses (i) and (ii) of this subdivision.

2. To assure the continued operation and solvency of the authority for the fulfillment of its corporate purposes with pollution control funds, provision is made in subdivision two of section eighteen hundred twenty of this title for the accumulation in the pollution control capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all pollution control bonds of the authority then outstanding. In order further to secure such maintenance of the pollution control capital reserve fund, there shall be annually apportioned and paid to the authority for deposit in the pollution control capital reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and director of the budget as necessary to restore the pollution control capital reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the pollution control bonds of the authority then outstanding. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore the pollution control capital reserve fund to the amount

aforesaid and the amount so stated in said certificate, if any, shall be apportioned and paid to the authority during the then current state fiscal year. No amount or amounts shall be apportioned and paid to the authority pursuant to this subdivision two until the authority has entered into a written agreement with the director of the budget providing for the repayment thereof to the state. Any such agreement shall provide, in lieu of any other provisions required by law regarding such repayment, that the authority will repay the state in full from pollution control funds the amount or amounts so apportioned and paid on the date one year after all pollution control bonds and notes of the authority outstanding at the date of such agreement or thereafter issued, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders thereof, are fully met and discharged. The principal amount of bonds secured by the pollution control capital reserve fund to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act, as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed five million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

3. The authority may make and enter into all such covenants and agreements with respect to accounting for or paying its expenses with holders of any of its bonds and notes, or of any issue thereof, as it may determine to be necessary and desirable.

4. To assure the continued operation and solvency of the authority for the fulfillment of its corporate purposes, there shall be annually paid to the authority such sum as shall have been appropriated for the expenses of the authority. The chairman of the authority shall make and deliver to the governor and director of the budget on or before December first, nineteen hundred sixty-six and on or before December first in each year thereafter, a certificate stating the amount estimated to be required for payment of or provision for expenses of the authority for the next ensuing state fiscal year. The amount so stated for any such ensuing state fiscal year shall be the sum of the amounts, if any, estimated for such fiscal year, by which pollution control expenses exceed pollution control available revenues, by which special purpose expenses in respect of loans and the special purpose expenses in respect of loan guarantees exceed special purpose available revenues. The entire amount appropriated for each such fiscal year for the expenses of the authority shall be paid to the authority not later than the tenth day of each such fiscal year. As used in this subdivision, (i) the term "expenses" for the fiscal year means ordinary expenditures for operation and administration of the authority, including interest paid by the authority on its bonds and notes, and, in addition, such amounts as the authority may determine to be reasonable and necessary as a reserve against defaults on its loans and as a reserve against defaults in the payment or terms of loans guaranteed by the authority, but shall not include amounts required to be paid to the state under or pursuant to any written agreement entered into pursuant to subdivision two of this section; and (ii) the term "available revenues" for the fiscal year means all amounts received on account of loans (exclusive of principal repayments), and loan guarantees and applications therefor, and income or interest earned or added to funds of the authority due to investment thereof, and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the authority to be applied to any purposes other than payment of expenses of the authority.

5. The members of the authority shall formulate a plan and policy to provide an expedited financial assistance process for fixed asset financing and other financing assistance programs provided by the authority for new businesses and expansions of existing businesses

within areas designated as empire zones pursuant to article eighteen-B of the general municipal law.

§ 1828-a. Federal trust fund administration. 1. (a) Where the authority, in its capacity as a trustee or administrator of the Altech trust fund established pursuant to a grant agreement with the federal economic development agency, has, on or before March thirty-first, nineteen hundred ninety-five, entered into an agreement or agreements with any local development corporation, banking organization or public benefit corporation, or combination thereof, which obligates the authority to make payments from such trust fund for the purpose of paying or guaranteeing, in whole or in part, the cost of financing the construction of any facility the object of which is to promote economic development within the counties of Albany and Chautauqua, the authority, for the purpose of refinancing its payment obligations under such agreement or agreements, shall:

(i) pursuant to a memorandum of understanding executed with the subject county, purchase, lease or otherwise acquire such facility, including the site thereof, and sell, convey, lease, mortgage, pledge or otherwise dispose of such facility, together with the site thereof, upon such terms and conditions as the authority deems advisable, and in connection therewith, may borrow money from any banking organization and issue its notes or other obligations in evidence thereof and may pledge to the repayments of such obligations any funds of the authority legally available for such purposes;

(ii) pursuant to a repayment agreement executed with the federal economic development agency, replace Altech trust fund monies expended on activities deemed to be ineligible by the United States department of commerce; and

(iii) enter into any and all agreements as the authority shall deem necessary, convenient or desirable to carry out the powers conferred by subparagraph (a) of this subdivision.

(b) (i) Prior to the execution of a repayment agreement by the authority pursuant to paragraph (a) of this subdivision, the authority shall submit a plan to the federal economic development agency and to the director of the budget, and the chairs of the senate finance committee and the assembly ways and means committee, which provides for:

(A) the replacement by the authority of cash or other assets of the trust fund for the purposes of promoting economic development within the counties of Albany and Chautauqua;

(B) the development of a new revolving loan fund plan to provide for the investment of the trust fund for the promotion of economic development within such counties; and

(C) a schedule and strategy for the implementation of any federal administrative requirements governing the administration of the fund by the authority.

(ii) a report submitted to the director of the budget, the chairs of the senate finance committee and the assembly ways and means committee detailing the disposition by the authority of a facility or the repayment of any funds and any amendments to the plan pursuant to paragraph (a) of this subdivision.

(c) Subject to the terms of any special purpose bondholders and noteholders, the special purpose funds described in clauses (b) through (g) of subdivision one of section eighteen hundred fifteen of this title, to the extent that they are not required pursuant to subdivision two of such section, may also be used to pay or discharge any other obligation of the authority imposed thereon by the provisions of this section or by the provision of any contract executed in accordance with this section.

2. The authority shall annually submit to the director of the budget, and the chairs of the senate finance committee and the assembly ways and means committee for approval a resolution setting forth its responsibilities as a fiduciary agent and trustee of any fund the authority administers on behalf of the federal government and describing the terms and conditions of any financial assistance to be provided from such fund.

§ 1829. Submission of certain financial information. 1. The authority shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee and the director of the budget, annually sixty days prior to the commencement of its fiscal year, (a) a copy of its strategic plan, for its next five fiscal years, adopted in accordance with the requirements of subdivision thirteen-a of section eighteen hundred four of this title; and (b) in such form or forms as may be prescribed by the director of the budget, financial information on its operations and loans setting forth its estimated income and moneys to be otherwise available, its expenditures and its loan activity for the next fiscal year and the current fiscal year of the authority, the actual moneys, income, expenditures and loan activity for the last completed fiscal year of the authority, (c) proposed changes, if any, in its charges and fees in respect of project applications and loans and (d) information regarding the manner in which, and the extent to which, the authority's activities during the last completed fiscal year and during the first half of the current fiscal year have served to further the goals and objectives and achieve the operational targets set forth in the strategic plan adopted pursuant to subdivision thirteen-a of section eighteen hundred four of this title.

2. The annual report submitted by the authority pursuant to the provisions of section twenty-eight hundred of this chapter shall set forth, in addition to the items enumerated in such section, (a) a schedule of its loans which shall indicate the local development corporation through which financial assistance has been granted by the authority and the project occupant or the business enterprise described in section eighteen hundred twenty-seven of this chapter for each assisted project, and information on the number of jobs projected to be created and the number projected to be retained by each of such assisted projects; and, based on the latest information available to the authority, the number of jobs actually created to date and the number actually retained to date by each of such assisted projects; and

(b) a listing of all bond counsel, accountants and other private consultants engaged by the authority on a contract basis and a statement of the total amount paid and yet to be paid under each such contract; and

(c) a schedule of all disbursements and commitments provided by the authority from funds the authority administers on behalf of the federal government including:

(i) grants, loans and loan guarantees for all projects undertaken by the fund;

(ii) administrative and operating expenses charged to the fund;

(iii) transfers of moneys from the fund to other fund accounts of the authority; and

(iv) any and all other information that may be requested by the director of the budget, chair of the senate finance committee and chair of the assembly ways and means committee; and

(d) a schedule of all receipts and receivables received by the authority into the funds the authority administers on behalf of the federal government including:

(i) transfer of moneys to the fund from other fund accounts of the authority;

(ii) income received by the fund from loans, loan guarantees, charges and all other sources; and

(iii) any and all other information that may be requested by the director of the budget, chair of the senate finance committee and chair of the assembly ways and means committee.

§ 1829-a. Submission of certain program information. 1. Annual program report. The authority shall report on an annual basis beginning December thirty-first, nineteen hundred ninety-three, and on each December thirty-first thereafter, to the governor, the speaker of the assembly and the temporary president of the senate on each of the financial assistance programs, and for each program, each category of assistance administered by the authority, identifying each proposal for assistance through such program for which the authority has received a formal application or otherwise has begun to undertake an analysis.

(a) For those requests which are currently being evaluated but which have not yet been approved such description shall include, but not be limited to, the name and location of the applicant, the amount of assistance requested, the date of receipt of such request, and the status of such request.

(b) In providing such report, where necessary to promote the development of proposed projects, the authority may delete references to the specific names of the participants, instead making references to them in some other form so as to make it possible to identify the progress of specific proposals.

(c) Such report shall provide a breakdown, for each of the regions established pursuant to section two hundred thirty of the economic development law, of proposals for assistance through each program. In addition, such report shall summarize, by program, the data reported pursuant to this paragraph.

(d) For those requests which have been evaluated and for which no further action has been recommended, the corporation shall present summary data indicating why no further action was taken.

(e) Such report shall include a description of the efforts and activities of the authority to meet the financing needs of economically distressed areas as described in paragraph (a) of subdivision seven of section eighteen hundred twenty-three of this chapter, and a description of the authority's efforts and activities with regard to companies in need of special assistance as described in such paragraph (a).

2. Evaluations. (a) In addition to any other requirements imposed by this chapter or otherwise regarding evaluations of programs administered by the authority, each evaluation shall include an analysis of the job creation effect of such program, the number of small businesses that received assistance, the number of minority and women-owned firms that received assistance, the number of projects undertaken in economically distressed areas as described in paragraph (a) of subdivision seven of section eighteen hundred twenty-three of this chapter, the number of projects involving companies in need of special assistance as described in such paragraph (a) and, if applicable, the repayment experience of borrowers of funds from the authority.

(b) The authority shall submit to the governor, the speaker of the assembly, and the temporary president of the senate an evaluation of such programs prepared by an entity independent of the authority. Such evaluations shall be submitted by September first, nineteen hundred ninety-four and by September first every four years thereafter.

§ 1830. Cooperation and assistance from other state agencies. The department of economic development, the department of labor, the department of financial services, the department of state and all other state agencies shall cooperate with and assist the authority in the fulfillment of its corporate purposes and in the exercise of its corporate powers under this title and may render such services to the authority within their respective functions as may be requested by the authority.

§ 1830-a. Conveyance of state land. Notwithstanding section thirty-three of the public lands law the commissioner of general services shall have power, in his discretion, from time to time to grant and convey to the authority, upon such terms and conditions including consideration as the commissioner of general services may fix and determine, unappropriated state lands, lands under water, abandoned canal lands and salt springs lands which the authority shall certify to be in conformity with its corporate purposes. Certification shall be evidenced by a formal request from the authority and shall be subject to the approval of the director of the budget.

§ 1831. Authority subject to certain other provisions of law. Nothing contained in any provision of this title shall be construed to relieve the authority of the obligation on its part to comply with the provisions of article nine of the public authorities law in force on the effective date of this title.

§ 1831-a. Actions. Except in an action for wrongful death, an action against the authority founded on tort shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by, and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1832. Termination of the authority. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds, notes or other obligations outstanding. Upon termination of the existence of the authority all its rights, property, assets and funds shall pass to and be vested in the state. For the purposes of this section, any appropriation or advance made to the authority by the state, which has not been repaid, shall not be deemed to be an outstanding obligation of the authority.

§ 1833. Title not affected if in part unconstitutional or ineffective. If any subtitle, section, subdivision, paragraph, sentence, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid or effective and no other subtitle, section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1834. Inconsistent provisions of other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

SUBTITLE V-A

LOANS TO LENDERS PROGRAM

§ 1835. Statement of legislative findings. The legislature hereby finds that agriculture is one of the largest industries in the state. The legislature has continuously acknowledged the importance of farming by establishing a variety of programs to promote a strong agricultural economy. Of particular importance to farmers and the rural economy is the health of businesses that serve farmers. Such businesses provide processing and storage facilities for agricultural commodities, equipment and material for use in farming and other products and services for farmers.

The legislature further declares that these businesses are confronted by the need to adapt to rapidly changing economic circumstances and market demands for the goods and services they produce. Their ability to adapt to and meet the challenges of emerging economic conditions and market opportunities is often impaired by high interest rates, an uncertain economic climate and their inability to attract investment capital upon reasonable terms. This problem is particularly acute in rural communities which neither possess nor are able to attract sufficient capital resources to meet their needs.

Significant strides in assisting and promoting certain business sectors have been made in this state. In this effort, the legislature has provided tax exempt financing to reduce interest rates for a wide variety of economic development programs as well as housing production programs. The legislature hereby finds that such financing of rural agricultural businesses would encourage rural economic activity, provide employment opportunities and enhance the quality of rural life. It is therefore the purpose of this subtitle to authorize the job development authority to issue bonds and notes to the investment community in order to make loans to lenders which will, in turn, provide financing to businesses that serve farmers and which would otherwise face difficulties in obtaining capital at a reasonable cost for establishing or expanding their enterprises and businesses.

The legislature further declares that it is the policy of the state, in authorizing the New York job development authority to create a loans to lenders program, to promote the economic well-being of rural communities, expand opportunities for minority and women owned businesses and enterprises and enlarge the employment opportunities available to residents of the state.

§ 1835-a. Definitions. As used or referred to in this subtitle, unless a different meaning appears from the context:

1. "Borrower" means the person, firm, partnership, corporation or other entity which receives a loan from a lender to pay the cost of a business project.

2. "Agricultural business project" means any land, any building or other improvement and any real and personal properties located within the state, including but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be used for manufacturing, warehousing, research, commercial, industrial or other business purposes in support of the state's agricultural industry.

3. "Lender" means (a) any organization defined by subdivision eleven of section two of the banking law, (b) any agency or branch of a foreign banking corporation licensed by the department of financial services under article five of the banking law, (c) any national bank, federal savings and loan association and federal credit union, (d) any authorized insurer defined by subdivision six of section four of the insurance law and (e) any other institution within the state authorized to originate and service loans including, but not limited to, credit unions, mortgage loan companies and the New York business development corporation established under article five-A of the banking law, which shall be treated as a lender for all purposes of this subtitle.

4. "Loan for agricultural business project" means a loan received by a borrower from a lender to pay the cost of an agricultural business project.

5. "Loan to lender" means a loan made by the authority to a lender and evidenced by a bond, note, certificate of deposit or other obligation of such lender, secured or unsecured, as provided in this subtitle.

§ 1835-b. Additional powers of the authority. The authority shall have the following additional powers only with respect to making loans to lenders for the purpose of financing loans for agricultural business projects pursuant to this subtitle:

1. To prescribe standards and criteria for the granting of applications for loans to lenders and for the making of loans for agricultural business projects, which standards and criteria shall implement the intent and purposes of this subtitle. In developing such standards and criteria the authority shall consult with the superintendent of financial services regarding the qualifications of lenders and with the commissioner of agriculture and markets and the commissioner of economic development regarding the standards and criteria for the making of loans for business projects.

2. To make, and undertake commitments to make, loans to lenders under such terms and conditions as shall require the proceeds of such loans to lenders to be used by lenders to make loans for agricultural business projects;

3. To make and execute contracts for the administration or servicing of any loan to lender made by the authority and to pay the reasonable value of services rendered to the authority pursuant to such contracts;

4. To borrow money and issue bonds and notes as provided in section one thousand eight hundred thirty-five-d of this subtitle; and

5. To do any and all things necessary or convenient to carry out its corporate purposes and exercise the powers given and granted in this subtitle.

§ 1835-c. Loans to lenders. 1. The authority shall have the power and is hereby authorized to make and contract to make loans to lenders on such terms and conditions as it shall determine, and all lenders are authorized to borrow from the authority in accordance with the provisions of this section and upon such terms and conditions as the authority may impose, provided that the business development corporation established under article five-A of the banking law shall receive no more than five million dollars and any other lender shall receive no more than two million dollars in loans to lenders from the authority in any twelve month period.

2. The authority shall require as a condition of each loan to a lender that such lender enter into written commitments to make within such period of time as the authority may require loans for agricultural business projects in accordance with the standards and criteria prescribed by the authority. Such loans for agricultural business projects shall be in an aggregate principal amount equal to the amount of such loan to the lender and shall require the disbursement of such loan proceeds by the lender to borrowers to pay the costs of such projects; provided that no borrower shall receive more than two hundred thousand dollars in loans for agricultural business projects that are financed by loans to lenders from the authority in any twelve month period.

3. The authority shall require the submission to it by each lender to which the authority has made a loan to lender such documentation and other evidence satisfactory to the authority that the lender has made loans for agricultural business projects in accordance with the standards and criteria prescribed by the authority, and in this connection the authority through its members, agents and employees may inspect the books and records of such lender.

4. The authority shall require that each lender receiving a loan to lender pursuant to this section shall issue and deliver to the authority an evidence of its indebtedness to the authority which shall constitute an unconditional obligation of such lender and shall bear such date or

dates, shall mature at such times or times, shall be subject to prepayment and shall contain such other provisions consistent with this subtitle as the authority shall require.

5. Notwithstanding any other provision of this subtitle, the interest rate and other terms of loans to lenders made from the proceeds of any issue of loans to lenders bonds or notes of the authority shall be at least sufficient to assure the payment of principal, redemption premium, if any, and interest on such bonds and notes as the same become due and payable.

6. The authority may require that loans to lenders made pursuant to this subtitle shall be secured as to the payment of both principal and interest by a pledge of collateral security in such amounts as the authority may determine to be necessary to assure the payment of such loans and the interest thereon as the same become due and payable. Such collateral security may consist of (a) obligations of or guaranteed by the United States of America, (b) obligations of the state or obligations the principal and interest of which are guaranteed by the state, excluding any obligations of the authority, (c) obligations of any corporation wholly owned by the United States of America, (d) obligations of any corporation sponsored by the United States of America which are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system, or (e) certificates of deposit or time deposits secured in such manner, if any, as the authority shall determine.

7. The authority may require that any collateral security for loans to lenders be deposited with a bank, trust company or other financial institution (other than the lender pledging such collateral security) which shall be located in the state and designated by the authority as custodian therefor or may require each lender to enter into an agreement with the authority containing such provisions as the authority shall require to (a) adequately identify and maintain such collateral security, (b) service such collateral security, and (c) require the lender to hold such collateral security in trust for the authority and be accountable to the authority as the trustee of an express trust. The

authority may also establish such additional requirements as it shall deem necessary with respect to the pledging, assigning, setting aside or holding of such collateral security and the making of substitutions of or additions thereto and the disposition of income and receipts therefrom.

8. The authority may require as a condition of any loans to lenders such representations and warranties as it shall determine to be necessary to secure such loans and carry out the purposes of this subtitle, and may make and execute contracts for the administration, servicing or collection of any loans to lenders or other financing with a lender and may pay the reasonable value of services rendered to the authority pursuant to such contracts.

§ 1835-d. Loans to lenders bonds and notes. 1. The authority shall have the power and is hereby authorized, for the purposes of this subtitle, to issue at one time or in series from time to time loans to lenders bonds and loans to lenders notes issued in anticipation of the issuance of such loans to lenders bonds, including renewals thereof, in an aggregate principal amount which shall not at any one time exceed fifty million dollars, excluding loans to lenders bonds issued to refund outstanding loans to lenders bonds.

2. Except as may otherwise be expressly provided by the authority, all loans to lenders bonds and notes shall be limited obligations of the authority and payable solely from the revenues derived by the authority from loans to lenders.

3. Loans to lenders bonds and notes shall be authorized by resolution of the authority and bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, shall be of such denominations, shall be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America and at such terms of redemption prior to maturity as may be provided by such resolution or resolutions with respect to such bonds or notes, as the case may be; provided, however

that the maximum maturity of such bonds shall not exceed thirty years from the date thereof and the maximum maturity of such notes or any renewals thereof shall not exceed seven years from the date of the original issue of such notes.

4. The authority shall have power from time to time to renew loans to lenders notes or to issue loans to lenders notes for such purpose, to issue loans to lenders bonds to pay loans to lenders notes, and whenever it deems refunding expedient, to refund any loans to lenders bonds by the issuance of new loans to lenders bonds, whether the bonds to be refunded have or have not matured, and may issue loans to lenders bonds partly to refund loans to lenders bonds then outstanding and partly for the purposes specified in this subtitle. Any loans to lenders bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

5. Loans to lenders bonds and notes of the authority may be sold by the authority at public or private sale in such manner and on such terms and at such price or prices as the authority shall determine but shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller where such sale is not to the comptroller, or by the director of the budget where such sale is to the comptroller.

§ 1835-e. State not liable on loans to lenders bonds and notes. The state shall not be liable on loans to lenders bonds and notes of the authority, and such bonds and notes shall contain on the face thereof a statement to that effect.

§ 1835-f. Loans to lenders funds. 1. The following shall constitute loans to lenders funds of the authority and shall be kept separate and apart from all other funds of the authority: (a) the proceeds of sale of loans to lenders bonds and notes hereafter issued, (b) any moneys appropriated and made available by the state for the purposes of this subtitle, (c) any moneys made available to the authority for the purposes of this subtitle from any other source, including without limitation, any federal agency, (d) any moneys received by the authority as principal, interest and other payments on account of loans hereafter made by the authority pursuant to this subtitle, (e) any fees, charges or other moneys received by the authority in respect of loans to lenders hereinafter made by the authority pursuant to this subtitle or on account of applications therefor, and (f) any income or interest hereafter earned by or any increment hereafter added to any loans to lenders funds due to the investment thereof.

2. Subject to the terms of any agreement with lenders, bondholders and noteholders, loans to lenders funds may be used by the authority solely: (a) to make loans to lenders for the purpose of financing loans for agricultural business projects in any area of the state, (b) to pay expenses of the authority referred to in any of the clauses of subdivision one of section eighteen hundred twenty-eight of this title, (c) to repay advances from the state for use as loans to lenders funds in accordance with any provision of law or repayment agreement between the authority and the state, (d) to pay the principal, redemption premium or interest on loans to lenders bonds or notes, (e) to purchase outstanding loans to lenders bonds and notes or (f) to exercise any of the powers conferred in this subtitle.

SUBTITLE VI

EMPLOYEE OWNERSHIP ASSISTANCE

§ 1836-a. Legislative findings. The legislature hereby finds and declares that the health, safety and general welfare of the people of this state are directly dependent upon the state economy, and that one of the principal problems of our present economy is the permanent closing of industrial and manufacturing plants, and their relocation out of state, which results in the loss of jobs and increasing unemployment.

It is the purpose of this subtitle to encourage the employees of plants that are about to be permanently closed, or relocated, to acquire such plants and to continue to operate them as employee-owned enterprises, thereby retaining the jobs that would otherwise be lost, and strengthening the economic base of this state.

§ 1836-b. Definitions. When used in this subtitle, unless the context otherwise requires:

1. "Agreement" means an employee ownership assistance loan agreement made pursuant to this subtitle.

2. "Authority" means the job development authority created by section one thousand eight hundred two of this chapter.

3. "Eligible project" means the acquisition or rehabilitation by an employee ownership association of an existing industrial or manufacturing plant located in this state for the purpose of operating it as an employee-owned enterprise.

4. "Employee ownership association" means a corporation or other association formed by or on behalf of the employees of an industrial or manufacturing plant located in this state for the purpose of assuming ownership or control of the plant and operating it as an employee-owned enterprise or as a worker cooperative as defined in section eighty-one of the cooperative corporations law.

5. "Employee-owned enterprise" means a business in which the employees are represented on the board of directors and the employees control the majority of the voting stock, or if the business is held in a trust which controls the majority of the voting stock, the trustees are

elected by the employees. The term "employee-owned enterprise" shall also refer to a worker cooperative as defined in section eighty-one of the cooperative corporations law.

6. "Funding partner" means an entity which singly or in combination with other entities has agreed to finance a portion of the project cost of an eligible project, and may include the employee ownership association undertaking the project as well as any financial entity.

7. "Plant" includes the site, structure, building and equipment and all real and personal property in connection therewith, whether or not in existence, and may include any road, railroad, or utility or equipment appurtenant thereto.

8. "Project cost" includes all reasonable and necessary costs to be incurred in the course of an eligible project, including any anticipated acquisition, construction, land acquisition, improvements, equipment, pertinent rights and easements, and associated technical, engineering, legal and financial services.

§ 1836-c. Applications for loans. 1. Any employee ownership association may apply to a local development corporation serving the municipality in which the eligible project is located for an employee ownership assistance loan to be used to help finance an eligible project. Such application must include a written statement from the entity from which the project is being acquired, stating that such entity consents to the acquisition. The application shall include in detail:

(a) the history and membership of the association;

(b) the history and circumstances of the plant to be acquired;

(c) financial and marketing projections and analyses sufficient to allow the authority to evaluate the continued economic viability of the project;

(d) estimate of the number of jobs to be saved or created by the project; and

(e) total anticipated project cost.

2. The application shall also include a detailed financial statement of funding partner participation in the project, which shall include:

(a) the identity of all funding partners; and

(b) the terms of the financing agreements with the funding partners, including any repayment schedules and finance charges to be included in such agreements.

§ 1836-d. Loan preferences. In approving applications for loans under this subtitle, the authority shall give preference to projects which:

1. have a higher level of funding from the funding partners;

2. have the most direct impact on local economic development and the creation or retention of employment opportunities;

3. are most likely to stimulate other private sector investments; and

4. are least speculative, and provide greatest assurance of repayment of the loan.

§ 1836-e. Loan agreements. 1. If the authority approves an application for a loan under this subtitle, the local development corporation may enter into a loan agreement with the employee ownership association whereby the local development corporation agrees to loan to the employee ownership association the remaining funds necessary for the eligible project.

2. No such loan may exceed forty percent of the cost of the project and the repayment of such loan shall be secured by a mortgage thereon which shall not be a junior encumbrance thereon by more than fifty percent of such cost, and by means of the guarantees of the loans made by banking organizations which guaranty shall not exceed eighty percent of the cost of the project, except as provided in paragraphs (a) and (b) of subdivision two of section eighteen hundred three and paragraph (a)

of subdivision seven of section eighteen hundred twenty-three of this chapter.

3. The local development corporation may not enter into any loan agreement unless the authority determines through an appropriate method that there is reasonable assurance of repayment. The authority shall establish such requirements or terms as it may deem necessary or desirable to secure the repayment of the loan and to protect the interests of the authority and the holders of its bonds.

4. Subject to the requirements of this subtitle, the authority is authorized to determine the form and substance of any loan agreement made pursuant to this subtitle.

§ 1836-f. Repayment of loans; interest. The entire amount loaned shall be repaid by the employee ownership association to the authority or its designee.

§ 1836-g. Rules and regulations of the authority. 1. The authority shall make, promulgate and enforce such reasonable rules and regulations relating to its duties under this subtitle as it may deem appropriate.

2. To effectuate the purposes of this subtitle, the authority may request from any authority, division, board, bureau, commission or other agency of the state or from any public corporation, and the same are authorized to provide, such services, assistance and data as will enable the authority to properly carry out its functions, powers and duties under this subtitle.

3. The authority shall also cooperate with the department of economic development to permit the department to carry out its responsibilities under section one hundred four-a of the economic development law.

SUBTITLE VII

SPECIAL PROJECT DEVELOPMENT

§ 1837. Legislative findings. The legislature hereby finds that one of the major concerns of the existing economy is the limited access to financing assistance of businesses and services that support or facilitate employment and economic development, but are not themselves directly involved in manufacturing or industrial production.

It is the purpose of this subtitle to encourage the development of community development projects that promote and enhance economic development by providing loans and loan guarantees at a reasonable cost.

§ 1837-a. Definitions. When used in this subtitle unless the context otherwise requires:

1. "Eligible project" means the acquisition, renovation, rehabilitation or development of property necessary to commence and complete operation of projects that are not primarily residential nor retail businesses or enterprises, other than manufacturing and industrial plants, that promote, facilitate or encourage employment and economic development, including day care, commercial production and incubators primarily used for commercial purposes that will result in the creation or retention of employment.

2. "Eligible project cost" includes all reasonable and necessary costs and fees related to the acquisition, renovation, or rehabilitation of the project, including, but not limited to, acquisition, construction, land acquisition, improvements, easements, rights of way, equipment, contract and/or license rights, and related technical, engineering, legal and financial services.

§ 1837-b. Loans to local development corporations. 1. No loan shall be made by the authority under the provisions of this subtitle with respect to an eligible project unless: (a) the local development corporation has obtained firm commitments satisfactory to the authority from responsible financial sources, which may include a federal agency or the project occupant, for the total project cost exclusive of any loan requested from the authority; (b) the local development corporation has obtained a firm commitment satisfactory to the authority from the project occupant to lease or use the project after it has been completed; (c) the principal amount of such loan is forty percent or less of the project cost, except as provided in paragraphs (a) and (b) of subdivision two of section eighteen hundred three and paragraph (a) of subdivision seven of section eighteen hundred twenty-three of this chapter; and (d) if such loan is secured by a mortgage on the project, such mortgage is not a junior encumbrance on the project by more than fifty percent of the project cost.

2. No loan shall be guaranteed by the authority with respect to a project unless: (a) the project occupant has obtained firm commitments satisfactory to the authority from banking organizations for the financing of the project cost exclusive of the amount to be provided by the project occupant; (b) the authority is satisfied that the project occupant may be reasonably expected to comply with the terms of any loan for which a guarantee is sought; (c) the amount of the guarantee is eighty percent or less of the project cost; and (d) the loan is secured by a mortgage or security instrument which is not a junior encumbrance or other collateral deemed satisfactory to protect the authority's interest.

§ 1837-c. Regulations by authority. The authority shall promulgate rules and regulations to effectuate the purposes of this subtitle which shall be subject to the approval of the director of the budget.

§ 1838. Bonding guarantee assistance program. 1. There is hereby created a state bonding guarantee assistance program to enable small businesses, and minority-owned and women-owned business enterprises, certified as a minority-owned or women-owned business enterprise pursuant to article fifteen-A of the executive law, to meet payment and/or performance bonding requirements by providing additional financial backing needed to induce a surety company to issue a bond for construction projects, including but not limited to, government sponsored, transportation related construction projects. For purposes of this section, the term small business shall have the same meaning as defined in section one hundred thirty-one of the economic development law. Such program shall give preference to minority-owned and women-owned business enterprises and shall:

(a) make available funds to surety companies providing bonds to small businesses and minority-owned or women-owned business enterprises in an amount equal to a percentage not to exceed fifty percent of the face value of bonds issued by the surety.

(b) provide technical assistance in completing bonding applications for small businesses and minority-owned or women-owned business enterprises seeking to become eligible for bonding in preparation for bidding on construction projects, including transportation related projects. The authority shall refer such businesses to the department of economic development and the urban development corporation for technical assistance as such businesses may need, including but not limited to:

(i) a review of the applicants' market and business competitive strategy;

(ii) consultation and review of the development and planned implementation of a working capital budget;

(iii) assistance with applications for the receipt of funding from other financial sources and providing referrals to other appropriate public and private sources of financing; and

(iv) assistance from the regional offices of the department of economic development, pursuant to article eleven of the economic development law, and the entrepreneurial assistance program, pursuant to article nine of such law, and any other such program receiving state funds from the department of economic development or the urban development corporation or any other state agency that is intended to provide technical assistance to small businesses and minority-owned and women-owned small business enterprises.

2. Criteria and regulations. (a) The authority shall by rule establish criteria for such program, such criteria to include detailed provisions for eligibility.

(b) The authority shall promulgate rules and regulations to effectuate the purposes of this section which shall be approved by the director of the budget.

TITLE 9

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

§ 1850. Short title. This title may be cited as the "New York state energy research and development authority act".

§ 1850-a. Legislative declaration. It is hereby declared that the need for obtaining and maintaining an adequate and continuous supply of safe, dependable and economical power and energy is a matter of serious concern to the people of the state; that accelerated development and use within the state of new energy technologies to supplement energy derived from existing sources will promote the state's economic growth, protect its environmental values and be in the best interests of the health and welfare of the state's population; and that such development and use requires special efforts to foster research, development, and demonstration in the methods of production and use of new energy technologies. The objective of this title is the development and utilization of safe, dependable, renewable and economic energy sources and the conservation of energy and energy resources.

It is further declared that implementation of this objective can best be effectuated by changing and reconstituting the New York state atomic and space development authority into the New York state energy research and development authority. While maintaining its present commitments to its bondholders, the authority shall direct its efforts toward the development of new energy technologies, with special emphasis on renewable energy sources and energy conservation technologies.

It is further declared and found that the objective of this title can be achieved by (1) continuing the authority's authorization to issue bonds and notes and to lend or otherwise apply the proceeds therefrom for the benefit of gas and power companies in financing projects including, without limitation, experimental or developmental facilities implementing new energy technologies, pollution control facilities, facilities required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics, and facilities for the furnishing of electric energy or gas, and (2) empowering the authority to issue bonds and notes and to lend or otherwise apply the proceeds therefrom to finance special energy projects for the benefit of persons in the state.

§ 1851. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Nuclear fission energy" shall mean all forms of energy released in the course of nuclear fission.

2. "Authority" shall mean the New York state energy research and development authority continued pursuant to section one thousand eight hundred fifty-two of this title.

3. "Bonds" and "notes" shall mean such bonds and notes as are issued by the authority pursuant to this title.

4. "Comptroller" shall mean the comptroller of the state.

5. "Person" shall mean any natural person, firm, association, public or private corporation, public utility, organization, partnership, trust, estate, or joint stock company, or any political subdivision of the state, or any officer or agent thereof.

6. "Real property" shall mean lands, waters, rights in lands or waters, structures, franchises, improvements and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within said term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments in every estate, interest or right, legal or equitable.

7. "State" shall mean the state of New York.

8. "State agency" shall mean any officer, department, board, commission, bureau, division, corporation, agency or instrumentality of the state.

9. "Commissioner" shall mean the commissioner of transportation of the state of New York.

10. "New energy technologies" shall mean all methods used to produce, distribute, conserve and store energy by methods not in common

commercial use, with emphasis on renewable energy sources including but not limited to solar, wind, bioconversion and solid waste.

11. "Energy conservation technologies" shall mean all methods of conserving energy, of improving the efficiency of energy utilization and of preserving and protecting the environment and the public health and safety in connection with the use of energy.

13. "Special energy project" shall mean any land, works, system, building or other improvement, and all real and personal properties of any nature or any interest in any of them deemed necessary or desirable in connection therewith or incidental thereto, whether or not now in existence or under construction, which shall be suitable for or related to the furnishing, generation, production, exploration, transmission, distribution, conservation, conversion or storage of energy or energy resources, or the conversion of oil-burning facilities to alternate fuels, or for the acquisition, extraction, conversion, transportation, storage, loading, unloading or reprocessing of fuel of any kind for industrial, manufacturing, warehousing, commercial, storage, research, recreational, educational, dormitory, health, mental hygiene or multi-family housing facilities or purposes and which may, but shall not be required to, employ new energy technologies.

14. "Low-level radioactive waste" shall mean radioactive waste that:

a. is not high-level radioactive waste, transuranic waste, spent nuclear fuel, or the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content; and

b. the United States nuclear regulatory commission, consistent with federal law, and in accordance with paragraph a of this subdivision, classifies as low-level radioactive waste.

15. "Low-level radioactive waste management facilities" shall mean facilities for permanent disposal of low-level radioactive waste and any associated facilities for treatment and handling of such waste,

including but not limited to, facilities for purposes of stabilization, volume reduction, or the protection of health and safety of workers or members of the public.

16. "Permanent disposal facilities" shall mean low-level radioactive waste management facilities for permanent disposal of low-level radioactive waste generated within the state of New York other than such waste which is a federal responsibility pursuant to the provisions of federal law pertaining to state and federal responsibilities for disposal of low-level radioactive waste.

17. "Generate" or "generation", when used with respect to low-level radioactive waste, shall mean the production, or causing the production of, or activity which otherwise results in the creation or increase in volume of low-level radioactive waste. A person who generates low-level radioactive waste includes one who personally, or through the actions of any agent, employee, or contractor, generates low-level radioactive waste.

18. "Generation attribute certificates" shall mean the environmental, vintage and other attributes associated with the generation of kilowatt-hours and/or megawatt-hours of electrical energy. Generation attribute certificates shall exist as a commodity separate and apart from kilowatt-hours and/or megawatt-hours.

§ 1852. New York state energy research and development authority. 1. The authority heretofore known and designated as the "New York state atomic and space development authority" is hereby continued and shall hereafter be known and designated as the New York state energy research and development authority. Reference in any provision of law, general, special or local, or in any rule, regulation or public document to the New York state atomic research and development authority or to the New York state atomic and space development authority shall be deemed to be and construed as a reference to the authority continued by this section. The authority shall be a body corporate and politic, constituting a public benefit corporation.

2. The membership of the authority shall consist of thirteen members, to be as follows: the commissioner of the department of transportation, the commissioner of the department of environmental conservation, the chair of the public service commission, the president and chief executive officer of the power authority of the State of New York, all of whom shall serve ex-officio; and nine members appointed by the governor by and with the advice and consent of the senate; one of whom shall be an engineer or a research scientist with a degree in the physical sciences or engineering who has not been employed in the nuclear fission field for three years preceding the appointment and who shall not be so employed during his or her term; one of whom shall be an economist who shall not have received more than one-tenth of his or her income from an electric utility or gas utility for three years preceding the appointment and who shall not so derive more than one-tenth of his or her income during such term; one of whom who shall be a member of a not-for-profit environmental group; one of whom shall be a member of a not-for-profit consumer group; one of whom who shall be an officer of a utility primarily engaged in the distribution of gas; and one of whom shall be an officer of an electric utility. The governor shall designate the chair. Of the nine members appointed by the governor, two shall be appointed for terms expiring April first, nineteen hundred seventy-eight, two for terms expiring April first, nineteen hundred eighty, two for terms expiring April first, nineteen hundred eighty-one, and three for terms expiring April first, nineteen hundred eighty-two. Persons appointed by the governor for full terms as successors to such members shall serve for terms of six years each commencing as of April first. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, the governor shall appoint a successor, by and with the advice and consent of the senate, to serve the balance of the unexpired term.

3. The chairman shall preside over meetings of the authority and shall serve as the primary liaison between the members and authority staff. A vice-chairman may be elected by the authority from among its other members to serve as such at the pleasure of the authority. The vice-chairman shall preside over all meetings of the authority in the

absence of the chairman and shall have such other duties as the authority may prescribe. The president shall be the chief executive officer of the authority and shall be primarily responsible for the discharge of the executive and administrative functions of the authority.

4. The members, including the chair, shall serve without compensation for their services, but they shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

5. Any member may engage in private employment, or in a profession or business, subject to the limitations contained in sections seventy-three and seventy-four of the public officers law; provided however, that notwithstanding any other provision of law, the members of the authority who are officers of an electric utility or a utility primarily engaged in the distribution of gas shall not be prohibited from participating and voting on any bond issue of the authority relating to air and water pollution facilities for any utility other than for the utilities of which such members are officers respectively. The authority shall, for the purposes of such sections, be a "state agency" and all members, including the chair, shall be "officers" of the agency for the purposes of said sections.

6. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the authority; provided, however, a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this article, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

7. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him, and an opportunity to be heard, in person or by counsel, in

his defense, upon not less than ten days' notice. If any member shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

8. A majority, but no fewer than five, of the members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority.

9. The authority may appoint such persons to serve as officers, agents or employees of the authority as it may deem advisable and may prescribe their duties and fix their compensation, subject to the civil service law and the rules and regulations of the civil service commission of the state.

10. The authority may appoint one or more advisory committees consisting of not more than seven members each to consider and advise the authority upon all matters submitted to them by the authority and to recommend to the authority such changes in the administration of this title and the operations of the authority as the advisory committee may deem desirable. Members of advisory committees shall serve without salary for such terms, not to exceed four years, as the authority may determine, and shall be entitled to reimbursement for their actual and necessary travel expenses incurred in the performance of their official duties.

§ 1853. Approval power of the governor. 1. No action taken at any meeting of the authority shall have force or effect until the governor shall have an opportunity to approve or veto the same.

2. For the purpose of procuring such approval or veto, the authority shall by rule designate an officer of the authority to transmit to the governor at the executive chamber in Albany a certified copy of the minutes of every meeting of the authority as soon after the holding of such meeting as such minutes can be written out. The governor shall, within fifteen days after such minutes shall have been delivered to the

executive chamber as aforesaid, cause the same to be returned to the authority either with his approval or with his veto of any action therein recited as having been taken, provided, however, that if the governor shall not return the said minutes within the said period then at the expiration thereof any action therein recited shall have full force and effect according to the wording thereof.

3. If the governor within the said period returns the said minutes with a veto against any action recited therein, then such action shall be null and void.

4. The governor may by order filed with the authority relieve the authority from the duty of procuring his approval of its action upon any particular matter or class of matters, and thereupon the authority shall be relieved from reporting the same to him.

§ 1854. Purposes and specific powers of the authority. * The purposes of the authority shall be to develop and implement new energy technologies and invest in build-ready sites, as defined in subdivision eight of section nineteen hundred one of this article, consistent with economic, social and environmental objectives, to develop and encourage energy conservation technologies, to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and industrial pollution control facilities at the Saratoga Research and Development Center, and to promote, develop, encourage and assist special energy projects and thereby advance job opportunities, health, general prosperity and economic welfare of the people of the state of New York. In carrying out such purposes, the authority shall, with respect to the activities specified, have the following powers:

* NB Effective until December 31, 2030

* The purposes of the authority shall be to develop and implement new energy technologies consistent with economic, social and environmental objectives, to develop and encourage energy conservation technologies, to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of

industrial, manufacturing, warehousing, commercial, research and industrial pollution control facilities at the Saratoga Research and Development Center, and to promote, develop, encourage and assist special energy projects and thereby advance job opportunities, health, general prosperity and economic welfare of the people of the state of New York. In carrying out such purposes, the authority shall, with respect to the activities specified, have the following powers:

* NB Effective December 31, 2030

1. Research, development and demonstration. To conduct, sponsor, assist and foster programs of research, development and demonstration in new energy technologies including but not limited to (a) energy conservation, (b) production of power from new sources with emphasis on renewable energy sources such as solar, wind, bioconversion and solid waste, (c) storage of energy with emphasis on inertial and battery storage, (d) conversion and/or technological improvement of facilities now utilizing nuclear fission energy and fossil fuel energy technologies, (e) transmission and distribution of power, and (f) conversion of energy and improvements of efficiencies of such conversion, including the power after assessing and taking into account environmental considerations thereof, to establish, acquire, operate, develop and manage facilities therefor.

2. The provision of services. To provide services required for the development and use of new energy technologies and related methods by the industrial, commercial, medical, scientific, public interest, educational and governmental organizations within the state, including the power to establish, acquire and develop facilities therefor not otherwise available within the state, and to operate and manage such facilities.

3. Cooperation with gas and power companies. To contract with or enter into joint undertakings with any gas or power company, or power authority of the state of New York, or more than one of them, to

(a) Participate in the construction and operation of experimental or developmental facilities which implement new energy technologies which have prospects of reducing the economic, environmental and social costs of energy production and utilization.

(b) Participate in the incorporation of features, including facilities which incorporate new energy technologies, in nuclear power plants and the construction of associated facilities to the extent required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics.

(c) Participate in the incorporation of features, including facilities which incorporate new energy technologies, in fossil fuel power plants and the construction of associated facilities to the extent required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics.

(d) Participate in the construction of facilities to be used for the furnishing of electric energy or gas to the extent required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics.

(e) Develop, prepare, and furnish by sale or lease real property owned, held, or acquired by the authority within the state to be used for the construction and operation of generating facilities based on new energy technologies and related facilities, provided that no such contract or joint venture shall be entered into which shall permit the authority to distribute or sell any power or energy to any person or entity other than the other contracting party or parties or joint venturer or venturers, and provided further that all power and energy received by power authority of the state of New York, pursuant to any such contract or joint venture, shall be distributed and sold only to such persons as power authority of the state of New York may sell power pursuant to law.

4. Water desalination. To contract with one or more water distribution companies or agencies to participate in the construction and operation of power generating facilities for the purpose of desalination or distribution of water, and to develop, prepare, and furnish by sale or lease, real property owned, held or acquired by the authority within the state to be used for the construction and operation of such facilities and facilities related thereto, provided that the authority shall not enter into any such contract relating to any such facility which also produces electric power for purposes of sale unless the authority also

contracts with one or more power companies with respect to the construction and operation of such facility and the distribution and use of such power.

5. The dissemination of information. To accumulate and disseminate information relating to the development and use of new energy technologies and energy conservation technologies, including the power to conduct, sponsor, assist and foster studies and surveys, and publish the results thereof.

6. (a) To continue, modify, amend, or terminate such contractual agreements as may be in force at the effective date of this subdivision with regard to the Western New York Nuclear Service Center and the Saratoga Research and Development Center, or take such other action as the authority may deem necessary or appropriate with respect to such Centers in the furtherance of the public interest in safe, reliable and economical energy supplies or protection of public health and safety and the environment.

(b) (i) Notwithstanding the provisions of any general or special law to the contrary, the director of the budget and the chair of the authority are each authorized to enter into one or more service contracts, and to amend or supplement any existing service contract, with respect to programs, projects, and activities of the authority pursuant to this subdivision, upon such terms as the director of the budget and the chair of the authority may agree, including, but not limited to, provisions relating to the respective obligations of the state and the authority with respect to administration, management, maintenance, and use of the real property at the Western New York Nuclear Service Center held by the authority, design, construction, modification, operation, and maintenance of facilities thereon, and implementation of programs, projects, or activities to improve or correct conditions thereon, including, but not limited to, the West Valley demonstration project, and provisions providing for the payment of (A) all fees and charges of, and expenses and other non-asset costs of financing incurred by, the authority in connection with the issuance and administration of special obligation bonds or notes to pay for or reimburse the state with respect to such actions, and (B) all debt service payments on such bonds and notes. Provided, however, that the aggregate net proceeds of any such bonds or notes issued, excluding any bonds or notes issued for the purpose of refunding other bonds and notes issued under this subdivision, shall not exceed the aggregate of amounts appropriated for such actions in the state fiscal year ending March thirty-one, nineteen hundred ninety-three and any state fiscal year thereafter up to and including the state fiscal year ending March thirty-first, nineteen hundred ninety-nine, not including amounts to be applied to the payment of all fees and other charges of, and expenses and other non-asset costs of financing incurred by, the authority in connection with the issuance and administration of such bonds and notes; and, capitalized interest and debt service reserve funds established for such bonds or notes and the acquisition of insurance, letters of credit or other credit enhancement or liquidity facilities obtained in connection with such bonds or notes.

(ii) Of the moneys expended from appropriations made for the legal requirements of the state debt service and lease purchase payments and other special contractual obligations, for payment to the authority for payment of principal and interest on bonds issued to finance activities at the Western New York Nuclear Service Center pursuant to one or more service contracts between the state and the authority, an amount not to exceed the amount of such payment as determined by the director of the budget shall be reimbursed to the comptroller according to a schedule determined by the director of the budget, for deposit in the general debt service fund, by the authority.

(iii) Any such contract entered into pursuant to subparagraph (i) of this paragraph shall not exceed thirty years in duration and shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefor and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(iv) Any such contract or any payments made or to be made thereunder may be assigned and pledged by the authority as security for its bonds and notes issued to pay for or reimburse the state with respect to

actions undertaken pursuant to this subdivision.
(v) The comptroller is authorized to receive from the authority any portion of proceeds of special obligation bonds or notes issued to pay for or reimburse the state with respect to actions undertaken pursuant to this subdivision and to credit such amounts to the capital projects fund or any other appropriate fund.

7. To advise the legislature of recommendations for implementing new energy technologies and energy conservation measures, annually or so often as the authority shall deem appropriate.

8. Special energy projects. (a) To extend credit and make loans from bond proceeds to any person for the construction, acquisition, installation, reconstruction, improvement, maintenance, equipping, furnishing or leasing of any special energy project or for the reimbursement to any person for costs incurred in connection with a special energy project completed or not completed at the time of such credit or loan, which credits or loans may, but need not, be secured by mortgages, contracts, leases or other instruments, upon such terms and conditions as the authority shall determine reasonable in connection with such credits or loans.
(b) In the exercise of powers granted in paragraph a of this subdivision in connection with any special energy project, to require the inclusion in any contract, lease, loan agreement or other instrument of such provisions for the financing of such project and such other financial or other covenants as the authority may deem necessary or desirable and to do all things and to execute all instruments necessary and desirable in connection therewith; provided, however, that no contract, lease, loan agreement or other agreement entered into by the authority in furtherance of this authorization shall permit the authority to distribute or sell any power or energy to any person other than a contracting party.

10. To coordinate the state's administration of any energy or energy resource programs of the federal government, including but not limited to those concerned with conservation, allocation, management or education, and to formulate and from time to time revise a state energy

conservation plan to be submitted pursuant to the federal Energy Policy and Conservation Act of 1975 last amended by Pub. L. 102-486, Title I, §123(a).

10-a. (a) To administer the air pollution mitigation fund established pursuant to section ninety-nine-g of the state finance law and consisting of moneys collected by the public service commission as an air pollution mitigation offset pursuant to subdivision two of section sixty-six-k of the public service law.

(b) To disburse moneys from such fund for the following purposes: (i) to reduce acid precipitation through energy efficiency, or through public benefit research and development, including, but not limited to, renewable energy; or (ii) the monitoring of, or research related to, the impact of acid precipitation deposition.

(c) To establish guidelines pertaining to the allocation of moneys from such fund.

11. To advise and assist the governor and the legislature in the development and implementation of state policies relating to energy and energy resources.

12. To require and receive from any agency of the state or any political subdivision thereof assistance and data.

13. To act as a central repository and clearinghouse for information on all energy and energy resource related matters including, but not limited to, the availability and use of the most energy efficient and environmentally sensitive outdoor lighting available for public and private uses.

14. To apply for and to administer federal research and development grants and other monies for the benefit of consumers.

15. To prepare an integrated resource plan specifying actions to be taken in the event of the declaration by the governor of an energy or fuel supply emergency pursuant to section 5-117 of the energy law.

16. To promulgate energy use standards after consultation with the commissioner of the office of general services for the purchase, lease, use or maintenance of state buildings and equipment.

17. To implement the provisions of sections 5-108, 5-111, 5-113 and 5-117 of article five and articles six, seven, eight and ten of the energy law.

18. To provide for the deposit of all or a portion of the proceeds collected by the authority from the auction or sale of emission allowances allocated by the department of environmental conservation to the authority pursuant to regulations adopted by the department of environmental conservation to a green jobs-green New York fund to be established in the custody of the commissioner of taxation and finance. The monies in such fund shall be available for the green jobs-green New York program pursuant to title nine-A of article eight of this chapter.

19. To, on its own or through a qualified entity, directly or indirectly, and in consultation with the department of public service:

(a) develop and administer a generation attribute tracking system that records generation attribute information within the state, and processes generation attribute information from energy outside the state that is imported to and consumed within the state, as a basis for creating generation attribute certificates;

(b) assign initial ownership of generation attribute certificates;

(c) provide for the transfer or conveyance, ownership and retirement of generation attribute certificates;

(d) obtain generation, delivery and consumption information from independent system operators, generators, public utility companies, and retail load-serving entities producing, delivering or selling electricity in the state, including, but not limited to, "electric corporations" as defined under subdivision thirteen of section two of the public service law, "cooperatives" as defined under subdivision (a) of section two of the rural electric cooperative law, and any publicly- or municipally-owned utilities, including the power authority of the state of New York and the Long Island power authority, deemed necessary by the authority to verify or supplement such generation attribute tracking system;

(e) facilitate participation in, and use of, such generation attribute tracking system by buyers, sellers and brokers with respect to the ownership, transfer or conveyance, and retirement of generation attribute certificates; and

(f) perform such additional activities as may be deemed necessary by the authority to ensure cooperation and the smooth exchange of information among and between the generation attribute tracking system and similar systems within or outside the state.

20. To administer a program, using funds provided for such purpose, to provide a grant based on standards and guidelines established by the authority for costs as follows:

(a) for each retail outlet that is in operation before April first, two thousand fourteen and is subject to the requirements of paragraph (a) of subdivision three of section one hundred ninety-two-h of the agriculture and markets law:

(i) no greater than ten thousand dollars required to prewire such retail outlet with an appropriate transfer switch for using an alternate generated power source as defined in section one hundred ninety-two-h of the agriculture and markets law; or

(ii) no greater than thirteen thousand dollars required to prewire such retail outlet with an appropriate transfer switch for using an alternate generated power source as defined in section one hundred ninety-two-h of the agriculture and markets law and purchase such power source to be permanently affixed at the site.

(b) for each retail outlet that is in operation before April first, two thousand fourteen and is subject to the requirements of paragraph (b) of subdivision three of section one hundred ninety-two-h of the agriculture and markets law, no greater than ten thousand dollars required to: (i) prewire an existing retail outlet with an appropriate transfer switch for using an alternate generated power source as defined in section one hundred ninety-two-h of the agriculture and markets law; and/or (ii) purchase such power source to be permanently affixed at the site.

(c) to the extent funds are available, for retail outlets that become operational on or after April first, two thousand fourteen, or to which subdivision two of section one hundred ninety-two-h of the agriculture and markets law becomes applicable after the effective date of this subdivision, which grants shall otherwise be subject to the same amounts, purposes and restrictions as paragraphs (a) and (b) of this subdivision.

(d) to the extent funds are available, for retail outlets that voluntarily apply before April first, two thousand fifteen and are located on a strategic upstate highway as defined in paragraph (e) of this subdivision or within one-half mile by road measurement from an exit road on a strategic upstate highway, in such amounts and for such purposes as set forth in subparagraphs (i) and (ii) of paragraph (a) of this subdivision.

(e) "Strategic upstate highway" means the following:

(i) I-87 beginning at the Rockland-Orange county line thence northerly passing through or in the vicinity of Albany to the intersection with I-90, the foregoing route being a portion of the New York state thruway; thence continuing northerly to the New York-Canada border;

(ii) I-90 beginning at I-87 in the vicinity of Albany thence westerly passing through or in the vicinity of Schenectady, Utica, Syracuse, Rochester, and Buffalo; thence continuing southwesterly to the New York-Pennsylvania border, the foregoing route being a portion of the New York state thruway;

(iii) the Berkshire section of the New York state thruway beginning at I-87 thence easterly to the intersection with I-90 and continuing on I-90 to the New York-Massachusetts border;

(iv) I-84 beginning at the New York-New Jersey border thence easterly passing through or in the vicinity of Newburgh, thence continuing easterly and southeasterly to the New York-Connecticut border;

(v) I-88 beginning at I-81 in the vicinity of Binghamton thence northeasterly to I-90 in the vicinity of Schenectady;

(vi) I-86/State Route 17 beginning at I-87 in the vicinity of Woodbury thence westerly and northwesterly passing through or in the vicinity of Binghamton, Elmira, and Jamestown, continuing to the New York-Pennsylvania border;

(vii) I-81 beginning at the New York-Pennsylvania border thence northerly passing through or in the vicinity of Syracuse and Watertown, continuing to the New York-Canada border;

(viii) I-390 beginning at I-86 in the vicinity of Avoca thence northwesterly and northerly to I-490 in the vicinity of Rochester; and

(ix) I-190 beginning at I-90 in the vicinity of Buffalo, thence westerly, northwesterly, and northerly through Buffalo, across Grand Island, the foregoing route being a portion of the New York state thruway, and thence generally westerly to the United States-Canada border in the vicinity of Lewiston.

The authority may offer any funds provided for such purpose and not expended to retail outlets that are not included in paragraphs (a) through (d) of this subdivision but that voluntarily seek to participate in such program.

21. To administer a program to establish a pool of generators for retail outlets as defined in section one hundred ninety-two-h of the agriculture and markets law. The authority may enter into or facilitate contracts, lease agreements and any other instruments subject to the provisions of law, with companies providing generators and generator services to provide for such pool and the deployment and installation of generators in the pool. Retail outlets that elect to participate in the program and are subject to the requirements of paragraph (a) of subdivision three of section one hundred ninety-two-h of the agriculture and markets law shall be required only to pay the actual cost of generator rental, deployment and installation in the event that emergency deployment is required, provided, that a participant must abide by the terms of any contract or written agreement covering the rental, deployment and installation of such generator. In the event that an insufficient number of generators is available to meet required emergency deployment, the authority in consultation with the commissioner of homeland security and emergency services shall prioritize such retail outlets as are most essential to public safety and well-being during the energy or fuel supply emergency. When generators from such program are deployed, the authority shall provide public notice on its website, to the media and through other means practicable of those retail outlets where generators are deployed.

22. To administer a program to provide technical assistance to school

districts, school bus fleet operators and public transportation systems on managing zero-emission vehicle fleets and the charging or fueling infrastructure for such zero-emission vehicle fleets.

23. No later than December thirty-first, two thousand twenty-five, and annually thereafter, the authority shall issue a report on the availability of zero-emission school buses and charging or fueling infrastructure that meet the criteria established in subdivision two of section thirty-six hundred thirty-eight of the education law. The authority shall provide technical assistance to school districts, upon request, in pursuing state and federal grants and other funding opportunities to support the purchase and contracting requirements set forth in subdivision two of section thirty-six hundred thirty-eight of the education law.

24. All revenues generated pursuant to regulations or actions taken by the department, the authority or any other state entity, pursuant to sections 75-0107 and 75-0109 of the environmental conservation law, shall be placed into a segregated authority funding account, established pursuant to section eighteen hundred fifty-nine of this title, prior to programmatic or administrative allocation, and shall not be commingled with other authority funds.

25. Within thirty days following receipt of revenues generated pursuant to regulations or actions taken by the department, the authority or any other state entity pursuant to sections 75-0107 and 75-0109 of the environmental conservation law, the authority shall make the following transfers from such segregated authority funding account:

(a) Not less than thirty percent to the New York climate action fund consumer climate action account established pursuant to section ninety-nine-qq of the state finance law;

(b) Up to three percent to the New York climate action fund industrial small business climate action account established pursuant to section ninety-nine-qq of the state finance law; and

(c) Not less than sixty-seven percent to the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law.

26. Climate affordability study. The authority and the department of environmental conservation, in consultation with the division of the budget, the department of public service, and the department of taxation and finance, shall conduct a study and issue a report with recommendations for the use of moneys transferred to the consumer climate action account established pursuant to section ninety-nine-qq of the state finance law. Such report shall be guided by the final scoping plan prepared pursuant to section 75-0103 of the environmental conservation law and shall consider, among other things: (a) structure and distribution of benefits in an equitable manner, accounting for potential disproportionate impacts to low-income households and disadvantaged communities; (b) implementation of a variety of mechanisms to meet the varied needs of the people of the state, which may include direct payments, tax credits, transit vouchers, utility assistance, or other financial benefits that are reasonable and practicable; (c) financial benefits that ensure that individuals receiving means-tested government assistance receive benefits that will not constitute income for purposes of any such means-tested government assistance programs; and (d) benefit programs that limit the administrative effort required of recipients. Such study shall be completed by the first of January, two thousand twenty-four, and shall be delivered to the governor and the legislature.

In exercising the powers granted by this title, the authority shall, insofar as practicable, cooperate and act in conjunction with industrial, commercial, medical, scientific, public interest and educational organizations within the state, and with agencies of the federal government, of the state and its political subdivisions, of other states, and joint agencies thereof.

In carrying out its corporate purposes and in exercising the powers granted by this title, the authority shall be regarded as performing an essential governmental function.

§ 1854-a. Nuclear waste repository siting. 1. As used or referred to in this title: a. "Repository for the terminal storage of nuclear waste" shall mean a facility where nuclear waste is disposed of in such a way as to be permanently isolated from the environment for the period of time that is necessary for such wastes to become harmless, even if such facility contains a means for retrieving such wastes. This term shall include deep geological formations and any other disposal technology authorized by the National Waste Terminal Storage Program, but shall not include existing nuclear waste facilities at the Western New York Nuclear Services Center.

b. "Nuclear waste" shall mean high level liquid radioactive wastes, solid high level radioactive wastes, spent nuclear fuel elements, and wastes bearing quantities of transuranic elements which are not authorized for burial in shallow land burial areas pursuant to regulation or license by the United States Nuclear Regulatory Commission or the state of New York pursuant to agreement with the United States Nuclear Regulatory Commission.

2. No repository for the terminal storage of nuclear waste as defined in this section shall be sited, constructed, or operated within the state, unless the legislature and the governor of the state shall be consulted and shall concur by statute in the establishment of such repository.

3. Prior to approval by the legislature the authority shall, upon the request of the governor, review any proposal for a repository for the terminal storage of nuclear waste and, in order to assist the governor and the legislature in their determinations of need and safety, the authority shall:

a. Conduct or cause to be conducted a complete study on all issues involved in the establishment of a repository for the terminal storage of nuclear waste, including but not limited to, all long and short term health and safety aspects, the reliability of long-term isolation, the relationship between federal and state responsibility, and the potential state fiscal responsibility both one time and recurring.

b. Solicit and evaluate reports and recommendations from the state energy office, department of environmental conservation, department of public service, department of transportation, department of commerce, department of health and any other state agencies that are deemed appropriate.

c. Prepare and submit to the legislature an environmental impact statement pursuant to article eight of the environmental conservation law.

d. Determine whether the proposed technology and proposed site can be utilized for the safe and permanent disposal of nuclear waste and will not result in a significant environmental hazard or other threat to the public health, safety or welfare.

e. Conduct public hearings in various parts of the state in such a way as to insure the widest possible input from residents of the state including but not limited to residents who live in close proximity to a proposed site or sites.

f. Prepare a detailed estimate of the anticipated costs to construct and operate such a repository for the terminal storage of nuclear waste, the extent to which such costs will be borne by the state and the time period of probable continued costs.

§ 1854-b. Low-level radioactive waste management facilities. In addition to those purposes otherwise set forth in this title, the purposes of the authority shall include the management of low-level radioactive waste. In carrying out that purpose, the authority shall have the powers and responsibilities set forth in sections eighteen hundred fifty-four-c and eighteen hundred fifty-four-d of this title, in addition to those otherwise set forth in this title.

§ 1854-c. Permanent disposal facilities. 1. The authority shall consult and cooperate with the department of environmental conservation and the commission for siting low-level radioactive waste disposal facilities pursuant to the provisions of article twenty-nine of the environmental conservation law and such department and commission shall make available to the authority all information with respect to potential sites and disposal methods which may be relevant to the design of, or preparation of applications for state licenses, permits, or other approvals for, such facilities. The authority shall make preparations for submitting as soon as practicable applications for any state licenses, permits, or other approvals required for the construction and operation of permanent disposal facilities.

2. Upon certification by the department of environmental conservation of siting and disposal method selections for permanent disposal facilities pursuant to section 29-0105 of the environmental conservation law, the authority shall immediately complete development of and submit, as soon as practicable after such certification, but no later than the first day of January nineteen hundred ninety, complete applications for any state licenses, permits, or other approvals required for the construction and operation of such permanent disposal facilities, in accordance with the siting and disposal method certification of such department. Upon such certification, the authority shall also immediately take steps to acquire and hold in the name of the state of New York any property interests which it may need to obtain for such permanent disposal facilities.

3. Upon receipt of required state licenses, permits, or other approvals for such permanent disposal facilities and if access is not available on reasonable terms to disposal facilities outside of New York for low-level radioactive waste estimated to be generated within New York state during the life of such permanent disposal facilities, the authority is authorized and directed to immediately construct, and to operate and maintain, permanent disposal facilities in accordance with such licenses, permits, and other approvals. Permanent disposal facilities shall be completed and begin operation no later than the first day of January nineteen hundred ninety-three.

§ 1854-d. Generator reporting and fees. 1. Reports. a. Any person who generates low-level radioactive waste in New York shall submit to the authority, on dates specified by the authority, but in no event later than nine months after the effective date of the low-level radioactive waste management act and, thereafter, no less frequently than annually, reports detailing the classes and quantities of low-level radioactive waste generated, stored by the generator for decay or for later transfer to other facilities, or transferred by the generator to other facilities, the general type of generator (e.g., medical, university, industry, electric utility, government), and such additional information as the authority may reasonably require on the nature and characteristics (including, without limitation, chemical and physical characteristics, properties, or constituents, radionuclides present, curie content or concentration of radioactivity) of such waste and the extent of reduction in quantity and the nature and extent of reduction or other change in the nature or characteristics of such waste as a result of treatment or interim storage after generation and before delivery to facilities for permanent disposal of such waste. The authority shall provide by regulation appropriate procedures for the preparation and submission of such reports, including procedures to designate a person or persons responsible for such filing when more than one person is the generator of the same waste. Such reports shall be subject to the provisions of article six of the public officers law.

b. Commencing no later than the first day of July nineteen hundred eighty-seven, the authority shall submit annually to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, and the minority leader of the assembly, and thereafter, not later than one hundred eighty days after the end of each calendar year, a report summarizing and categorizing, by type of generator and region of generation, the nature, characteristics, and quantities of low-level radioactive waste generated in New York during such calendar year.

2. Fees. a. (i) Pursuant to this title the authority shall, pursuant to regulations promulgated in accordance with article two of the state administrative procedure act, establish, revise, assess, and collect

reasonable rates, charges, or other fees upon the disposal of low-level radioactive waste generated in New York sufficient to fully recover all costs and expenses of the state and its agencies and authorities associated with low-level radioactive waste management facilities. Such assessed rates, charges, or other fees shall be paid to the authority in the manner, and accompanied by such returns, reports, or other documentation as the authority may prescribe. Fees paid shall be treated as expenses for purposes of recovery in rates. Surcharges collected by or for facilities which accept low-level radioactive waste generated in New York State for disposal pursuant to the Federal Low-level Radioactive Waste Policy Amendments of nineteen hundred eighty-five (Pub. Law 99-240), but deposited in escrow pursuant to section 5 (d) (2) of such law shall be paid to and received by the authority. Such payments shall be disbursed or transferred pursuant to this paragraph and shall be used for the purpose of reducing the amounts otherwise recoverable as assessments imposed pursuant to paragraph c of this subdivision.

(ii) The authority shall deposit the proceeds from such rates, charges, or other fees in a separate segregated account maintained solely for the purpose of holding such deposits. The authority shall first apply the proceeds of the account to payments of principal and interest on bonds, notes or other obligations issued by the authority for the purposes of the low-level radioactive waste management act. Upon appropriation or pursuant to other legislative authorization, disbursements or transfers from such account shall be made solely for other costs and expenses incurred under the low-level radioactive waste management act.

(iii) In establishing, revising, assessing, and collecting such reasonable rates, charges, or other fees associated with low-level radioactive waste management facilities or incurred under the low-level radioactive waste management act, the authority shall include, but need not be limited to, such amounts as will meet all incremental costs and expenses of:

A. selecting, developing, licensing, constructing, operating, and maintaining such facilities;

B. establishing reserves for related purposes, including, but not limited to, debt service, decontamination and decommissioning, closure, and post-closure care, and contingencies;

C. making reimbursements of expenditures from appropriations to state agencies or authorities to implement the low-level radioactive waste management act; and

D. making payments in lieu of taxes.

(iv) The authority may establish and revise, not inconsistent with federal law and regulation, reasonable classifications of low-level radioactive waste based upon the nature, class, characteristics (other than type of generator) or condition of such waste. The authority may utilize such classifications for purposes of establishing or revising the rates, charges, or other fees upon the disposal of such waste pursuant to paragraphs b and c of this subdivision.

b. Upon delivery of low-level radioactive waste to permanent disposal facilities owned or operated by the authority, the rates, charges, or other fees as established or revised by the authority for disposal of such waste at such facilities, and related services, shall be paid. Such rates, charges, or other fees shall be sufficient to meet all costs and expenses which may be reasonably and practically identified or allocated to permanent disposal facilities, over the life of such facilities, and the low-level radioactive waste disposed of at such facilities, including without limitation, all costs and expenses associated with: development, licensing, operation, maintenance, and meeting debt service requirements, or requirements for repayment of expenditures from appropriations for capital costs of such facilities, which requirements are due after such facilities begin accepting low-level radioactive waste; establishing reserves, including but not limited to reserves for decontamination and decommissioning, closure and post-closure care, and contingencies, including but not limited to potential accidents, damages, and injuries; and making any payments in lieu of taxes or fees for local assistance and repayments of any amounts expended from appropriations for aid to localities with respect to permanent disposal facilities, provided, however, that all capital costs incurred prior to the receipt and acceptance of low-level radioactive waste at the disposal facilities shall be recovered in a period of not less than twenty years after such receipt and acceptance.

c. (i) During the period before the commencement of operation of permanent disposal facilities owned or operated by the authority, expenditures from appropriations to the departments of environmental conservation and health and the commission for siting low-level radioactive waste disposal facilities for the purpose of implementing the low-level radioactive waste management act shall be recovered through assessment against United States nuclear regulatory commission licensees for nuclear electric generating facilities located in the state of New York which have full power operating licenses. For the state fiscal year ending March thirty-first, nineteen hundred eighty-seven and each successive state fiscal year until commencement of operation of the permanent disposal facilities, the chairman of the authority shall estimate such expenditures and shall assess such estimated expenditures on a pro rata basis in proportion to the number of reactors with full power operating licenses of each such licensee. For the assessment for the state fiscal year ending March thirty-first, nineteen hundred eighty-seven, such estimated expenditures shall be based upon actual appropriations available to such state agencies for such fiscal year for such purpose and shall be billed by the authority as soon as practicable after the effective date of the low-level radioactive waste management act and paid by such licensees not later than December thirty-first, nineteen hundred eighty-six. For the assessment for each subsequent fiscal year, such estimated expenditures shall be based upon the proposed appropriations to such state agencies for such purpose, net of any over or under assessment for prior fiscal years compared to the latest available data on such expenditures for such prior fiscal years, and shall be billed by the authority on or before February first preceding such fiscal year and paid on or before April first of such fiscal year; provided, however, that a licensee may elect to make partial payments for such assessments on March tenth of the preceding fiscal year and on June tenth, September tenth, and December tenth of such fiscal year. Each such partial payment shall be an amount not less than twenty-five per centum of the total annual assessment against such licensee for the relevant fiscal year. The authority shall establish and maintain records to account for assessments made against and received from each licensee. Upon receipt of such assessments, and pursuant to an agreement with the director of the budget, the authority shall transmit to the state comptroller such amount as shall be required to reimburse actual expenditures made and subject to assessment. The amounts so assessed, notwithstanding their assessment, shall be included as cost and expenses for purposes of computing and imposing rates, charges, or other fees pursuant to paragraphs a and b of this subdivision. In imposing such rates, charges, or other fees pursuant to such paragraph b, the authority shall provide a credit to the assessed licensees until such time as the aggregate of all such credits for a licensee shall equal the actual assessments paid by such licensee, plus interest at a reasonable market rate.

(ii) In the calculation of the assessment due pursuant to this paragraph for any fiscal year beginning on or after April first, nineteen hundred ninety-seven, the net of any over or under assessment for fiscal years ending on or before March thirty-first, nineteen hundred ninety-six, shall be deemed to be zero.

d. (i) The authority may refuse to accept at facilities established pursuant to section eighteen hundred fifty-four-b of this title any low-level radioactive waste generated by a person who has failed to submit to the authority, the one or more reports required by the authority pursuant to subdivision one of this section.

(ii) The proceeds of any penalty or interest collected pursuant to subparagraph (i) of paragraph a of subdivision three of this section shall be remitted to the authority for the purposes of the low-level radioactive waste management act.

3. Violations. a. Any failure or refusal to file a report, return, or other documentation, or related information, required pursuant to the provisions of this section shall be deemed a violation of the provisions of, and a failure to perform a duty imposed by, this section and shall be subject to the following civil and criminal penalties:

(i) By a civil penalty, in the case of a first violation, not to exceed five thousand dollars, and in the case of a second or subsequent violation, a civil penalty not to exceed ten thousand dollars; which penalty may be assessed and collected by a court in any action or proceeding pursuant to subparagraph (ii) of this paragraph in addition to any criminal penalty which may be assessed for such violation.

(ii) By a misdemeanor, in the case of a willful violation by a person having any of the culpable mental states defined in section 15.05 of the penal law, which shall be deemed a misdemeanor, and upon a first conviction thereof, by a fine not to exceed five thousand dollars, or by imprisonment for a term of not more than six months, or both such fine and imprisonment; and, upon a second or subsequent conviction thereof, punishment by a fine not to exceed ten thousand dollars, or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

b. The attorney general shall institute such civil proceedings as the authority may request for the purpose of enforcing the provisions of this section, and such criminal proceedings as the authority may request for the purpose of prosecuting criminal violations of this section.

4. Upon appropriation or other legislative authorization and consistent with a repayment agreement executed with the director of the budget, the authority shall repay from the special account established pursuant to subparagraph (ii) of paragraph a of subdivision two of this section to the general fund, capital projects fund, or any other fund all amounts expended from appropriations made to the authority, the department of environmental conservation, the commission for siting low-level radioactive waste disposal facilities, the department of health, or the department of labor for actual and incremental expenses in the selection, development, licensing, construction, operation, maintenance, decontamination and decommissioning, closure and post-closure care of low-level radioactive waste management facilities, including any regulatory program associated therewith, or for aid to localities.

5. The authority may establish reasonable terms and conditions for receipt, acceptance or disposal of low-level radioactive waste at any facilities developed pursuant to section eighteen hundred fifty-four-c

of this title, including but not limited to packaging, identification of the nature and sources of the waste and the generators, shippers, or carriers of such waste, or other persons having any care or custody of such waste from the place of generation to arrival at such facilities, and requirements for bonds, insurance, or other forms of financial protection or assurance of performance by persons responsible for such waste.

6. Title to any low-level radioactive waste shall at all times remain in the generator of such waste, including the period following acceptance of such waste by the authority at the permanent disposal facilities. Acceptance at permanent disposal facilities shall not occur until completion of such inspection and examination of the waste and determination of compliance with applicable terms and conditions, including but not limited to payment of applicable fees, as the authority may require.

7. Notwithstanding the provisions of subdivision twelve of section eighteen hundred fifty-five of this title, the authority shall enter into agreements to pay annual sums in lieu of taxes to any municipality or taxing district of the state with respect to any real property acquired and held by the authority in the state or improvements to any real property held by the authority in the state, which real property was acquired or improvements were made after the effective date of the low-level radioactive waste management act and for the purposes of such act; provided, that any amount so paid shall be recovered through rates, charges, or other fees applicable to disposal of low-level radioactive waste, pursuant to subdivision two of this section.

8. Actions by the authority pursuant to the provisions of section eighteen hundred fifty-four-c of this title shall be subject, where applicable, to the environmental and judicial review provisions set forth in article twenty-nine of the environmental conservation law.

§ 1855. General powers of the authority. Subject to the other provisions of this title and the provisions of any contract with bondholders or noteholders, the authority shall have the following powers in addition to any powers specifically conferred upon the authority elsewhere in this title:

1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

3. To make and alter by-laws for its organization and internal management.

4. To make rules and regulations governing the exercise of its corporate powers and the fulfillment of its corporate purposes under this title and title nine-A of this article, which shall be filed with the department of state in the manner provided by section one hundred two of the executive law.

5. To purchase, receive, lease or otherwise acquire, to hold in the name of the state or otherwise, and to sell, convey, mortgage, lease, pledge or otherwise dispose of, upon such terms and conditions as the authority may deem advisable, real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and to the use thereof, including but not restricted to any real property acquired or held by the authority pursuant to the provisions of section eighteen hundred fifty-six of this title and any real or personal property acquired by the authority in the satisfaction of obligations contained in contracts, leases or other arrangements.

6. To enter into contracts, leases or other arrangements providing for the establishment, operation, development and management of any property or facility under the jurisdiction of the authority.

7. To enter into contracts, leases or other arrangements permitting any person to use any property or facility under the jurisdiction of the authority; permitting such person to build or add facilities or improvements upon such property or facility; and providing, at the discretion of the authority, for the acquisition by the authority of any

such facilities or improvements built or added by such person, upon such terms and conditions as the authority may deem advisable.

8. To sell or otherwise make available, upon such terms and conditions as the authority may deem advisable, any product, by-product or service produced in or provided by any facility under its jurisdiction.

9. To fix and collect fees, rentals and charges for the use of any property or facility under its jurisdiction, or for the sale of any product, by-product or service produced in or provided by any such facility, and to establish the rights and privileges created upon payment thereof. Such fees, rentals and charges shall be established by the authority so as to produce, in the judgment of the authority, revenues sufficient, together with any other funds available to the authority, to meet the expenses of maintenance and operation of the facilities of the authority, to repay any moneys repayable to the state, to fulfill the terms of agreements with the holders of its bonds, notes or other obligations, and to provide funds for such other corporate purposes as the authority may deem appropriate.

10. To enter into any contracts and to execute all instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this title.

11. To borrow money and to issue bonds, notes or other obligations and to provide for the rights of the holders thereof.

12. To enter into agreements to pay annual sums in lieu of taxes to any municipality or taxing district of the state in respect of any real property which is owned by the authority, leased by the authority to a person and located in such municipality or taxing district, provided, however, that the amount so paid for any year upon any such property shall not exceed the sum last paid as taxes on such property to such municipality or taxing district prior to the time of its acquisition by the authority.

13. To procure insurance, or obtain indemnification from the federal

government or other persons, against any loss in connection with the assets of the authority and any liability in connection with the activities of the authority, such insurance or indemnification to be procured or obtained in such amounts, and from such sources, as the authority deems to be appropriate.

14. To accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof or from the state or from any other source and to comply, subject to the provisions of this title, with the terms and conditions thereof.

15. To enter into any lands, waters or premises for the purpose of making borings, soundings, surveys or other investigations necessary to the purposes of the authority or to public health and safety.

16. To engage the services of bond counsel, financial advisors, accountants, engineers, attorneys and other private consultants on a contract basis for rendering professional and technical assistance and advice.

17. To do all things necessary or convenient to carry out its corporate purposes and exercise the powers given and granted by this title.

§ 1856. Acquisition of real property. 1. Upon determination by the authority that any real property is necessary for its corporate purposes, the commissioner shall, if so requested by the authority, acquire the same in the name of the state by dedication, by agreement, by condemnation pursuant to the condemnation law, or by appropriation in the manner provided by section thirty of the highway law, and payment therefor shall be made by the authority from the proceeds of sale of its bonds, notes or other obligations, or from other available moneys therefor. The authority shall hold such property in the name of the state and shall have the right to possess and use for its corporate purposes, so long as its corporate existence shall continue, all such real property and rights in real property so acquired.

2. At any time after this title shall become effective, the authority may, by resolution, assume jurisdiction over and hold in the name of the state all or any part of the real property acquired and held in the name of the state by the state office of atomic development. Upon the effective date of such resolution, the authority shall hold any such real property in the name of the state and shall have the right to possess and use for its corporate purposes, so long as its corporate existence shall continue, any such real property.

§ 1857. Officers and employees; transfer, promotion and seniority. 1. Officers and employees of state departments and agencies may be transferred to the authority and officers and employees of the authority may be transferred to state departments and agencies without examination and without loss of any civil service status or rights. No such transfer may, however, be made except with the approval of the head of the state department or division involved and the director of the budget and the chairman of the authority and in compliance with the rules and regulations of the state civil service commission.

2. Promotions from positions in state departments and agencies to positions in the authority, and vice versa, may be made from interdepartmental promotion lists resulting from promotion examinations in which both employees of the authority and employees of the state are eligible to participate.

3. In computing seniority for purposes of promotion or for the purposes of suspension or demotion upon the abolition of positions in the service of the authority or in the service of the state, in the case of an employee of the authority a period of prior employment in the service of the state shall be counted in the same manner as though such period of employment had been in the service of the authority, and in the case of an employee of the state a period of prior employment in the service of the authority shall be counted in the same manner as though such period of employment had been in the service of the state. For the

purposes of the establishment and certification of preferred lists, employees suspended from the authority shall be eligible for reinstatement in the service of the state, and employees suspended from the service of the state shall be eligible for reinstatement in the service of the authority, in the same manner as though the authority were a department of the state.

§ 1858. Assistance by state officers, departments, boards, divisions and commissions. At the request of the authority, engineering and legal services for such authority shall be performed by the department of transportation and the department of law, respectively, and all other state agencies shall upon request by the authority render services within their respective functions.

§ 1859. Deposit, investment and accounting of moneys of the authority. 1. (a) All moneys of the authority, from whatever source derived, shall be paid to the commissioner of taxation and finance as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. Such bank account or accounts known as the "atomic and space development operating fund" are hereby continued and shall be known and hereby designated as the energy research and development operating fund. The moneys in such fund may be expended for payment of any and all costs and expenditures as required for the corporate purposes of the authority; provided, until such time as the state of New York is reimbursed in full for all moneys repayable to the state by the authority, all expenditures from this fund shall be subject to the prior approval of the director of the budget of the state of New York. The moneys in such fund when made available shall be paid out on check of the commissioner of taxation and finance on requisition of the chairman of the authority or of such other person as the authority shall authorize to make such requisition. All deposits of such moneys shall, if required by the commissioner of taxation and finance or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

(b) All funds collected by the authority as a requirement of contracts for the procurement of renewable energy certificates that are related to renewables development on viable agricultural lands, as defined in section three hundred one of the agriculture and markets law, shall be deposited in the agricultural and farmland viability protection fund pursuant to section ninety-nine-pp of the state finance law.

2. Notwithstanding the provisions of subdivision one of this section, the authority shall have power, subject to the approval of the commissioner of taxation and finance, to contract with the holders of any of its bonds or notes, as to the custody, collection, securing, investment and payment of any moneys of the authority, or of any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure notes or bonds, and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

3. Any moneys of the authority not required for immediate use may, at the discretion of the authority, be invested by the commissioner of taxation and finance in obligations of the state or of the United States of America, obligations the principal and interest of which are guaranteed by the state or the United States of America or certificates of deposit of banks or trust companies in this state. The authority may also allocate to one or more reserve funds such moneys or other assets of the authority as the authority may deem necessary or convenient to carry out its corporate purposes and to exercise its corporate powers and, upon direction by the authority, the commissioner of taxation and finance shall invest all or part of the moneys in any such fund in securities in which moneys of the authority not required for immediate use may be invested or in securities in which the trustee or trustees of any public retirement system or pension fund shall have the power to invest the moneys thereof pursuant to article four-a of the retirement and social security law, in each case in such securities as may be specifically designated by the authority. Each reserve fund established

pursuant to this subdivision shall be deemed a separate fund as defined in and for purposes of article four-a of the retirement and social security law. All certificates of deposit in which moneys of the authority are invested pursuant to this subdivision shall, if required by the commissioner of taxation and finance or the authority, be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such certificates.

4. Subject to the provisions of any contract with bondholders and noteholders and to the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1860. Bonds and notes. 1. The authority shall have the power and is hereby authorized to issue at one time or in series from time to time its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts as, in the opinion of the authority, shall be necessary to provide sufficient moneys for achieving the authority's corporate purposes, including the establishment of reserves to secure the bonds and notes and the payment of interest on bonds and notes.

2. The authority shall have power from time to time to renew bonds or notes or to issue renewal bonds or notes for such purpose, to issue bonds or notes to pay bonds or notes, and, whenever it deems refunding expedient, to refund any bond or note by the issuance of new bonds or notes, whether the bonds or notes to be refunded have or have not matured, and may issue bonds or notes partly to refund bonds or notes then outstanding and partly for any other corporate purpose of the authority. Bonds or notes issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Except as may otherwise be expressly provided by the authority, every issue of bonds or notes shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of bonds or notes pledging any receipts or

revenues.

4. The bonds and notes shall be authorized by resolution of the authority, shall bear such date or dates and mature at such time or times as such resolution shall provide, except that notes and any renewals thereof shall mature within five years from their respective dates of issuance or renewal, as the case may be, and bonds shall mature within forty years from their respective dates of issuance or renewal, as the case may be. The bonds and notes shall bear interest at such rate or rates, be in such denomination, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide.

5. Bonds and notes shall be sold by the authority, at public or private sale, at such price or prices as the authority may determine. Bonds and notes of the authority shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to the comptroller, or by the director of the budget, where such sale is to the comptroller.

6. In the discretion of the authority any bonds or issue of bonds or notes or issue of notes may be secured by such resolution or by a trust indenture by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company in the state or by a secured loan agreement or other instrument. Such resolution, trust indenture, loan agreement or other instrument may contain any usual or customary provisions, covenants or limitations for bonds or notes of similar nature which shall be a part of the contract with the holders thereof, including such provisions for protecting and enforcing the rights and remedies of bondholders and noteholders as may be reasonable and proper and not in violation of law.

7. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the

contract with the holders thereof, as to:

(a) pledging all or part of the fees, charges, gifts, grants, rents, revenues or other moneys received or to be received and leases or agreements to secure the payment of the notes or bonds or of any issue thereof subject to such agreements with bondholders as may then exist;

(b) the rates of the fees or charges to be established, and the amounts to be raised in each year thereby and the use and disposition of the fees, charges, gifts, grants, rents, revenues or other moneys received or to be received;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the purpose to which the proceeds of sale of any issue of notes or bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(e) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(f) the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

8. It is the intention hereof that any pledge made by the authority shall be valid and binding from the time when the pledge is made, that the moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

9. Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be

subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders or noteholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds or notes at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to said date. Bonds and notes so purchased shall thereupon be cancelled.

11. The state does hereby pledge to and agree with the holders of any bonds or notes that the state will not limit or alter the rights and powers vested in the authority by this title to fulfill the terms of any contract made by the authority with such holders, or in any way impair the rights and remedies of such holders until such bonds and notes, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of any bonds or notes, in any contract with such holders.

§ 1860-a. Reserve funds and appropriations. 1. The authority may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such reserve funds (a) any moneys appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of bonds and notes to the extent provided in the resolution of the authority authorizing the issuance thereof, (c) any moneys directed to be transferred by the authority to such funds, and (d) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such reserve fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest on the bonds of the authority secured by such reserve fund maturing and becoming due and sinking fund payments for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the authority to the extent it does not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund are invested shall be valued at par or, if purchased at less than par, at their cost to the authority.

2. The authority shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the authority, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds then to be issued and

on all other bonds of the authority then outstanding and secured by such reserve fund.

3. To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this act provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund. In order further to assure the maintenance of such debt service reserve funds, there shall be annually apportioned and paid to the authority for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and state director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and state director of the budget his certificate stating the sum, if any, required to restore each such debt service reserve fund to the amount aforesaid, and the sum or sums so certified, if any, shall be apportioned and paid to the authority during the then current state fiscal year. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed nine million six hundred sixty thousand dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured

are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

4. All amounts paid over to the authority by the state pursuant to the provisions of this section shall constitute and be accounted for as advances by the state to the authority and, subject only to the rights of the holders of any bonds or notes of the authority theretofore or thereafter issued, shall be repaid to the state from all available operating revenues of the authority in excess of debt service reserve fund requirements and operating expenses.

5. As used in this section, (a) the term "operating expenses" shall mean ordinary expenditures for operation and administration of the authority, including maintenance, repair and replacement of authority property; and (b) the term "available operating revenues" shall mean all amounts received on account of rentals and fees charged by the authority, if any, and income or interest earned or added to funds of the authority due to the investment thereof, and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the authority to be applied to any purposes other than payment of operating expenses of the authority.

§ 1861. Exemption from taxation of the property and income of the authority. The property of the authority and its income and operations shall be exempt from taxation.

§ 1862. Exemption from taxation of bonds and notes. The state covenants with the purchasers and with all subsequent holders and transferees of bonds and notes, in consideration of the acceptance of and payment for the bonds and notes, that the bonds and notes and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds and notes shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 1863. Bonds and notes legal investments for fiduciaries. The bonds and notes are hereby made securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds and notes of the authority are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1864. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per cent of their face value and accrued interest or at such lesser redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption.

§ 1865. Rights and remedies of bondholders and noteholders. The holders of bonds and notes shall have the following rights and remedies, subject to the terms of the resolution authorizing such bonds and notes or any trust indenture, secured loan agreement or other instrument related thereto:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any contract made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk in the county of Albany and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes then outstanding shall, in his or its own name

(a) by suit, action or special proceeding, enforce all rights of the bondholders or noteholders, including the right to require the authority to collect fees, rentals and charges adequate to carry out any agreements with the holders of such bonds or notes and to perform its duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or suit in equity, enjoin any act or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

3. Such trustee, whether or not the issuance of bonds or notes represented by such trustee had been declared due and payable, shall be entitled as of right to the appointment of a receiver of any property of the authority, the fees, rentals, charges or other revenues of which are pledged for the security of the bonds or notes of such issue and such receiver may enter and take possession of such property, or any part or parts thereof and operate and maintain the same and receive all fees, charges, rentals and other revenues thereafter arising therefrom and exercise such other powers of the authority as the court may deem advisable and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any fees, charges, rentals and other revenues derived from such properties.

4. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

5. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

6. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the authority, to the comptroller and to the attorney-general of the state.

§ 1866. State not liable on bonds and notes. The bonds and notes shall not be a debt of the state of New York nor shall the state be liable thereon and such bonds and notes shall contain on the face thereof a statement to that effect.

§ 1867. Annual reports. 1. For the purpose of furnishing the state with systematic information regarding the status and the activities of the authority, the authority shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee and the state comptroller, within ninety days after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and disbursements, or revenues and expenses, during such fiscal year in accordance with the categories or classifications established by the comptroller and including but not limited to a breakdown of operating expenditures and revenues by facility, by maintenance and by personnel; a breakdown of capital expenditures, including an analysis of all projects begun, completed or in progress in that fiscal year; (3) an explanation of depreciation, policies, reserve funds and investments; (4) its assets and liabilities at the end of such fiscal year including the status of reserve, depreciation, special or other funds and including the receipts to and payments from these funds, and the status of funds received from federal and state governments; and (5) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

2. The authority, so long as it is not subject to the civil service law, shall within ninety days after the end of its fiscal year submit to the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a report on its personnel policies and practices with regard to recruitment, selection, promotion, classification, compensation, transfer, separation, employee relations and services and equal opportunity programs.

3. The comptroller shall be charged with seeing that the reports mandated in subdivision one are filed on time and that they are sufficiently comprehensive. The comptroller shall report any

deficiencies to the governor and to the legislative chairmen named in subdivision two of this section.

4. The authority shall submit annually to the governor, for his approval, and to the budget director, the state comptroller and the head of any executive agency having energy related responsibilities, chairman of the senate finance committee, and chairman of the assembly ways and means committee, its proposed operating budget for the next ensuing fiscal year and the operating budget for the present fiscal year.

5. The budget shall be submitted in a form and on the date specified by the budget director, including, but not limited to, information on rates, contracts, revenue and sources of revenue.

6. The comptroller shall each year certify to the budget director, the governor and the legislative chairmen named in subdivision two of this section specific amounts for which the authority is obligated to the state.

7. (a) The authority shall submit to the governor, the chair of the senate finance committee, and the chair of the assembly ways and means committee, and publish on the authority's public website a semi-annual report for the time period ending March thirty-first no later than June first and for the time period ending September thirtieth no later than December first of each year detailing the authority's activities for the previous six month reporting period.

(b) The semi-annual report required pursuant to paragraph (a) of this subdivision shall include information with respect to all proceeds collected and administered by the authority pursuant to an order of the public service commission, including assessments, fees, taxes, transfers, corporate income or surcharges imposed on energy consumers or power generators. The semi-annual report shall include, at a minimum, the following:

1. total revenues collected by the authority in the reporting period;

2. a list of requests for proposals, program opportunity notices, or

similar solicitations, that have been issued in the reporting period;

3. a description of the criteria and standards utilized for awarding a request for proposal, a program opportunity notice, or similar solicitation;

4. a regional report on all projects selected for funding by the authority during the reporting period, including the county and utility service territory in which the project is located, and the total value of these projects statewide and by region;

5. all disbursements or expenditures of revenues pursuant to a request for proposal, a program opportunity notice, or similar solicitation; and

6. a list of all contracts executed and completed during the reporting period including a description of each project.

(c) The president and chief executive officer of the authority shall provide notice to the director of the division of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee of any report that is more than sixty days delinquent. Should the authority be delinquent in submitting its report by more than one hundred eighty days, the president and chief executive officer shall provide notice of such delinquency to the director of the division of the budget, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, and the state comptroller.

(d) Reporting requirements. The information for the report required under this subdivision shall be current to within sixty days of the actual release of the report.

§ 1867-a. Federal insurance or guaranty; taxable bond option. (a) The authority is authorized to obtain from any department or agency of the United States of America or non-governmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or of, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the authority, or on any municipal obligations of governmental units or cooperatives purchased or held by the authority; and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the authority.

(b) The authority may covenant and consent that the interest on certain of its bonds shall be includible, under the Internal Revenue Code of 1954 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law.

§ 1868. Inconsistent provisions of other acts. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling, provided, however, nothing contained in any provision of this title shall be construed to relieve the authority of the obligation on its part to comply with the provisions of article nine of the public authorities law in force on the effective date of this title, including the obligation to submit an annual report as specified therein.

§ 1868-a. Actions. Except in an action for wrongful death, an action against the authority founded on tort shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by, and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1869. Termination of the authority. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds, notes or other obligations outstanding. Upon termination of the existence of the authority all its rights, property, assets and funds shall pass to and be vested in the state. For the purposes of this section, any appropriation or advance made to the authority by the state, which has not been repaid, shall not be deemed to be an outstanding obligation of the authority.

§ 1870. Title not affected if in part unconstitutional or ineffective. If any subtitle, section, subdivision, paragraph, sentence, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid or effective and no other subtitle, section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

*** § 1871. Public service law not applicable to authority.** Except to the extent articles seven and eight of the public service law apply to the siting and operation of a major utility transmission or major steam electric generating facility, the authority shall not be subject to the provisions of the public service law or to regulation by or the jurisdiction of the department of public service or the public service commission by reason of any contract, agreement or arrangement entered into by the authority with any power company, any water distribution company or agency or the power authority of the state of New York, or more than one of the above, or by reason of any action taken thereunder by the authority.

* NB Expired January 1, 1979 applicable until such date

§ 1872. Green residential building program. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Green residential building standards" means standards, guidelines, a rating system, and/or criteria relating to design and building techniques established or promulgated by the authority pursuant to this section, which are intended to: (i) promote smart growth and smart site planning; (ii) reduce greenhouse gas emissions; (iii) achieve energy efficiency and reduce energy consumption; (iv) facilitate the incorporation of environmentally responsible products; (v) promote the efficient use of natural resources; (vi) promote the conservation of materials and resources; (vii) reduce waste; and (viii) create a healthy indoor living environment.

(b) "Owner" means a person who owns a residential building on the date that: (i) a certificate of occupancy is issued to such building in the case of a new residential building; or (ii) substantial renovations to an existing residential building are completed pursuant to standards and criteria established by the authority.

(c) "Qualified occupied square footage" means the habitable spaces of a residential building pursuant to standards and criteria established by the authority, and shall not include storage areas, mechanical rooms, utility rooms, and attic and crawl spaces.

(d) "Residential building" means a single family home or multi-family home with less than twelve dwelling units pursuant to standards and criteria established by the authority.

(e) "Substantial renovations" mean significant improvements or restorations to, or substantial replacement or repair of materials, systems or components of, a residential building pursuant to standards and criteria established by the authority.

2. Application of program. The authority is hereby authorized to establish and administer a green residential building program to provide incentives for the construction of new residential buildings, and the substantial renovation of residential buildings, pursuant to standards and criteria established by the authority.

3. Incentive payments. (a) As part of the green residential building program created pursuant to this section, the authority is authorized to provide for and award incentive payments to:

(i) qualified owners of new residential buildings that the authority determines have been constructed pursuant to applicable green residential building standards, and that satisfy other program standards and criteria as established by the authority, and who have received a certificate of occupancy for such building on and after January first, two thousand ten, and before October thirty-first, two thousand thirteen; and

(ii) qualified owners of existing residential buildings that the authority determines have undergone substantial renovations pursuant to applicable green residential building standards, and that satisfy other applicable program standards and criteria as established by the authority, where the renovations to such building are completed on and after January first, two thousand ten, and before October thirty-first, two thousand thirteen.

In determining the amount of an incentive payment, the authority is authorized to consider whether the person who is eligible to receive the incentive payment has received, will be receiving or is eligible to receive financial assistance or incentives from any other source for the construction or renovations that are the subject of an incentive payment.

(b) No incentive payment made pursuant to this subdivision shall exceed:

(i) with respect to a residential building with two or fewer dwelling units, an amount equal to the product of the amount of qualified occupied square footage, not to exceed two thousand square feet, and three dollars and seventy-five cents;

(ii) with respect to a residential building with greater than two dwelling units but fewer than six dwelling units, an amount equal to the product of the amount of qualified occupied square footage, not to exceed three thousand square feet, and three dollars and seventy-five cents;

(iii) with respect to a residential building with at least six dwelling units, an amount equal to the product of the amount of qualified occupied square footage, not to exceed four thousand square feet, and three dollars and seventy-five cents; and

(c) In addition to the limitations on incentive payments set forth in paragraph (b) of this subdivision, no qualified owner shall receive more than one hundred twenty thousand dollars in qualified incentive payments during any calendar year.

4. Regulations. (a) The authority shall promulgate rules and regulations to establish green residential building standards and/or criteria as part of any green residential building program created pursuant to this section. In establishing such standards and criteria, the authority may consult standards and criteria established or adopted by other organizations, including but not limited to, the United States green building council under its leadership in energy and environmental design programs and the American National Standards Institute.

(b) The authority shall promulgate rules and regulations for the administration of any green residential building established pursuant to this section, including but not limited to eligibility criteria, application procedures, award determinations, dollar-per-square footage award levels, training and qualification procedures for builders and technicians, and inspection procedures, documentation and compliance requirements for the program.

(c) The authority is authorized to: (i) consult with the department of environmental conservation, the department of state, the division of housing and community renewal and any other agency or public authority which the authority deems appropriate in the development of green residential building standards and any other standards and criteria developed pursuant to this subdivision; (ii) prepare, in consultation with such agencies and authorities, and to make available to the public, green residential building program manuals and brochures for the purpose of ensuring that the standards and criteria applicable to such program are available to persons who may wish to participate in the program, to facilitate the construction of green buildings and the renovation of existing residential buildings using green construction principles; and (iii) coordinate the administration of any green residential building program created pursuant to this section with other programs that are administered by the authority.

5. Reporting. No later than September first, two thousand eleven and September first of each year thereafter, the president shall prepare and furnish a written report to the governor, the temporary president of the senate, and the speaker of the assembly concerning the authority's

activities under this section. Such report shall include, but shall not be limited to:

(a) the name and address of each recipient of incentive payments made by the authority pursuant to this section during the preceding calendar year;

(b) the amount of any incentive payment made to each such person; and

(c) a description of the project and the work performed that earned the incentive payment.

§ 1872-a. Affordable residential green building program. Notwithstanding any law, rule or regulation to the contrary, the authority shall establish and administer a program pursuant to standards and criteria established by the authority which would provide information and resources including technical assistance, access to industry standards, and financing available through the authority or other public or private sector sources, to developers, builders, design professionals, and potential owners for the construction of new residential buildings which are affordable. Such resources shall be available based upon the use of design and building techniques established by the authority which promote integrated design practices for new construction smart growth and smart planning, the reduction of greenhouse gas emissions, achieve energy efficiency and reduce energy consumption, encourage the incorporation of environmentally responsible products, promote the efficient use of all heating fuels and natural resources, reduce waste and promote a healthy indoor living environment while maintaining affordability for household incomes as provided in this section. The authority shall create and maintain guidelines to establish affordable green residential building standards and criteria, and to connect potential owners, builders, developers, and design professionals associated with the construction of residential buildings with resources for financing, best practices for construction, and other information to achieve these standards and criteria for implementation of such program. The authority shall prepare an annual report on such program which shall be posted on the authority's website.

§ 1873. Examination and reporting of energy efficiency grant recipients; required. The authority shall submit to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the state energy planning board, the chair of the assembly energy committee, the ranking minority member of the assembly energy committee, the chair of the senate energy and telecommunications committee, the ranking minority member of the senate energy and telecommunications committee, the chair of the assembly corporations, authorities and commissions committee, the ranking minority member of the assembly corporations, authorities and commissions committee, the chair of the senate corporations, authorities and commissions committee, the ranking minority member of the senate corporations, authorities and commissions committee and the chair of the renewable energy subcommittee in the assembly a copy of the annual report the authority is required to produce to comply with the public service commission order establishing the energy efficiency portfolio standard and approving programs.

§ 1875. Legislative findings and declaration of intent. The legislature hereby finds and declares that energy is essential to maintain the industrial vitality of New York state. The legislature further finds that, because of the state's limited indigenous energy resource, efficient energy use is especially crucial to sustain its competitive posture.

The legislature finds that many of the issues related to energy efficiency in industry are associated with high temperature operations and that insufficient research has been conducted to discover technologies to increase the efficiency of these operations.

The legislature therefore declares that a coherent research program focused on high temperature technology be established under the auspices of the authority within a major university of the state. The legislature further declares that such program shall further the energy conservation objectives of the state and is an appropriate use of petroleum overcharge restitution funds.

§ 1876. High temperature technology research program established. There is hereby established the New York state high temperature technology research program at Rensselaer Polytechnic Institute.

§ 1877. Purposes of the high temperature technology research program. The purpose of the program shall be to enhance industrial energy efficiency pertaining to high temperature operations. In developing the program, Rensselaer Polytechnic Institute shall conduct, support and monitor high temperature technology research which addresses one or more of the following technical subjects:

1. high temperature lubrication;

2. high temperature materials and structures;

3. high temperature energy transfer and conversion;

4. high temperature materials processing; and

5. use of expert systems in high temperature technology.

§ 1878. State coordination, oversight and technology transfer. The New York state energy research and development authority shall exercise oversight over such program; in consultation with Rensselaer Polytechnic Institute, coordinate the direction of the program with other research under the auspices of the authority and insure, where appropriate, the expeditious transfer of technology resulting from such program to New York state industries.

§ 1879. Funds. The New York state energy research and development authority is hereby authorized to disburse funds to Rensselaer Polytechnic Institute to carry out the purposes of this program.

§ 1880. Legislative findings and declaration of intent. The legislature hereby finds that improvement in the efficiency of electrical transmission will enable utilities to conserve fossil fuel, including imported oil, by increasing the capacity of transmission lines. The legislature further finds that experiments in high phase order electric transmission indicate that transmission efficiency may be able to be increased by over seventy percent and that, if practical, will reduce the need to construct new rights of way, produce lower electric and magnetic fields, less radio and television interference at less cost and environmental impact. The legislature therefore declares that high phase order technology be tested under actual operating conditions.

§ 1881. High phase order electric transmission research project. The purpose of this project shall be to convert an existing transmission line to a high phase order line, carry out test and operation procedures and provide results of these procedures for evaluation.

§ 1882. School energy efficiency collaboration program. 1. The purpose of the school energy collaborative program shall be to reduce redundancies, raise awareness and promote the efficient implementation of public school energy projects across New York state.

2. In developing this multidisciplinary collaborative program, the authority shall work in partnership with the New York power authority, the Long Island power authority, the state education department, the New York association of school business officials, the New York state school boards association, energy service companies, utility programs and other school administrators.

3. The authority shall serve as the lead agency in developing a collaborative program by November first, two thousand seventeen and shall serve as the lead contact for all public schools interested in pursuing energy efficiency projects.

4. The collaborative program may provide support on:

(a) developing the technical aspects of energy projects;

(b) sharing case studies and other information on completed projects;

(c) developing demonstrations;

(d) providing training opportunities for building operators;

(e) providing a comprehensive catalog of informational and financial resources available to schools pursuing energy projects; and

(f) anything else the collaborative deems to be appropriate in furthering their purpose.

5. The authority shall provide all other collaborative members with updated information regarding the program for further distribution. The state education department may, through regular communications with school districts, promote the existence of the collaboration.

§ 1883. State oversight and funding. The New York state energy research and development authority shall exercise oversight over such program and is hereby authorized to disburse funds to the New York State Electric and Gas Corporation to carry out the purpose of this program.

§ 1884. Zero-emission bus roadmap. 1. The authority, in consultation with the department of public service and the department of transportation, shall create a zero-emission public transportation system and school bus roadmap for the state which shall identify the actions needed to meet the fleet sales and conversion targets established in section thirty-six hundred thirty-eight of the education law. The roadmap shall include but not be limited to: (a) financial and technical guidance related to the purchasing, retrofitting, operation, and maintenance of zero-emission buses; (b) an identification and siting plan for charging and fueling infrastructure; (c) an identification of the necessary investments in the electric transmission and distribution grid; (d) an identification of how to ensure related facility upgrades are coordinated to maximize the cost effectiveness and overall system reliability; (e) the available federal, state, and local funding to purchase or lease zero-emission buses or convert existing buses to zero-emissions; (f) an identification of new incentives and programs to advance the deployment and adoption of zero-emission buses; and (g) streamlining actions to facilitate the conversion of public transportation systems and school bus fleets.

2. The authority shall convene a technical advisory group made up of diverse stakeholders to provide the authority with relevant technical, policy, and market expertise. The authority shall further develop a stakeholder engagement process to solicit feedback on the roadmap and raise consumer awareness and education across the state.

3. The authority shall report its findings and any recommendations to the governor, the temporary president of the senate, and the speaker of the assembly no later than one year after the effective date of this section. The roadmap shall be updated every three years and made publicly available on the authority's website.

§ 1885. Mechanical insulation energy savings program. 1. Definitions. For purposes of this section:

(a) "Applicant" shall mean any school district and may at the discretion of the authority include any public housing or public hospital, with a building or buildings that have a potential need for mechanical insulation upgrades. The minimum size for any single building to be considered shall be twenty thousand square feet.

(b) "Mechanical insulation" shall mean insulation materials, facings and accessory products used for thermal requirements for mechanical piping and equipment, hot and cold applications, heating, ventilation, and air-conditioning applications.

(c) "Qualified audit" shall mean a mechanical insulation audit of a building by a qualified contractor, which identifies missing, damaged or improperly installed mechanical insulation. Such audit shall include an estimate of installation costs along with estimated energy and cost savings. Such audit shall be provided by the qualified contractor at no cost to the authority or applicant.

(d) "Qualified mechanical insulation expenditures" shall mean the purchase of insulation materials, facings and accessory products used for thermal requirements for mechanical piping and equipment, hot and cold applications, and heating, ventilation, and air-conditioning applications and all associated labor costs properly allocable to on-site preparation, assembly and original installation, so long as performed by a qualified contractor and in accordance with sections two hundred twenty, two hundred twenty-b and two hundred twenty-i of the labor law.

(e) "Qualified contractor" shall mean an insulation contractor that is party to an apprenticeship agreement, as defined in section eight hundred sixteen of the labor law, which is in good standing, appropriate for the type and scope of work to be performed, including the minimum American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-2007, providing the energy standard for buildings except low-rise residential buildings.

2. Subject to monies made available to the authority for the proper administration of the program created pursuant to this section, the authority is hereby authorized and directed to establish and administer within one year of the effective date of this section, a mechanical insulation energy savings program to issue competitive grants on a first come first served basis for applicants that have completed a qualified audit, which will cover at least fifty, but no more than seventy-five, percent of the qualified mechanical insulation expenditures.

The authority may coordinate with another state agency or authority, or an office thereof, to establish and administer this program.

3. The authority shall develop and publish guidelines establishing the evaluation criteria and competitive application process for the mechanical insulation energy savings program pursuant to this section.

TITLE 9-A

GREEN JOBS-GREEN NEW YORK PROGRAM

§ 1890. Short title. This title shall be known and may be cited as the "green jobs-green New York act of 2009".

§ 1891. Definitions. As used in this section, the following terms shall have the following meanings:

1. "Applicant" means a person who owns, leases or manages a structure and who has the authority to contract for the provision of qualified energy efficiency services to such structure.

2. "Authority" shall have the same meaning as in subdivision two of section eighteen hundred fifty-one of this article.

3. "Constituency-based organization" means an organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within a specified community, and which is supported by, or whose actions are directed by, members of the community in which it operates.

4. "Distribution utility" means any gas or electric corporation providing gas or electricity to end use consumers that is a public utility company, including a municipality, or a public utility authority organized pursuant to article five of this chapter.

5. "Eligible project" means qualified energy efficiency services for a non-residential structure, a residential structure or a multi-family structure. An eligible project shall not be considered (a) a major capital improvement pursuant to subparagraph (g) of paragraph one of subdivision g of section 26-405 of the administrative code of the city of New York, subparagraph (k) of paragraph one of subdivision g of section 26-405 of the administrative code of the city of New York, paragraph six of subdivision c of section 26-511 of the administrative code of the city of New York, paragraph three of subdivision d of section six of section four of chapter five hundred seventy-six of the laws of nineteen hundred seventy-four, and the second undesignated paragraph of paragraph (a) of subdivision four of section four of chapter two hundred seventy-four of the laws of nineteen hundred forty-six; or (b) an individual apartment improvement pursuant to subparagraph (e) of paragraph one of subdivision g of section 26-405 of the administrative code of the city of New York, paragraph thirteen of subdivision c of section 26-511 of the administrative code of the city of New York, paragraph one of subdivision d of section six of section four of chapter five hundred seventy-six of the laws of nineteen hundred seventy-four, and clause five of the second undesignated paragraph of paragraph (a) of subdivision four of section four of chapter two hundred seventy-four of the laws of nineteen hundred forty-six.

6. "Energy audit" means a formal evaluation of a building's energy consumption for the purpose of identifying methods to improve energy efficiency and conserve energy, including associated health and safety issues, conducted pursuant to standards established by the authority.

7. "Green jobs-green New York revolving loan fund" or "revolving loan fund" means the green jobs-green New York revolving loan fund created by subdivision one of section eighteen hundred ninety-six of this title.

8. "Multi-family structure" means a multi-unit residential building with five or more dwelling units.

9. "Non-residential structure" means a building that is used or occupied by a small business or a not-for-profit corporation.

10. "Not-for-profit corporation" means a corporation defined in subdivision five of paragraph (a) of section one hundred two of the not-for-profit corporation law.

11. "Program" means the green jobs-green New York energy conservation and community sustainability program created by this title.

12. "Qualified energy efficiency services" means a modification to a structure, based on recommendations contained in an energy audit performed under the program created under section eighteen hundred ninety-two of this title or as otherwise approved by the authority, which is consistent with standards established by the authority, that will increase the energy efficiency and conservation of an existing structure, including but not limited to:

(a) application of weatherstripping, caulking, sealant and other materials around doors, windows, and other areas of a building for the purpose of insulating or sealing openings in the building envelope and within the building to mitigate energy loss;

(b) testing, repairing and replacing heating or cooling systems or components of such systems;

(c) thermostat upgrades;

(d) water heater repair and replacement;

(e) roof, chimney, fireplace and roof vent repair, insofar as such repairs are determined by an energy audit to be necessary to mitigate energy loss or resolve energy-system related health and safety issues;

(f) repair and replacement of storm windows, permanent windows and exterior doors;

(g) repair or replacement of major household appliances;

(h) installation of thermal solar heat or hot water systems;

(i) addition of insulation to exterior walls or ceilings;

(j) replacement of inefficient light bulbs and lighting fixtures and systems;

(k) minor repairs that are necessary to ensure maximum efficiency from the provision of qualified energy efficiency services;

(l) installation of carbon monoxide detectors and indoor environmental testing and mitigation deemed necessary as a result of the provision of other qualified energy efficiency services;

(m) fuel switching to convert an electrically-heated building to a more efficient heating source provided that significant energy cost-savings can be demonstrated pursuant to standards established by the authority;

(n) installation of energy technologies eligible for net energy metering pursuant to section sixty-six-j or sixty-six-l of the public service law; and

(o) purchase and installation of geothermal energy systems.

13. "Residential structure" means a residential building that has four or fewer dwelling units.

14. "Small business" shall have the same meaning as in section one hundred thirty-one of the economic development law.

15. "Structure" means (a) a non-residential structure, (b) a residential structure, and (c) a multi-family structure.

§ 1892. Purpose. There is hereby created a green jobs-green New York program. The purpose of the program is to:

1. promote energy efficiency, energy conservation and the installation of clean energy technologies;

2. reduce energy consumption and energy costs;

3. reduce greenhouse gas emissions;

4. support sustainable community development;

5. create green job opportunities, including opportunities for new entrants into the state's workforce, the long-term unemployed and displaced workers; and

6. use innovative financing mechanisms to finance energy efficiency

improvements through energy cost savings.

§ 1893. Administration by the authority. Within six months of the effective date of this title, the authority is hereby authorized and directed to establish and administer the green jobs-green New York program. The authority shall implement the program in consultation with the division of housing and community renewal, the department of labor, the office of temporary and disability assistance, the department of public service, the power authority of the state of New York, the Long Island power authority, the department of economic development and the department of environmental conservation. The authority is authorized and directed to:

1. use monies made available for the program pursuant to section eighteen hundred ninety-nine-a of this title to achieve the purposes of the program;

2. enter into contracts with constituency-based organizations and other entities through the competitive grants process authorized by this title;

3. enter into contracts with one or more program implementers to perform such functions as the authority deems appropriate; and

4. exercise such other powers as are necessary for the proper administration of the program.

§ 1894. Competitive grants for outreach, enrollment and related services. 1. The authority shall issue one or more program opportunity notices or requests for proposals to solicit applications from partnerships or consortia comprised of constituency-based organizations which can connect community members to the program, including facilitating awareness of the program and enrollment, and (a) distribution utilities, (b) contractors that have signed enforceable agreements to meet standards set by the authority, including standards for local hiring and pre-apprenticeship and apprenticeship and other labor-management training program participation, (c) workforce development organizations that will recruit unemployed individuals, and provide training and job placement in conjunction with contractors pursuant to section eighteen hundred ninety-seven of this title; and/or (d) organized trades and their certification or apprenticeship programs. The authority shall specifically solicit applications that propose to demonstrate the feasibility of innovative financing mechanisms, including but not limited to applications undertaken in partnership with distribution utilities that propose to demonstrate the feasibility of on-bill financing. The public service commission and other appropriate agencies are authorized to coordinate with the authority and applicants in developing and implementing proposed demonstrations of innovative financing mechanisms.

2. In awarding grants, the authority shall:

(a) target communities in areas where energy costs are particularly high in relation to a measure of median household income as determined by the authority; or which have been designated as a nonattainment area for one or more pollutants pursuant to section 107 of the federal Clean Air Act (42 U.S.C. section 4207);

(b) give preference in awards to applicants that include significant participation by minority and women owned business enterprises and/or to applications to serve economically distressed communities;

(c) ensure that the awards as a whole reflect the geographic diversity of the state; and

(d) award a sufficient number of grants to make it possible to fully commit the resources allocated during the initial phase of the program.

3. (a) The authority is authorized to consult with the department of public service, the division of housing and community renewal, the department of labor and the department of environmental conservation, as appropriate, in making any determinations contemplated by this section.

(b) The authority shall consult with representatives of businesses who provide home heating oil, propane and other petroleum-based heating products to develop innovative financing mechanisms for energy efficiency retrofits.

(c) The authority shall consult with the division of housing and community renewal and the council established pursuant to section eighteen hundred ninety-eight of this title to develop strategies to mitigate any adverse economic impact of the program on tenants, including but not limited to residents of in rent-regulated housing or recipients of housing subsidies.

4. Any organization using funding provided under the program for marketing or other outreach activities shall not commingle such marketing or outreach activities with any other advocacy or policy promotion efforts.

§ 1895. Energy audits. 1. The program shall make available to applicants who would be eligible to apply for financial assistance under this section energy audits performed by certified auditors or auditors using commonly-employed energy auditing tools and technologies, as determined appropriate by the authority. The authority shall be authorized to dedicate an appropriate portion of program funds allocated for the funding of energy audits pursuant to section eighteen hundred ninety-nine-a of this title to non-residential properties that are occupied or used by a small business or not-for-profit corporation with ten or fewer employees.

2. The authority shall establish standards for energy audits based on building type and other relevant considerations.

3. The authority shall establish a schedule of fees for energy audits based on the type and nature of the energy audit and other relevant considerations. The schedule shall include a sliding scale which provides that audit fees shall be waived for residential applicants whose demonstrated income is less than two times the median county household income, and the full fees shall be paid by applicants whose median county household income is not less than four times the median county household income. Applicants whose demonstrated incomes fall between these levels shall pay a pro rata percentage of the audit fees. The authority may provide for discounted fees for small businesses or

not-for-profit corporations with ten or fewer employees.

§ 1896. Green jobs-green New York revolving loan fund. 1. (a) There is hereby created a green jobs-green New York revolving loan fund. The revolving loan fund shall consist of:

(i) all moneys made available for the purpose of the revolving loan fund pursuant to section eighteen hundred ninety-nine-a of this title;

(ii) payments of principal and interest, including any late payment charges, made pursuant to loan or financing agreements entered into with the authority or its designee pursuant to this section; and

(iii) any interest earned by the investment of moneys in the revolving loan fund.

(b) The revolving loan fund shall consist of two accounts:

(i) one account which shall be maintained for monies to be made available to provide loans to finance the cost of approved qualified energy efficiency services for residential structures and multi-family structures, and

(ii) one account which shall be maintained for monies made available to provide loans to finance the cost of approved qualified energy efficiency services for non-residential structures. The initial balance of the residential account established in subparagraph (i) of this paragraph shall represent at least fifty percent of the total balance of the two accounts. The authority shall not commingle the monies of the revolving loan fund with any other monies of the authority or held by the authority, nor shall the authority commingle the monies between accounts. Payments of principal, interest and fees shall be deposited into the account created and maintained for the appropriate type of eligible project.

(c) In administering such program, the authority is authorized and directed to:

(i) use monies made available for the revolving loan fund to achieve the purposes of this section by section eighteen hundred ninety-nine-a of this title, including but not limited to making loans available for eligible projects;

(ii) enter into contracts with one or more program implementers to perform such functions as the authority deems appropriate;

(iii) establish an on-bill recovery mechanism for repayment of loans for the performance of qualified energy efficiency services for eligible projects provided that such on-bill recovery mechanism shall provide for the utilization of any on-bill recovery programs established pursuant to section sixty-six-m of the public service law and section one thousand twenty-hh of this chapter;

(iv) establish standards for customer participation in such on-bill recovery mechanism, including standards for reliable utility bill payment, current good standing on any mortgage obligations, and such additional standards as the authority deems necessary; provided that in order to provide broad access to on-bill recovery, the authority shall, to the fullest extent practicable, consider alternative measures of creditworthiness that are prudent in order to include participation by customers who are less likely to have access to traditional sources of financing;

(v) to the extent feasible, make available on a pro rata basis, based on the number of electric customers within the utility service territory, to combination electric and gas corporations that offer on-bill recovery pursuant to section sixty-six-m of the public service law and the Long Island power authority, up to five hundred thousand dollars to defray costs directly associated with changing or upgrading billing systems to accommodate on-bill recovery charges;

(vi) within thirty days of closing of a loan to a customer, pay a fee of one hundred dollars per loan to the combination electric and gas corporation in whose service territory such customer is located or to the Long Island power authority if such customer is located in the service territory of that authority to help defray the costs that are directly associated with implementing the program;

(vii) within thirty days of closing of a loan to a customer, pay a servicing fee of one percent of the loan amount to the combination electric and gas corporation in whose service territory such customer is located or to the Long Island power authority if such customer is located in the service territory of that authority to help defray the costs that are directly associated with the program; and

(viii) exercise such other powers as are necessary for the proper administration of the program, including at the discretion of the authority, entering into agreements with applicants and with such state or federal agencies as necessary to directly receive rebates and grants available for eligible projects and apply such funds to repayment of applicant loan obligations.

2. (a) The authority shall provide financial assistance in the form of loans for the performance of qualified energy efficiency services for eligible projects on terms and conditions established by the authority.

(b) Loans made by the authority pursuant to this section shall be subject to the following limitations:

(i) eligible projects shall meet cost effectiveness standards developed by the authority;

(ii) loans shall not exceed thirteen thousand dollars per applicant for approved qualified energy efficiency services for residential structures, and twenty-six thousand dollars per applicant for approved qualified energy efficiency services for non-residential structures, provided, however, that the authority may permit a loan in excess of such amounts if the total cost of energy efficiency measures financed by such loan will achieve a payback period of fifteen years or less, but in no event shall any such loan exceed twenty-five thousand dollars per applicant for residential structures and fifty thousand dollars per applicant for non-residential structures; and for multi-family structures loans shall be in amounts determined by the authority, provided, however, that the authority shall assure that a significant number of residential structures are included in the program;

(iii) no fees or penalties shall be charged or collected for prepayment of any such loan; and

(iv) loans shall be at interest rates determined by the authority to be no higher than necessary to make the provision of the qualified energy efficiency services feasible.

In determining whether to make a loan, and the amount of any loan that is made, the authority is authorized to consider whether the applicant or borrower has received, or is eligible to receive, financial assistance and other incentives from any other source for the qualified energy efficiency services which would be the subject of the loan. In determining whether a loan will achieve a payback period of fifteen years or less pursuant to subparagraph (ii) of this paragraph, the authority may consider the amount of the loan to be reduced by the amount of any rebates for qualified energy efficiency services received by the applicant or by the authority on behalf of an applicant.

(c) Applications for financial assistance pursuant to this section shall be reviewed and evaluated by the authority or its designee pursuant to eligibility and qualification requirements and criteria established by the authority. The authority shall establish standards for (i) qualified energy efficiency services, and (ii) measurement and verification of energy savings. Such standards shall meet or exceed the standards used by the authority for similar programs in existence on the effective date of this section.

(d) The amount of a fee paid for an energy audit provided under section eighteen hundred ninety-five of this title may be added to the amount of a loan that is made under this section to finance the cost of an eligible project conducted in response to such energy audit. In such a case, the amount of the fee may be reimbursed from the fund to the borrower.

(e) In establishing an on-bill recovery mechanism:

(i) the cost-effectiveness of an eligible project shall be evaluated solely on the basis of the costs and projected savings to the applying customer, using standard engineering assessments and prior billing data and usage patterns; provided however that based upon the most recent customer data available, on an annualized basis, the monthly on-bill repayment amount for a package of measures shall not exceed one-twelfth of the savings projected to result from the installation of the measures provided further that nothing herein shall be construed to prohibit or prevent customers whose primary heating energy source is from deliverable fuels from participating in the program;

(ii) the authority shall establish a process for receipt and resolution of customer complaints concerning on-bill recovery charges and for addressing delays and defaults in customer payments; and

(iii) the authority may limit the availability of lighting measures or household appliances that are not permanently affixed to real property.

(f) Prior to or at the closing of each loan made pursuant to this section, the authority shall cause a notice to be provided to each customer receiving such loan stating, in clear and conspicuous terms:

(i) the financial and legal obligations and risks of accepting such loan responsibilities, including the obligation to provide or consent to the customer's utility providing the authority information on the sources and quantities of energy used in the customer's premises and any improvements or modifications to the premises, use of the premises or energy consuming appliances or equipment of any type that may significantly affect energy usage;

(ii) that the on-bill recovery charge will be billed by such customer utility company and that failure to pay such on-bill recovery charge may result in the customer having his or her electricity and/or gas terminated for non-payment, provided that such utility company follows the requirements of article two of the public service law with respect to residential customers;

(iii) that incurring such loan to undertake energy-efficiency projects may not result in lower monthly energy costs over time, based on additional factors that contribute to monthly energy costs;

(iv) that the program is operated by the authority and it is the sole responsibility of the authority to handle consumer inquiries and complaints related to the operation and lending associated with the program, provided further that the authority shall provide a mechanism to receive such consumer inquiries and complaints.

(g) Any person entering into a loan agreement pursuant to this section shall have the right to cancel any such loan agreement until midnight of the fifth business day following the day on which such person signs such agreement provided the loan proceeds have not yet been disbursed.

3. The authority shall evaluate the cost-effectiveness of the on-bill recovery mechanism on an on-going basis. (a) In conducting such evaluation, the authority shall request each customer to provide:

(i) information on energy usage and/or permission to collect information on energy usage from utilities and other retail vendors, including but not limited to information required to be furnished to consumers under article seventeen of the energy law;

(ii) information on other sources of energy used in the customer's premises; and

(iii) information on any improvements or modifications to the premises that may significantly affect energy usage.

(b) At a minimum the authority shall collect and maintain information for dates prior to the performance of qualified energy efficiency services, to establish a baseline, and for dates covering a subsequent time period to measure the effectiveness of such measures. Such data shall be correlated with information from the energy audit and any other relevant information, including information on local weather conditions, and shall be used to evaluate the on-bill recovery program and to improve the accuracy of projections of cost-effectiveness on an on-going basis. An analysis of such data shall be included in the annual report prepared pursuant to section eighteen hundred ninety-nine of this title.

(c) All information collected by the authority shall be confidential and shall be used exclusively for the purposes of this subdivision.

4. Qualified energy efficiency services that have been paid for in whole or in part with the proceeds of a loan under this title shall be considered a special energy project pursuant to section eighteen hundred fifty-one of this article.

5. (a) For each loan issued for qualified energy efficiency services that is to be repaid through an on-bill recovery mechanism, the New York state energy research and development authority shall record, pursuant to article nine of the real property law, in the office of the appropriate recording officer, a declaration with respect to the property improved by such services of the existence of the loan and stating the total amount of the loan, the term of the loan, and that the loan is being repaid through a charge on an electric or gas meter associated with the property. The declaration shall further state that it is being filed pursuant to this section and, unless fully satisfied prior to sale or transfer of the property, the loan repayment utility meter charge shall survive changes in ownership, tenancy, or meter account responsibility and, until fully satisfied, shall constitute the obligation of the person responsible for the meter account. Such declaration shall not constitute a mortgage and shall not create any security interest or lien on the property. Upon satisfaction of the loan, the authority shall file a declaration of repayment pursuant to article nine of the real property law.

(b) The recording officer shall record such declarations in the same book, provided under section three hundred fifteen of the real property law, in which such recording officer records deeds.

§ 1897. Training services. 1. The authority, in consultation with the department of labor, shall enter into contracts with constituency-based organizations, workforce development organizations, labor organizations, and other training-related organizations, for the purpose of supporting the "green jobs-green New York program" with employment and training services. Such contracts shall provide for (a) training of individuals to participate in outreach and marketing activities, perform energy audits and provide qualified energy efficiency services and (b) provision of job placement services to such individuals. To the extent permitted by statute, regulation or federal grant a preference shall be given for training and placement of women, minorities, low-income individuals and populations with barriers to employment.

2. Training services authorized pursuant to this subdivision shall include, as appropriate, but not be limited to:

(a) incremental occupational training to unemployed workers with good work histories;

(b) work-readiness and entry-level technical training to individuals with weak work histories;

(c) apprenticeship qualifying, apprenticeship and labor-management certification training;

(d) training that is designed to lead to certification in energy auditing and energy performance contracting;

(e) skills upgrading for incumbent workers, including workers performing weatherization activities under division of housing and community renewal programs;

(f) work support, where appropriate and to the extent that funding is available, to individuals who obtain employment through the "green jobs-green New York program" created by this title, to assist such individuals to retain employment and continue to upgrade their skills.

3. For quality assurance purposes, organizations providing training services pursuant to this section shall possess certifications and accreditations deemed appropriate by the authority, in consultation with

the department of labor.

4. The authority, in cooperation with the department of labor, shall facilitate coordination between constituency-based organizations, workforce development organizations, labor organizations and auditing and energy performance services contractors to provide job opportunities for individuals participating in training programs and receiving placement services pursuant to this section.

5. The authority, in cooperation with the department of labor, shall:
(a) encourage local workforce investment boards created pursuant to the federal workforce investment act of 1998 (Public Laws 105-220) to make available training and job placement services authorized pursuant to this subdivision within each local workforce investment area:
(b) access training services available through the department of labor; and
(c) apply for available federal funding for appropriate training services pursuant to the provisions of the american recovery and reinvestment act of 2009 (Public Laws 111-5) and any other applicable federal law.

6. The department of labor shall coordinate with the authority in implementing this section.

7. The authority shall prescribe conditions for training that will include identifiable standards for all education and training activities authorized under this section, and will designate a certificate to be issued to any trainee that successfully meets such standards and completes the required education and training.

§ 1898. Advisory council. 1. The authority shall establish a green jobs-green New York advisory council to advise the authority on the creation and implementation of the program. The council shall consist of:
(a) the president of the authority; the secretary of state; the commissioner of housing and community renewal; the commissioner of

labor; the commissioner of temporary and disability assistance; the chair of the department of public service; the president of the power authority of the state of New York; the president of the Long Island power authority; the commissioner of economic development; the commissioner of environmental conservation; or the designees of such persons; and

(b) representatives of constituency-based community groups; consumer advocates on utility and housing issues; community-based workforce development groups; unions, including building trades and property services; home performance contractors; large-scale construction contractors; and investment market experts.

2. The president of the authority shall serve as the chair of the council.

§ 1899. Annual reporting. No later than October first, two thousand ten and October first of each year thereafter, the president of the authority shall issue an annual report to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly concerning the authority's activities related to the green jobs - green New York program created pursuant to this title. Such report shall include, but not be limited to the following information:

1. The status of the authority's activities and outcomes related to section eighteen hundred ninety-five of this title. Such report shall include, but not be limited to: (a) the number and type of energy audits performed pursuant to section eighteen hundred ninety-five of this title; (b) any other contracts entered into relating to the program; and (c) any recommendations for program improvements;

2. The status of the authority's activities and outcomes related to section eighteen hundred ninety-four of this title. Such report shall include, but not be limited to: (a) contracts entered into pursuant to section eighteen hundred ninety-four of this title; (b) the geographical area or areas served by each entity; (c) the amount of the grants

disbursed to each entity; (d) any other contracts entered into relating to the program; and (e) any recommendations for program improvements;

3. The status of the authority's activities and outcomes related to section eighteen hundred ninety-six of this title. Such report shall include, but not be limited to:

(a) the number of persons who have applied for and received financial assistance through the revolving loan fund;

(b) the revolving loan fund account balances;

(c) the number of loans in default;

(d) the amount and nature of the costs incurred by the authority for the activities described in paragraph (c) of subdivision one of section eighteen hundred ninety-six of this title;

(e) the authority's activities and outcomes related to establishing an on-bill recovery mechanism, including the number of persons who have applied for and who have received financial assistance that utilizes on-bill recovery and the results of the evaluation program performed pursuant to subdivision three of section eighteen hundred ninety-six of this title;

(f) the amount expended by the authority in support of the program and the purposes for which such funds have been expended;

(g) the number of customers participating in the program, separately stating the number of residential and non-residential customers and the amounts financed;

(h) the number of program participants who are in arrears in their utility accounts for electric and/or gas service;

(i) the number of program participants who are in arrears in their on-bill recovery charge payments;

(j) the number of program participants whose utility service has been terminated for non-payment;

(k) a description of the geographic distribution of loans made;

(l) an estimate of the energy savings resulting from this program;

(m) an estimate of the average project cost; and

(n) in consultation with the department of labor, an estimate of the number of jobs created under the program.

4. The status of the authority's activities and outcomes related to

solicitation of applications to demonstrate the feasibility of innovative financing mechanisms as described in subdivision one of section eighteen hundred ninety-four of this title;

5. The status of the authority's activities and outcomes related to section eighteen hundred ninety-seven of this title. Such report shall include, but not be limited to: (a) the number of individuals receiving training services; (b) the type of training services provided to such individuals; (c) the identity of organizations providing training services; (d) the amount of funds awarded to each such organization; and (e) the number of individuals placed in full-time employment; and

6. The overall effectiveness, progress and outcomes by the authority related to the green-jobs green New York program. Such report shall include but not be limited to: (a) key findings by the authority; (b) to the extent possible a calculation of the energy savings achieved; and (c) any recommendations for program improvements and expansion of the program.

§ 1899-a. Funds, administration and evaluation and coordination. 1. The authority is authorized to accept, as agent of the state, any gift, grant, devise or bequest, whether conditional or unconditional, including but not limited to federal grants, and to use monies made available for the program from any public or private source, for the purpose of implementing the components of the program as set forth in section eighteen hundred ninety-three through section eighteen hundred ninety-nine of this title, inclusive.

2. The authority shall be entitled to recover from the monies made available for the program its own necessary and documented costs incurred in administering the program and evaluating the effectiveness of the program; provided, however, the sum that may be recovered for the authority's administrative costs shall not exceed seven percent of the monies made available for the program, and the sum that may be recovered for the authority's evaluation costs shall not exceed five percent of the monies made available for the program.

* Title 9-B

CLEAN ENERGY RESOURCES DEVELOPMENT AND INCENTIVES PROGRAM

* NB Repealed December 31, 2030

*** § 1900. Statement of legislative intent.** It is the intent of the legislature in enacting this title to empower the New York state energy research and development authority to establish effective programs and other mechanisms to: (1) foster and encourage the orderly and expedient siting and development of renewable energy facilities and qualified energy storage systems, particularly at sites which are difficult to develop, consistent with applicable law for the purpose of enabling the state to meet CLCPA targets as defined in subdivision one of section one hundred thirty-seven of article eight of the public service law; (2) incentivize the re-use of previously developed sites for renewable energy facilities and qualified energy storage systems to protect the value of taxable land, capitalize on existing infrastructure; (3) support the provision of benefits to communities that host renewable energy facilities and qualified energy storage systems; and (4) protect environmental justice areas from adverse environmental impacts.

* NB Repealed December 31, 2030

*** § 1901. Definitions.** As used in this title, the following terms shall have the following meanings:

1. "Authority" shall have the same meaning as in subdivision two of section eighteen hundred fifty-one of this article.

2. "Commission" shall mean the public service commission.

3. "Departments" shall mean the department of environmental conservation, the department of agriculture and markets, the department of economic development and the department of public service.

4. "Environmental justice area" shall mean a minority or low-income community that may bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

5. "Host community" shall mean any municipality within which a major renewable energy facility or qualified energy storage system, or any portion thereof, has been proposed for development.

6. "Renewable energy facility" shall have the same meaning as renewable energy systems defined in section sixty-six-p of the public service law.

7. "Municipality" shall mean a county, city, town or village or political subdivision.

8. "Build-ready site" shall mean a site for which the authority has secured permits, property interests, agreements and/or other authorizations necessary to offer such site for further development, construction and operation of a renewable energy facility, with or without a paired qualified energy storage system, or a stand-alone qualified energy storage system, in accordance with the other provisions of this title.

9. "Qualified energy storage system" shall have the same meaning as qualified energy storage system defined in section seventy-four of the public service law.

* NB Repealed December 31, 2030

*** § 1902. Powers and duties.** The authority is hereby authorized and directed to undertake such actions it deems necessary or convenient to foster and encourage the siting and development of build-ready sites throughout the state in accordance with this title, work in collaboration with the department of public service and the New York state urban development corporation and any of their affiliates, including without limitation:

1. (a) Locate, identify and assess sites within the state that appear suitable for the development of build-ready sites with a priority given to dormant electric generating sites, and preference to previously developed sites, provided that land used in agricultural production as defined by the department of agriculture and markets, with additional consideration for land within an agricultural district or land that contains mineral soil groups 1-4, shall not be deemed suitable for the development of a build-ready site except when necessary for generator lead lines and other equipment needed for interconnection of projects to the electric system. Such assessment may include but need not be limited to the following considerations:

(i) natural conditions at the site that are favorable to renewable energy generation;

(ii) current land uses at or near the site;

(iii) environmental conditions at or near the site;

(iv) the availability and characteristics of any transmission or distribution facilities on or near the site that could be used to facilitate the delivery of energy from the site, including existing or potential constraints on such facilities;

(v) the potential for the development of energy storage facilities at or near the site;

(vi) potential impacts of development on environmental justice communities; and

(vii) expressions of commercial interest in the site or general location by developers of major renewable energy facilities.

(b) (i) In making such assessment the authority shall give priority to previously developed sites, existing or abandoned commercial sites, including without limitation brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, or otherwise underutilized sites; and

(ii) the authority may establish a renewable energy generation project in furtherance of an agrivolatic project, where "agrivoltaic project" shall mean the simultaneous use of areas of land for both solar power generation and agriculture, specific to the practice of such dual-use solar energy project, where any of the previously developed sites listed in subparagraph (i) of this paragraph is reclaimed as farmland.

2. Notwithstanding any provision of law to the contrary that would require the authority to locate sites through a competitive procurement, negotiate and enter into agreements with persons who own or control interests in favorable sites for the purpose of securing the rights and interests necessary to enable the authority to establish build-ready sites;

3. Establish procedures and protocols for the purpose of establishment and transfer of build-ready sites which shall include, at a minimum: (a) written notice at the earliest practicable time to a municipality in which a potential build-ready site has been identified, provided however, that the authority shall not deem any site for qualified energy storage systems suitable without first consulting any municipalities with jurisdiction over the potential build-ready site and obtaining their approval; and (b) a preliminary screening process to determine, in consultation with the department of environmental conservation, whether the potential build-ready site is located in or near an environmental justice area and whether an environmental justice area would be adversely affected by development of a build-ready site;

4. Undertake all work and secure such permits as the authority deems necessary or convenient to facilitate the process of establishing build-ready sites and for the transfer of the build-ready sites to developers selected pursuant to a publicly noticed, competitive bidding process authorized by law;

* 5. Notwithstanding title five-A of article nine of this chapter or section two thousand eight hundred twenty-seven-a of this chapter, establish a build-ready program, including eligibility and other criteria, pursuant to which the authority would, through a competitive

and transparent bidding process, and using single purpose project holding companies established by or on behalf of the authority and having no separate and independent operational control, acquire, sell and transfer rights and other interests in build-ready sites and development rights to developers for the purpose of facilitating the development of renewable energy facilities on such build-ready sites, which single purpose project holding companies shall be subject to the laws of this chapter until conveyed to third parties. Such transactions may include the transfer of rights, interests and obligations existing under agreements providing for host community benefits negotiated by the authority pursuant to programs established pursuant to subdivision six of this section on such terms and conditions as the authority deems appropriate;

* NB Effective until April 19, 2030

* 5. Notwithstanding title five-A of article nine of this chapter, establish a build-ready program, including eligibility and other criteria, pursuant to which the authority would, through a competitive and transparent bidding process, transfer rights and other interests in build-ready sites and development rights to developers for the purpose of facilitating the development of renewable energy facilities on such build-ready sites. Such transactions may include the transfer of rights, interests and obligations existing under agreements providing for host community benefits negotiated by the authority pursuant to programs established pursuant to subdivision six of this section on such terms and conditions as the authority deems appropriate;

* NB Effective April 19, 2030

6. Establish one or more programs pursuant to which property owners and communities would receive incentives to host major renewable energy facilities or qualified energy storage systems developed for the purpose of advancing the state policies embodied in this article. Such program may include without limitation, and notwithstanding any other provision of law to the contrary, provisions for the authority to negotiate and enter into agreements with property owners and host communities providing for incentives, including a payment in lieu of taxes, the transfer of the authority's interests in such agreements to developers to whom build-ready sites are transferred, and the provision of

information and guidance to stakeholders concerning incentives. The authority shall maintain a record of such programs and incentives, and shall publish such record on the authority's website;

7. Procure the services of one or more service providers, including without limitation environmental consultants, engineers and attorneys, to support the authority's responsibilities under this section and perform such other functions as the authority deems appropriate;

8. In consultation with the department of economic development, the department of labor and other state agencies and authorities having experience with job training programs, assess the need for and availability of workforce training in the local area of build-ready sites to support green jobs development with special attention to environmental justice communities and, subject to available funding, establish one or more programs pursuant to which financial support can be made available for the local workforce and under-employed populations in the area;

9. Manage, allocate and spend any monies made available to the authority in furtherance of this title as the authority determines to be appropriate for the proper administration of programs created pursuant to this title. The authority shall, in identifying build-ready sites, consider the ability to recoup funds allocated or spent in furtherance of the programs created pursuant to this title. Any proceeds, less program expenses and administration, so earned by the authority pursuant to this title shall be reinvested in accordance with a plan approved by the commission;

10. Where the authority determines that it would be beneficial to the policy embodied in this title, offer financing or other incentives to eligible developers through a competitive process, including without limitation measures and activities undertaken by the authority in conjunction with its administration of the state's clean energy standard or similar program as established in commission orders, including without limitation orders issued in commission case number 15-E-0302; and

11. Request and receive the assistance of, the departments or any other state agency or authority, within their respective relevant subject matter expertise, to support the administration of the program created pursuant to this title.

* NB Repealed December 31, 2030

*** § 1903. Eligibility.** The authority may establish and revise any eligibility and evaluation criteria it deems appropriate for the proper administration of the programs created pursuant to this title.

* NB Repealed December 31, 2030

*** § 1904. Funding.** 1. The authority may seek funding from any authorized or other available source to administer this program.

2. Without limiting the foregoing, the authority shall submit a petition or other appropriate filing to the commission describing the activities it has taken and plans to undertake in furtherance of the policy embodied in this title. Such filing may include a request for funding to allow such activities to proceed promptly and for a period of at least five years from the date of the order responding to such petition. The commission shall, in accordance with and as promptly as authorized by existing law and regulation but in no event more than four months following the submission of the petition, issue an order responding to such petition subject to any necessary and reasonable limitations based on the public service law.

* NB Repealed December 31, 2030

*** § 1905. Reporting.** 1. Effective April first, two thousand twenty-one, the authority shall issue an annual report specifying:

(a) any proceeds, less program expenses and administration, so earned by the authority pursuant to this title;

(b) the sites auctioned for development pursuant to subdivision 5 of section nineteen hundred two of this title;

(c) the identity of developers to whom rights have been transferred pursuant to section nineteen hundred two of this title; and,

(d) the resulting renewable energy production.

2. The authority shall submit such report to the governor, the temporary president of the senate, and the speaker of the assembly. A copy of the report shall also be posted on the authority's website.

* NB Repealed December 31, 2030

* TITLE 9-C

RENEWABLE ENERGY OUTREACH AND COMMUNITY PLANNING ASSISTANCE PROGRAM

* NB Repealed December 31, 2031

*** § 1910. Statement of legislative findings and intent.** 1. Findings. The legislature hereby finds, determines, and declares:

(a) New York will need to accelerate the deployment of renewable energy projects, both large-scale and distributed energy systems, in order to achieve the mandates of the New York state climate leadership and community protection act enacted as chapter one hundred six of the laws of two thousand nineteen (the "CLCPA").

(b) In addition to the authority's procurement programs and improved state permitting processes, renewable energy projects require collaboration between host communities and renewable energy developers in order to be successfully and appropriately sited and constructed.

(c) Local land use decisions are important to meeting the goals of the CLCPA, but communities often do not have capacity or sufficient tools and information to effectively plan for renewable energy siting.

(d) Community concerns regarding the potential impacts of large-scale and distributed energy systems are different, but both can provide energy cost savings for residents and businesses in the community, local infrastructure improvement, local tax revenue and economic benefits, local job creation, and cleaner air.

(e) There has been a lack of information about the local benefits and impacts of renewable energy technology development and the best ways for communities to maximize benefits while avoiding and mitigating impacts.

(f) A multi-pronged approach is necessary to provide communities, including disadvantaged communities as designated under the CLCPA, with the information and tools necessary to support the appropriate siting and acceptance of renewable energy sources, including wind, solar, storage and transmission and distribution upgrades.

2. Intent. It is the intent of the legislature in enacting this title to empower the authority to establish effective programs and mechanisms to:

(a) Educate the public and build consensus on the benefits of a shift to renewable energy technologies, which will provide jobs, lower energy costs and reduce price volatility, and reduce the need for fossil fuel based power, bringing clean air and public health benefits and reduced greenhouse gas emissions that lead to climate change and its impacts;

(b) Provide information and assistance to communities and local representatives to promote the appropriate and successful siting of renewable energy projects, including wind, solar, storage and transmission and distribution system upgrades;

(c) Equip local governments with the tools they need to effectively consider natural and working lands, the potential for co-location and dual-use solutions, effective utilization of previously disturbed or developed sites, and protecting disadvantaged communities when planning for renewable energy projects in their communities; and

(d) Help communities develop and adopt local planning, zoning and other policies that support the sustainable and equitable development of local renewable energy technology through processes that ensure and enhance public outreach, education and engagement, particularly in frontline communities that have historically been disenfranchised and discriminated against in the local land use decision-making process.

* NB Repealed December 31, 2031

*** § 1911. Definitions.** As used in this title, the following terms shall have the following meanings:

1. "Authority" shall have the same meaning as in subdivision two of section eighteen hundred fifty-one of this article.

2. "Departments" shall mean the department of environmental conservation, the department of agriculture and markets, the department of economic development, and the department of public service.

3. "Disadvantaged communities" shall have the same meaning as defined in subdivision five of section 75-0101 of the environmental conservation law.

4. "Renewable energy" shall have the same meaning as defined in section sixty-six-p of the public service law.

5. "Renewable energy technology" shall mean all methods used to generate, distribute, store, and support the use of renewable energy systems.

* NB Repealed December 31, 2031

*** § 1912. Powers and duties.** The authority is hereby authorized and directed to undertake such actions it deems necessary or convenient to establish, augment, or expand existing renewable energy outreach and community planning programs to provide information, resources and technical assistance to support the siting, development, and acceptance of renewable energy technologies, including:

1. Developing and enhancing a community education and engagement program to inform New Yorkers about the climate crisis and the benefits of shifting to a clean energy economy and conducting outreach, providing information and education, and building consensus on the environmental and local benefits of renewable energy technologies. Such strategic education and outreach shall include:

(a) Effective communication, engagement and public outreach to communities, including disadvantaged communities, to provide education and information on maximizing the benefits that renewable energy technologies can provide while demonstrating strategies and solutions that are available to ensure that community benefits are meaningful and negative impacts are avoided, reduced, or mitigated;

(b) Comprehensive education and outreach to local governments that may host renewable energy technologies to provide objective information about the impacts of renewable energy development and mitigation opportunities; and

(c) Facilitation of forums for communities, regions, renewable energy developers, and other stakeholders to exchange information and ensure that all have access to the factual information necessary to support the appropriate siting of facilities and acceptance of renewable energy technologies.

2. Collaborating with community stakeholders, the agriculture and forestry sectors, and the renewable energy industry to develop, facilitate, and provide centralized access to renewable energy planning resources and assistance for local governments. Such resources shall include publicly available data resources, including a mapping tool, related to renewable energy development to help municipal representatives and local communities make informed land use decisions and communicate local priorities to developers.

(a) The renewable energy development data resources, including a mapping tool, shall be available on the authority's website and shall provide sufficient information and guidance to allow communities to undertake a comprehensive evaluation of the potential for renewable energy development and to plan proactively for deployment that maximizes local benefit and avoids, reduces, or mitigates negative impact on lands with agricultural soils, farming, forests, and other competing uses.

(b) The renewable energy development data resources may use publicly available information and shall be designed to facilitate participation by local governments, renewable energy developers and other stakeholders in existing renewable energy siting and planning processes.

(c) The renewable energy development data resources shall provide, to the extent available information on agricultural, environmental, energy system and other resources relevant to renewable energy technology siting, such as: land use cover data; disadvantaged communities; brownfields; previously disturbed and developed sites such as large rooftops, parking lots, landfills, etc.; agricultural soils and agricultural districts; forests; wetlands, floodplains, and waterbodies; historic, cultural, and archaeological resources; public parks, preserves and recreational resources; conserved and protected lands; hosting capacity; distribution, and transmission lines; and topography as relevant to siting renewable energy technology.

3. Providing technical assistance and training to local governments and other stakeholders on the use of such information and resources, including the renewable energy development data resources.

4. Consulting, collaborating with, and/or procuring the services of service providers, including, but not limited to: regional planning associations, non-profits, and community-based organizations, to conduct outreach and education about renewable energy benefits, develop new renewable energy planning tools and resources, including renewable energy development data resources, and to provide technical assistance and training to municipalities to support the authority's responsibilities under this section.

5. Managing, allocating, and spending any monies made available to the authority in furtherance of this title as the authority determines to be appropriate for the proper administration of the program created pursuant to this title.

6. Requesting and receiving the assistance of the departments or any other state agency or authority, within their respective relevant subject matter expertise, to support the administration of the program created pursuant to this title.

* NB Repealed December 31, 2031

*** § 1913. Reporting.** 1. Effective April first, two thousand twenty-five, the authority shall issue an annual report regarding the renewable energy technology outreach and community planning assistance program, and provide recommendations for improvements to the program. Such report shall include:

(a) the number and identity of local governments directly reached through the education, engagement and outreach efforts;

(b) the number of forums held for communities, developers, and other stakeholders and description of the findings;

(c) the number, description and status of renewable energy technology planning tools and resources developed, including the mapping tool;

(d) the number of service providers and contracts awarded;

(e) the amount of funds invested in the renewable energy outreach and community planning assistance program; and

(f) any additional information relevant to assessing program effectiveness.

2. The authority shall submit such report to the governor, the temporary president of the senate, and the speaker of the assembly. A copy of the report shall also be posted on the authority's website.

* NB Repealed December 31, 2031

*** § 1914. Reporting.** 1. Effective April first, two thousand twenty-four, the authority shall issue an annual report regarding the effectiveness of the program and providing recommendations for improvements to the program. Such report shall include:

(a) the number and identity of communities and local governments reached through the comprehensive education, engagement and outreach effort;

(b) the number of regional discussion forums held for communities and developers, and identification of attendees and description of outcomes;

(c) the number, description and status of renewable energy planning tools and resources developed, including the clean energy development mapping tool;

(d) the number and identity of local governments receiving technical assistance and training on the clean energy mapping tool and other resources;

(e) the number of service providers and contracts awarded;

(f) the amount of funds invested in the clean energy outreach and community planning program; and

(g) any additional information relevant to assessing program effectiveness.

2. The authority shall submit such report to the governor, the temporary president of the senate, and the speaker of the assembly. A copy of the report shall also be posted on the authority's website.

* NB Repealed December 31, 2031

TITLE 10-B

UPPER MOHAWK VALLEY MEMORIAL AUDITORIUM AUTHORITY

§ 1940. Short title. This title shall be known and may be cited as the "Upper Mohawk Valley memorial auditorium authority act."

§ 1941. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Auditorium" means the auditorium commonly known as the Utica memorial auditorium located in the city of Utica, as well as surrounding lands, including all structures appurtenant thereto, located in the vicinity of Oriskany street west and Charles street, as the same may be reconstructed, enlarged or modified from time to time.

2. "Authority" means the corporation created by section one thousand nine hundred forty-two of this title.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "City" means the city of Utica, Oneida county.

5. "Civil service commission" means the civil service commission of the county of Oneida.

6. "Comptroller" means the comptroller of the state.

7. "Construction" or "Constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of the auditorium; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedure and other actions preliminary or incidental thereto and claims arising therefrom.

8. "Cost" as applied to the auditorium, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real, personal and mixed, improved and unimproved, the cost of the demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of guarantee, bond insurance or other credit support devices and the cost of other expenses necessary or incidental to the construction of the auditorium and the acquisition of property therefor and the financing of the construction and acquisition of property, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special funds from the proceeds of such bonds and the financing of the placing of the auditorium in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the auditorium hereunder had they been made directly by the authority.

9. "Council" means the common council of the city.

10. "County" means the county of Oneida, New York.

11. "County executive" means the county executive of the county.

12. "County legislature" means the county legislature of the county.

13. "Governing body" means the members of the authority, constituting and acting as the governing body of the authority.

14. "Municipality" means the county and any city, town, village or school district located within or partly within the service area.

15. "Person" means any natural person, firm, partnership, association, joint venture or corporation, exclusive of a public corporation as defined pursuant to article two-A of the general construction law.

16. "Real property" means lands, structures, franchise, rights and interests in land, air space, waters, lands under water, riparian rights, and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

17. "Revenues" means all fees, charges and other income and receipts derived from the operation of the auditorium including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sale or other disposition of assets, together with all federal, state or municipal aid, if any.

18. "Service area" means the area comprising the entirety of the city and of the towns of Deerfield, Kirkland, Marcy, New Hartford, Trenton and Whitestown, including all villages located entirely or partly therein.

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

20. "State agency" means any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

§ 1942. Upper Mohawk Valley memorial auditorium authority. 1. A public corporation, to be known as the "Upper Mohawk Valley memorial auditorium authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. The governing body of the authority shall consist of a total of seven members until January thirty-first, two thousand nineteen, three of whom shall be appointed by the county executive, without confirmation of the county legislature, and four of whom shall be appointed by the county legislature, without county executive right to veto. The first members appointed by the county executive shall be appointed for the following terms of office: one for a term ending on December thirty-first of the first year following the year in which this title shall have become law, one for a term ending on December thirty-first of the third year following the year in which this title shall have become law and one for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. The first members appointed by the county legislature shall be appointed for the following terms of office: one for a term ending on December thirty-first of the first year following the year in which this title shall have become law, one for a term ending on December thirty-first of the third year following the year in which this title shall have become law, and two for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. Commencing February first, two thousand nineteen, the governing body of the authority shall consist of a total of nine members, five of whom shall be appointed by the county executive, without confirmation of the county legislature, and four of whom shall be appointed by the county legislature, without county executive right to veto. The seven members appointed to the board prior to February first, two thousand nineteen, shall continue their existing five year terms pursuant to this section. The fourth member appointed by the county executive shall be for a term ending on December thirty-first, two thousand twenty-one. The fifth member appointed by the county executive shall be for a term ending on December thirty-first, two thousand twenty-two. Subsequent appointments of members shall be made for a term of five years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office by the party which appointed such member for inefficiency, neglect of duty or misconduct in office; provided, however, that such member shall be given a copy of the charges against him or her and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days notice. The members of the authority shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title; provided, however, that no member shall be reimbursed for any expense exceeding one thousand dollars incurred with respect to any individual purpose unless the governing body at a meeting duly called and held when a quorum of five members are present shall have authorized the incurrence of such expense by such member. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of five members are present. No action shall be taken except pursuant to the favorable vote of at least five voting members. All votes must be made in person at a meeting and no vote may be made by proxy. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the authority shall consist of a chair, a vice-chair, a treasurer and a secretary, which secretary need not be a member of the authority. Such officers shall be appointed by the governing body and shall serve in such capacities at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also from time to time contract for expert professional services. The members, officers, executive director, if any, comptroller, if any, and counsel, if any, shall be an exempt position under any rule or classification of the civil service commission. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and

sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the authority.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality or any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer or employee of the authority, nor shall service as such member, officer or employee be deemed incompatible or in conflict with such office, membership or employment.

4. (a) The county executive shall file on or before December thirty-first of the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (l) the name of the authority; (2) the names of the members appointed by the county executive and the county legislature and their terms of office; and (3) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county in such a manner as prescribed by law.

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

6. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

§ 1943. Powers of the authority. Except as otherwise limited by this title, the authority shall have the power:

1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

3. To borrow money and issue bonds, notes or other obligations for its corporate purposes and to provide for the rights of the holders thereof.

4. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given to it in this title.

5. To acquire by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as lessee, hold, and use any property, real, personal or mixed or any interest therein constituting or for use in connection with the auditorium, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title and, subject to any limitations in any agreement entered into pursuant to this title, to sell, lease as lessor, transfer or otherwise dispose of any such property or interest therein. In connection with the acquisition of any such property, the authority may assume any obligations of the owner of such property and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any property which the authority is authorized to acquire is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties

with respect to such property with which such owner was charged and such owner shall become discharged from the performance thereof.

6. To develop, construct, operate, maintain and manage or contract for the operation, maintenance or management of, or for services to be performed in connection with, the auditorium; to allow the use of the auditorium for the conduct of professional and amateur athletic events, entertainment, cultural and artistic events and, or, civic events and activities related thereto; and to rent parts thereof and to grant concessions, all on such terms and conditions as the authority may determine.

7. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials.

8. To appoint such officers and employees as are required for the performance of its duties, to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice.

9. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto.

10. To enter upon such lands or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, sounding, boring and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done.

11. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state

or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof.

12. To make and amend by-laws for its organization and management and regulation of its affairs and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title. A copy of such rules, regulations and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk.

13. To enter into cooperative agreements with other authorities, with municipalities, individuals, or corporations, within or without the service area, for any lawful purposes necessary or desirable to effect the purposes of this title upon such terms and conditions as the authority shall be determined to be reasonable.

14. With the consent of the chief executive officer of municipalities within the service area, to use officers and employees of such municipalities and to pay a proper portion of compensation or costs for the services of such officers or employees.

15. To establish, fix, revise, charge, collect and enforce fees and charges for the use of the auditorium so as to provide revenues which, together with other earnings of the auditorium, if any, are at least sufficient at all times to pay, as the same shall become due, the expense of operating and maintaining the auditorium together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority.

16. To pledge its revenues and mortgage any or all of its properties to secure the obligations of the authority.

17. To establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by any agreement with bondholders and, or, any municipality.

18. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for procurement, design, construction, services, and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

19. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1944. Appropriations for purposes of the authority; transfer of property to the authority; acquisition of property by municipality for authority; contracts with municipality. 1. In addition to any powers granted to it by law, any municipality may, from time to time, appropriate by resolution sums of money for purposes of the authority to defray auditorium costs or any other costs and expenses of the authority or to pay amounts payable or anticipated to be payable to the authority pursuant to any agreement authorized by this title. Subject to the rights of bondholders, such municipality may determine if the moneys so appropriated shall be subject to repayment by the authority and, in such event, the manner and time or times for such repayment.

2. Any municipality may give, grant, sell, convey, loan or license the use of or lease to the authority any property, real, personal or mixed, which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be for such term and upon such terms and conditions, subject to the rights of bondholders, as the authority and such municipality may agree, including provision for the authority to assume the primary responsibility for the payment of any bonds or notes issued by such municipality for such property.

3. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or any municipality from the state may be used for any corporate purpose of the authority.

4. One or more municipality and/or the authority shall have the power to contract, from time to time, between or among themselves, in relation to the auditorium which contracts may include any or all of the following provisions: (i) requiring the use by any municipality of the auditorium; (ii) limiting the right, including a prohibition, of any municipality to construct a facility which will serve the same, or substantially the same, function as the auditorium; (iii) requiring the authority to reserve time in the auditorium to assure the availability to any municipality of a specified use of the auditorium; (iv) providing for specified minimum periodic payments by a municipality to the authority, whether or not the auditorium is actually used by the municipality, subject to such limitations, exceptions and provisions therein, and (v) requiring any municipality to pay to the authority such amounts as shall be necessary to assure the continued operation of the authority. All such payments shall be determined and paid in such manner and at such times as may be provided in such contracts.

5. Any gift, grant, sale, conveyance, loan, contract or lease authorized by this section may be made or entered into by any municipality and/or the authority without a public hearing being first held therein and no such gift, grant, sale, conveyance, loan, contract or lease shall be subject to referendum, permissive or otherwise.

6. Notwithstanding the provisions of any law, general, special or local, or charter provision to the contrary, the city, by the affirmative vote of not less than a majority of the entire voting strength of the board of estimate of said city, may sell or transfer, by deed, lease or other arrangement, to the authority the auditorium. Any such agreement of sale or transfer shall be upon such terms and conditions as the governing body of said city and the authority may agree.

§ 1945. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the costs of the auditorium or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed fifty million dollars ($50,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than fifty million dollars ($50,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds (other than notes or other evidence of indebtedness) issued for refunding

purposes, which have a final maturity date longer than the maturity of the bonds being refunded, shall be approved by a resolution of the county legislature adopted by a majority vote and approved by the county executive. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller and the county comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

The authority shall annually submit its bond sale report to the state comptroller and the county comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to: (a) pledging all or part of the revenues, other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bond holders as may then exist;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected

by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the auditorium or part thereof in connection with which bonds are issued;

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

(g) the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bond may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bond holders to appoint a trustee pursuant to this title or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of the auditorium or any part thereof;

(m) limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

the provisions of the bonds for registration.

9. Neither the members of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

§ 1946. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

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

2. Such trustee may and, upon written request of the holders of twenty-five percent in principal amount of such bonds outstanding, shall in his, her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect fees and charges adequate to carry out any agreement as to, or pledge of, such fees and charges and to require the authority to carry out any other agreements with any municipality and/or the holders of such bonds to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in Oneida county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such

properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenue derived from the properties.

§ 1947. State or municipality not liable on authority bonds. Neither the state nor any municipality shall be liable on the bonds of the authority and such bonds shall not be a debt of either the state, or any municipality, and each such bond shall contain, on the face thereof, a statement to such effect.

§ 1948. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or trust company in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such moneys shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bond and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1949. Bonds legal investments for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are not or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any inconsistent provision of law, the bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 1949-a. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of the auditorium, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 1949-b. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by the title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority. Notwithstanding the previous sentence, the authority shall be required to pay water and pure water fees or charges as may be negotiated by any public corporation. The construction, use, occupation or possession of any property owned by the authority or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

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

§ 1949-c. Actions against the authority. 1. Except for wrongful death actions, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, the authority shall have the right to demand an examination of the claim

relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

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

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on bonds or the authority, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

§ 1949-d. Contracts. All contracts for construction shall be let by the authority in conformity with the applicable provisions of section one hundred thirty-five of the state finance law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards and working hours.

The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

§ 1949-e. Code of ethics. 1. Definition. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards. a. No authority employee should accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.

b. No authority employee should accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

c. No authority employee should disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

d. No authority employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

e. No authority employee should engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

f. An authority employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

g. An authority employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

h. An authority employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

i. No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

j. If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she should file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

§ 1949-f. Equal employment opportunity. The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 1949-g. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the city, may, at the request of the authority and with the consent of the mayor of the city, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such

unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 1949-h. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and comptroller and to the chairs of the senate finance and assembly ways and means committees a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county and city.

§ 1949-i. Limited liability. Neither the members of the governing body of the authority, nor any officer or employee acting in their behalf shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 1949-j. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 1949-k. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

TITLE 11
TROY INDUSTRIAL DEVELOPMENT AUTHORITY

§ 1950. Short title. This title may be cited as the "Troy Industrial Development Authority Act."

§ 1951. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the Troy Industrial Development Authority, the corporation created by section nineteen hundred fifty-two of this title;

2. The term "board" shall mean the members of the authority;

3. The term "city" shall mean the city of Troy;

4. The term "bonds" shall mean the bonds, notes, interim certificates and other obligations or evidences of indebtedness issued by the authority pursuant to this title;

5. The term "project" shall mean any land in one or more areas of the city and any building, structure, facility or other improvement thereon, including, but not limited to machinery and equipment and all real and personal property deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be necessary or

suitable for manufacturing, warehousing, research, commercial or industrial purposes and which may include or mean an industrial pollution control facility.

6. The term "project occupant" shall mean the industrial manufacturing or commercial enterprise which proposes to use a project, as defined in subdivision five of this section, undertaken by the authority.

7. The term "revenues" shall mean any revenues, rents, fees or other charges derived by or on behalf of the authority from any project.

8. The term "state" shall mean the state of New York.

9. The term "industrial pollution control facility" shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property deemed necessary therewith, which are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial and research facilities, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site.

11. "Financial assistance" shall mean the proceeds of bonds issued by the authority, straight-leases, or exemptions from taxation claimed by a project occupant as a result of the authority taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of the authority.

12. "Straight-lease transaction" shall mean a transaction in which the authority takes title, possession or control (by lease, license or

otherwise) to the property or equipment of a project occupant, entitling such property or equipment to be exempt from taxation according to the provisions of section nineteen hundred sixty-three of this title, and no financial assistance in the form of the proceeds of bonds issued by the authority is provided to the project occupant.

13. "Affected tax jurisdiction" shall mean any municipality or school district, in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of the authority involved in a project.

14. "Payments in lieu of taxes" shall mean any payment made to an agency, or affected tax jurisdiction, equal to the amount, or a portion, of real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not tax exempt by reason of authority involvement.

15. "Highly distressed area" means (a) a census tract or tracts or block numbering areas or areas or such census tract or block numbering area contiguous thereto which, according to the most recent census data available, has:

(i) a poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and

(ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or

(b) a city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or

(c) an area which was designated an empire zone pursuant to article eighteen-B of the general municipal law.

§ 1952. Troy industrial development authority. A board to be known as the "Troy industrial development authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation and its existence shall commence upon the appointment of the members as herein provided. Its members shall consist of a chair and eight other members, all of whom shall be appointed by the mayor of the city for a term of three years, and shall include two members of the common council of the city, one representative of the city school board, and one representative from each of the fields of business, industry and labor. Every appointment to the board shall be subject to confirmation by the common council of the city. The chair and each member shall continue to serve until the appointment and confirmation of his or her successor. Vacancies in such board occurring otherwise than by expiration of term shall be filled by the mayor by appointment for the unexpired term subject to confirmation by the common council of the city. The mayor may remove the chair or any member of the board for inefficiency, neglect of duty or misconduct in office, after giving him or her a copy of the charges against him or her and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days' notice. Such removal must be approved by the city council of the city. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the city shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of membership on the board created by this section, provided, however, that a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his or her actual and necessary expenses incurred in the performance of such services. The power of the authority shall be vested in and exercised by a majority of the members of the board. Such a board may delegate to one or more of its members, or to its officers, agents and employees, such powers and duties as it may deem proper. Such board and its corporate existence shall continue in accordance with section nineteen hundred sixty-seven of this title. Upon its ceasing to exist, all rights and properties shall pass to and be vested in the city.

§ 1952-a. Video recordings of open meetings and public hearings. The authority shall, to the extent practicable, stream all open meetings and public hearings on its website in real-time. The authority shall post video recordings of all open meetings and public hearings on its website within five business days of the meeting or hearing and shall maintain such recordings for a period of not less than five years.

§ 1953. Purpose and powers of the authority. The purposes of the authority shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehouse, commercial and research facilities including industrial pollution control facilities, transportation facilities including but not limited to those relating to water, highway, rail and air, in one or more areas of the city, particularly but not exclusively at the site of what was formerly the Troy airport including an airstrip or airport located in the southern section of the city and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of said city and to improve their standard of living; provided, however, that the authority shall not undertake any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project applicant located within the state, provided, however, that neither restriction shall apply if the authority shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry. Except as otherwise provided for in this section, no financial assistance of the authority shall be provided in respect of any project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost. For the purposes of this article, "retail sales" shall mean: (i) sales by a registered vendor under article twenty-eight of the tax law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers. Except, however, that tourism destination projects shall not be prohibited by this paragraph. For the purpose of this paragraph, "tourism destination" shall mean a location or facility which is likely to attract a significant number of visitors from outside the economic development region as established by section two hundred thirty of the economic development law in which the project is located.

Notwithstanding the provisions of this section to the contrary, such financial assistance may, however, be provided to a project where facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services constitute more than one-third of the total project cost, where: (i) the predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city of Troy because of a lack of reasonably accessible retail trade facilities offering such goods or services; or (ii) the project is located in a highly distressed area. With respect to projects authorized pursuant to this paragraph no project shall be approved unless the authority shall find after the public hearing required by section twenty-three hundred seven of this chapter that undertaking the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state. Where the authority makes such a finding, prior to providing financial assistance to the project by the authority, the chief executive officer of the city of Troy shall confirm the proposed action of the authority. To carry out said purposes, the authority shall have power:

1. To sue and be sued;

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

3. To acquire, hold and dispose of personal property for its corporate purpose;

4. To acquire by purchase, grant, lease, gift, condemnation, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine. With respect to real property conveyed to it by the city, however, such power of disposition shall be limited as hereinafter provided in section nineteen hundred fifty-five of this title;

5. To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of the project;

6. With the consent of the city, to use agents, employees and facilities of the city, paying the city its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the authority, subject, however, to the provisions of the civil service law as hereinafter provided in section nineteen hundred fifty-four of this title;

8. To appoint an attorney, who may be the corporation counsel of the city, and to fix the attorney's compensation for services which shall be payable to the attorney, and to retain and employ private consultants for professional and technical assistance and advice; provided that an attorney acting as bond counsel for a project must file with the

authority a written statement in which the attorney identifies each party to the transaction which such attorney represents. If bond counsel provides any legal services to parties other than the authority, the written statement must describe the nature of legal services provided by such bond counsel to all parties to the transaction, including the nature of the services provided to the authority;

9. To make contracts and leases upon such terms as the authority shall deem appropriate, including without limitation leases which grant the tenant of a project an option to renew or an option to purchase the project, or both, at a fixed or otherwise predetermined price and to execute all instruments necessary or convenient;

10. To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

11. To accept gifts, grants, loans or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

12. To borrow money and to issue bonds and to provide for the rights of the holders thereof;

13. To designate the depositories of its money either within or without the state of New York;

14. To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax

jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the authority involved in the project. A copy of any such agreement shall be delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the authority's activities render a project non-taxable by affected tax jurisdictions. A notification of the expiration of such agreement shall be delivered to the affected tax jurisdiction two years prior to the expiration of such agreement and immediately upon early termination of an agreement;

15. To establish and reestablish its fiscal year; and

16. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

§ 1953-a. Additional prerequisites to the provision of financial assistance. Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the authority must comply with the following prerequisites:

1. The authority must adopt a resolution describing the project and the financial assistance that the authority is contemplating with respect to such project. Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivision one of section nineteen hundred sixty-three-a of this chapter, unless the agency has followed procedures for deviation from such policy specified in subdivision two of such section.

1-a. The authority shall deliver a copy of the resolution adopted pursuant to subdivision one of this section by certified mail, return receipt requested or an electronic correspondence with a read receipt, to the chief executive officer of each affected tax jurisdiction. When the affected tax jurisdiction is a school district, the authority shall deliver a copy of such resolution by certified mail, return receipt requested or an electronic correspondence with a read-receipt, to the district clerk and district superintendent of each affected school district.

2. The authority must hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the authority. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.

3. The authority must give at least ten days published notice of said public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of the affected tax jurisdiction within which the project is located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project and generally describe the financial assistance contemplated by the authority with respect to the project.

4. The authority shall establish a procedure for compliance with the notification requirements, including identification of the notification method, under subdivision one-a of this section and subdivision two of section nineteen hundred sixty-three-a of this title.

§ 1954. Civil service status of officers and employees. Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

§ 1954-a. Conflicts of interest. All members, officers and employees of the authority shall be subject to the provisions of article eighteen of the general municipal law.

§ 1955. Conveyance of property by the city to the authority and conveyance and leasing of said property by the authority. 1. The city may, by duly adopted resolution of the city council or by instruments authorized by such resolution, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use thereof for so long as its corporate existence shall continue and said real property shall be under its jurisdiction, control and supervision within the ambit of section nineteen hundred sixty-three of this title and exempt from all taxes and assessments except such payments in lieu thereof as may be contained in such resolution or instrument of conveyance.

2. To the end that the city or any school district wherein a project or projects or a part thereof of the authority are located may not suffer undue loss of taxes and local improvement assessments the authority in connection with property owned or held by it within the city and such district, is hereby authorized to pay annually in lieu of taxes and local improvement assessments to the city or such school district such sum as may be mutually agreed between the authority and the city or such school district as the case may be. The city and any such school district wherein a project or part thereof of the authority

is located is hereby authorized and empowered to enter into an agreement or agreements with the authority to accept the payment or payments which the authority is hereby authorized and empowered to make. The sum so received by the city or any such school district shall be devoted to purposes to which taxes may be applied.

3. The city is authorized to install streets and utilities in the area of the project and to contract with the authority with respect to payments in lieu of local improvement assessments therefor and the authority is authorized so to contract and to make appropriate payments in accordance therewith.

4. The authority is authorized, in the event it leases any of the real property conveyed to it by the city, to provide that a portion of the rental derived therefrom shall be allocated to the aforesaid payments in lieu of taxes and assessments and to pay over said portion to the city or school district, as the case may be. The consent of the city or school district as to the method and amount of such allocation shall be appended to any such lease.

§ 1955-a. Compensation procurement and investment. 1. The compensation of an officer or full-time employee of the authority (but not including part-time employees or consultants, including accountants, attorneys and bond counsel to the authority) shall not be contingent on the granting of financial assistance by the authority.

2. The provisions of section one hundred four-b of the general municipal law shall be applicable to the procurement of goods and services paid for by the authority for its own use and account.

3. The provisions of sections ten and eleven of the general municipal law shall be applicable to deposits and investments of funds for an agency's own use and account.

§ 1956. Construction and purchase contracts. The provisions of law relating to the requirement of public bidding with respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this title.

§ 1957. Moneys of the authority. All moneys of the authority, from whatever source derived, shall be paid to the authority's appointed chief financial officer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the authority's appointed chief financial officer on requisition of the chair of the authority or of such person as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the authority, be secured by obligations of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The comptroller of the city and his or her legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller and he or she or his or her legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings to the city council at its first meeting in April of each and every year.

§ 1958. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any of its corporate purposes without limitation as to amount. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange of new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

2. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, bear interest at such rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine.

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

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders or the city as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section nineteen hundred sixty-five of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of trustee; and

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

§ 1959. Notes of the authority. The authority shall have power from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code and from time to time issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of section nineteen hundred fifty-eight of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1960. Agreements of the city and state. The city is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds that neither the city nor the state, respectively, will limit or alter the rights, hereby vested in the authority to acquire, construct, reconstruct, improve, maintain, equip and finish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, nor in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

§ 1961. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1962. Bonds legal investments for public officers. The bonds or notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them: provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds or notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1963. Tax exemptions. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. Provided, however, if the authority is located within a transportation district referenced in paragraph (a) of subdivision two of section two hundred fifty-three of the tax law, it shall not be exempt from the additional tax on each mortgage of real property situated within the state imposed by such paragraph.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

3. Agents of the authority and project operators shall annually file a statement with the department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators, under the authority granted pursuant to this section. The penalty for failure to file such statement shall be the removal of the authority to act as an agent of the authority or as a project operator.

4. (a) Within thirty days of the date that the authority designates a project operator or other person to act as agent of the authority for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the authority, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services

intended to be exempted from such taxes as a result of such appointment as agent, indicating the authority's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

(b) Within thirty days of the date that the authority's designation described in paragraph (a) of this subdivision has been amended, terminated, been revoked, or become invalid or ineffective for any reason, the authority shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the authority in the original designation and setting forth the taxpayer identification number and other identifying information of each such agent, the date as of which the original designation was amended, terminated, revoked, or became invalid or ineffective and the reason therefor, together with a copy of the original designation.

§ 1963-a. Uniform tax exemption policy. 1. The authority shall establish a uniform tax exemption policy, with input from affected local taxing jurisdictions, which shall be applicable to provisions of financial assistance pursuant to section nineteen hundred fifty-three-a of this title and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; percentage of exemption; types of projects for which exemptions can be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, the authority in adopting such policy shall consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemption to be provided; whether affected tax jurisdictions should be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures; the extent to which the project will provide onsite child care services or otherwise facilitate new child care services; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources or revenue for municipalities and school districts.

2. The authority shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this section. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested or an electronic correspondence with a read-receipt, the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefor. When the affected tax jurisdiction is a school district, the authority shall notify by certified mail, return receipt requested or an electronic correspondence with a read-receipt, the district clerk and district superintendent of each affected school district.

§ 1963-b. Special provisions applicable to state sales and compensating use taxes and certain types of facilities. The provisions of section eight hundred seventy-five of the general municipal law shall apply to the provisions of this title and to the authority created by this title with the same force and effect as if the provisions of such section eight hundred seventy-five had been incorporated in full into this title and had expressly referred to the provisions of this title and to such authority, with such changes to such section as are necessary to refer to the provisions of this title and to the authority created by this title.

§ 1964. Tax contract by the state. The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

§ 1964-a. Financial records. 1. The authority shall maintain books and records in such form as may be prescribed by the state comptroller.

2. Annually within ninety days following the close of its fiscal year, the authority shall prepare and file a financial report for that fiscal year complying with the requirements of section eight hundred fifty-nine of the general municipal law.

3. If the authority fails to file or substantially complete, as determined by the state comptroller, the financial statement required by section eight hundred fifty-nine of the general municipal law, the penalties set forth in section eight hundred fifty-nine of the general municipal law shall apply to the authority.

4. The authority shall mail or deliver to the chief executive officer and the governing body of the city of Troy and make available for public inspection and comment its proposed budget for the forthcoming fiscal year, no later than twenty business days before adoption. At such time, the authority shall file its proposed budget with the clerk of the city of Troy. Such proposed budget shall contain detailed estimates of the amount of revenues to be received and expenditures to be made during the forthcoming fiscal year. Following its consideration of the comments received, the authority may revise its budget accordingly and shall file the revised budget with the clerk of the city of Troy.

5. Payments in lieu of taxes received by the authority shall be paid over to each affected tax jurisdiction within thirty days of receipt.

6. Payments in lieu of taxes which are delinquent under the agreement or which the authority fails to remit pursuant to subdivision five of this section shall be subject to a late payment penalty of five percent of the amount due which shall be paid by the project occupant (where taxes are delinquent because of the occupant's failure to make the required payment) or the agency (because of the agency's failure to remit pursuant to subdivision five of this section) to the affected tax jurisdiction at the time the payment in lieu of taxes is paid. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue to and be paid by the project occupant (where taxes are delinquent because of the occupant's failure to make the required payment) or the agency (because of the agency's failure to remit pursuant to subdivision five of this section) to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent per month until the payment is made.

7. An affected tax jurisdiction which has not received a payment in lieu of taxes due to it under an agreement may commence legal action in any court of competent jurisdiction directly against any person, firm, corporation, organization or agency which is obligated to make payments in lieu of taxes under an agreement and has failed to do so. In such an action, the affected tax jurisdiction shall be entitled to recover the amount due, the late payment penalty, interest, expenses, costs and disbursements together with the reasonable attorneys' fees necessary to prosecute such action. Nothing herein shall be construed as providing an affected tax jurisdiction with the right to sue and recover from an agency which has not received payments in lieu of taxes from a project occupant.

8. Any refinancing of a project shall be subject to the provisions of section nineteen hundred fifty-three-a of this chapter, except where such refinancing was previously approved pursuant to such section.

9. Agents of the authority and project operators shall annually file a statement with the state department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators under the authority granted pursuant to this section. The penalty for failure to file such statement shall be removal of authority to act as agent of the authority or project operator.

§ 1965. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Rensselaer and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bond-holders. The venue of any such suit, action or proceeding shall be laid in the county of Rensselaer.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee,

counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1966. Actions against the authority. 1. In an action against the authority founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the authority and to its secretary or to its chief executive officer, and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

2. In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or an officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. No action shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

§ 1967. Termination of the authority. Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, and all straight-lease transactions have been terminated, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Troy.

§ 1967-a. Equal opportunity. 1. The authority shall ensure that all employees and applicants for employment are afforded equal employment opportunity without discrimination.

2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall agree, where practicable, to first consider persons eligible to participate in federal job training partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by community services division of the department of labor for such new employment opportunities.

§ 1968. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1969. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

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§ 1970. Short title. This title shall be known and may be cited as the "battery park city authority act".

§ 1971. Statement of legislative findings and purposes. It is hereby found and declared that there exists on the lower West side of the county of New York, North of Battery Park and on and adjacent to the Hudson River, a blighted area, defined in this title as the Battery Park project area, marked by substandard, insanitary, deteriorated and deteriorating conditions, in which area there exists obsolete and dilapidated buildings and structures, including piers, of defective construction and outmoded design, lacking proper sanitary facilities and adequate fire and safety protection, and with insufficient light and ventilation and inadequate maintenance; buildings or structures abandoned or not utilized in whole or in part; obsolete systems of utilities; poorly or improperly designed street patterns and intersections with inadequate access to areas; traffic congestion; and obsolete street widths, sizes and shapes, all of which hamper and impede the proper and economic development of such area and of the city of New York and of the state as a whole.

It is further found and declared that such area is no longer suitable or useful for piers or for facilities appurtenant to the loading and unloading of commercial cargo, and that retaining piers in such area creates a blighting effect on such area and on surrounding areas and is detrimental to the development of such area and to the growth and prosperity of the county and city of New York and of the state as a whole.

It is hereby declared that the improvement of such area, the elimination of pier facilities and of the present structures therein, and the replanning, reconstruction and redevelopment of such area including the filling of the Hudson River at such area up to the present pierhead line, the preparation of the resulting land for development, and the creation in such area, in cooperation with the city of New York and the private sector, of a mixed commercial and residential community, with adequate utilities systems and civic and public facilities such as schools, open public spaces, recreational and cultural facilities, is necessary for the prosperity and welfare of the people of the city of New York and of the state as a whole, and is a public use and public purpose for which tax exemptions may be granted, and that the powers and duties of battery park city authority as hereinafter recited are necessary and proper for the purpose of achieving such ends.

It is hereby further found and declared that there continues to exist throughout the city of New York a seriously inadequate supply of safe and sanitary dwelling accommodations for persons and families of low income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state. The ordinary operations of private enterprise cannot provide an adequate supply of safe and sanitary dwelling accommodations at rentals which persons and families of low income can afford. In order to encourage the investment of private capital and provide such dwelling accommodations, provision should be made for mortgage loans at low interest rates to housing companies which, subject to regulations as to rents, profits, dividends and disposition of their property, supply such dwelling accommodations and other facilities incidental or appurtenant thereto to such persons and families.

Therefore, it is hereby found and declared that Battery Park city authority, through the issuance of bonds and notes to the private investing public, by encouraging maximum participation by the private sector of the economy, including the sale or lease of the authority's interest in projects at the earliest time deemed feasible, and through participation in programs undertaken by the state, its agencies and subdivisions, and by the federal government, may provide or obtain the capital resources necessary to provide dwelling accommodations for persons and families of low income, and facilities incidental or appurtenant thereto, and, where necessary, to carry out the clearance, replanning, reconstruction and rehabilitation of such substandard and insanitary areas.

It is hereby further found and declared that the acquisition and construction of adequate, safe and sanitary dwelling accommodations for persons and families of low income and such facilities as may be incidental or appurtenant thereto, are public uses and public purposes for which public money may be loaned and private property may be acquired and tax exemptions granted, and that the powers and duties of battery park city authority or its subsidiaries as hereinafter recited are necessary and proper for the purpose of achieving the ends here recited.

§ 1972. Definitions. As used in this title, the following words and phrases shall have the following meanings unless the context shall indicate another or different meaning or intent:

(1) "Authority". The corporate governmental agency created by section nineteen hundred seventy-three of this title.

(2) "Bonds" and "Notes". The bonds, notes and obligations issued by the authority pursuant to this title.

(3) "City". The city of New York.

(4) "Comptroller". The comptroller of the State of New York.

(5) "Battery Park project area". All that portion of the City of New York, County of New York, State of New York generally bounded by the easterly line of West Street, the northerly line of lot number 10 in block 130 as shown on the tax maps of the City of New York, borough of Manhattan, and its extensions easterly to West Street and westerly to the United States pierhead line as now constituted, the said United States pierhead line, the lands of Battery Park and the southerly line of Battery Place.

(6) "Project". One or more works or improvements including lands, buildings, improvements, real, personal or mixed property or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated or improved by the authority, or caused to be acquired, owned, constructed, reconstructed, rehabilitated or improved by the authority within the project area as defined herein, all as the authority shall deem necessary, together with lands, buildings and improvements outside the project area required for relocation of city facilities and for vehicular and pedestrian access roads, rights of way, utility and other easements to and from the project area all as the authority shall deem necessary and as shall be determined by agreement with the city.

(7) "Project cost". The sum total of all costs incurred by the authority in carrying out all works and undertakings which the authority deems reasonable and necessary for the development of the project. These shall include but are not necessarily limited to the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of land and any buildings thereon, site preparation and development, construction, reconstruction, rehabilitation and improvement of the project area; the

necessary expenses incurred in connection with the initial occupancy of the project; the administrative and operating expenses of the authority; the cost of financing the project, including interest on bonds and notes issued by the authority to finance the project from the date thereof to the date when the authority shall determine that the project be deemed substantially complete; the cost of other necessary items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositories and paying agents for the bonds and notes issued by the authority; relocation costs, all as the authority shall deem necessary and the costs of acquisition and construction of lands, buildings and improvements outside the project area for relocation of city facilities whether such costs are incurred by the authority or by the city for and on behalf of the authority and for vehicular and pedestrian access roads, rights of way, utility and other easements to and from the project area, all as the authority shall deem necessary and as shall be determined by agreement with the city.

(8) "Real property". Lands, structures, improvements, franchises and interests in land, including lands under water, waterfront property, marginal streets and riparian rights, space rights and air rights and any and all other things and rights usually included within said term and any fixtures, equipment and article of personal property affixed to or used in connection therewith. Real property shall also mean and include any and all interests in such property less than full title, such as easements, incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages for such real estate.

(9) "State". The state of New York.

(10) "State agency". Any officer, board, department, commission, bureau, division, public corporation, agency or instrumentality of the state.

(11) "Subsidiary". A corporation created pursuant to section nineteen hundred seventy-four-a of this title.

(12) "Residential housing facilities". One or more works or improvements containing one or more residential dwelling units, including, but not limited to, single room occupancy units, and including the real and personal property acquired, owned, constructed,

equipped, improved, enlarged, rehabilitated or renovated to provide such accommodations and such incidental and appurtenant commercial, social, recreational or communal facilities, to be located without the Battery Park project area and within the city.

(13) "Excess revenues". All revenues from the Battery Park project area in excess of those needed (i) to satisfy bond and note covenants (other than as they relate to bonds and notes issued pursuant to section nineteen hundred seventy-four-c of this title and section six hundred fifty-four-c of the private housing finance law) including those covenants which require that the authority maintain its revenues and reserve funds in an amount necessary to permit it to discharge its debt service obligations, (ii) to fulfill its legal and financial commitments, and (iii) to pay its operating and maintenance expenses.

(14) "Housing New York program". The housing New York program established by section four of the housing New York program act.

(15) "Housing New York corporation". The subsidiary corporation of the New York city housing development corporation created by section six hundred fifty-four-c of the private housing finance law.

§ 1973. Battery park city authority. (1) There is hereby created the battery park city authority which shall be a body corporate and politic, constituting a public benefit corporation. Its membership shall consist of seven members to be appointed by the governor with the advice and consent of the senate. One of the members first appointed shall serve for a term ending four years from January first next succeeding his appointment; one of such members shall serve for a term ending five years from such date; and one of such members shall serve for a term ending six years from such date. Provided, however, that two board members first appointed on or after the effective date of chapter seven hundred sixty-six of the laws of two thousand five shall serve an initial term of two years; provided further that two other board members first appointed on or after the effective date of chapter seven hundred sixty-six of the laws of two thousand five shall serve an initial term of four years. Their successors shall serve for terms of six years each. Members shall continue in office until their successors have been appointed and qualified and the provisions of section thirty-nine of the public officers law shall apply. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, the governor shall appoint a successor with the advice and consent of the senate to serve for the balance of the unexpired term. After the effective date of the chapter of the laws of two thousand seventeen that amended this subdivision, if the membership of the corporation is such that less than two of the members are residents of Battery Park city as described by the Battery Park project area defined by subdivision five of section nineteen hundred seventy-two of this title, any appointments made shall be residents of Battery Park city. Appointments shall continue in such a manner until two of the members of the corporation are residents of Battery Park city. Thereafter, two of the corporation's members shall be residents of Battery Park city.

(1-a) All board members shall recuse themselves from matters pending before the board in the event of a conflict of interest, consistent with the provisions of subdivision three of this section and subdivision two of section twenty-eight hundred twenty-five of this chapter, sections seventy-three and seventy-four of the public officers law, and relevant authorities budget office guidance.

(1-b) All board members appointed under the provisions of this section shall have relevant real estate, corporate board, financial, legal, urban planning and/or design, architectural, governmental or security experience.

(2) The members shall elect the chairman of the authority from among their number. The members shall serve without salary or other compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties. Anything to the contrary contained herein notwithstanding, any member who serves as an employee of the authority shall be entitled to receive such salary as the members may determine for services as such employee.

(3) Such members other than those serving as employees of the authority may engage in private employment, or in a profession or business. The authority, its members, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law.

(4) Notwithstanding any inconsistent provision of law, general,

special or local, no officer of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the authority created by this section.

(5) The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days notice. If any such member shall be removed, the governor shall file in the office of the department of state a complete statement of the charges made against such member and his findings thereon, together with a complete record of the proceedings.

(6) The authority in its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof in the documents securing the same. Upon termination of the existence of the authority, all its rights and properties shall vest in the state.

(7) A majority of the members of the authority shall constitute a quorum for the transaction of any business or the exercise of any power or function of the authority. The authority may delegate to one or more of its members, or to its officers, agents or employees, such powers and duties as it may deem proper.

§ 1974. Powers of the authority. The authority shall have power:

1. To sue and be sued;

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

3. To acquire, lease, hold, mortgage and dispose of real property and personal property or any interest therein for its corporate purposes;

4. To acquire, construct, improve, enlarge, operate and maintain a project within the project area as defined herein and all other

structures, appurtenances and facilities necessary or convenient in connection therewith, provided, however, that all contracts for construction let by the authority shall be let in conformity with the provisions of section one hundred thirty-five of the state finance law, except that contracts for construction let by subsidiaries of the authority shall be governed instead by the applicable provisions of the private housing finance law;

5. To appoint officers, agents and employees, prescribe their qualifications and duties and fix their compensation;

6. To make by-laws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the projects;

7. With the consent of the city to use agents, employees and facilities of the city, paying to the city its agreed proportion of the compensation or cost;

8. To make contracts and to execute all necessary or convenient instruments, including leases and subleases, evidences of indebtedness, negotiable or non-negotiable;

9. To engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;

10. To accept grants, loans or contributions from the United States, or the state or the city, or any agency or instrumentality of any of them, or from any other source and to expend the proceeds for any corporate purpose;

11. To fix, establish and collect rates, rentals, fees and other charges for the use of the project, subject to and in accordance with such agreements with bondholders and noteholders as may be made as hereinafter provided;

12. To create subsidiaries pursuant to section nineteen hundred

seventy-four-a of this title;

13. To lend or donate monies, whether secured or unsecured, to any subsidiary, and to purchase, sell or pledge the shares, bonds or other obligations or securities thereof, on such terms and conditions as the authority may deem advisable;

14. To make loans secured by a first mortgage, and to make temporary loans or advances, to any housing company organized to provide housing within the Battery Park city project area pursuant to and subject to the provisions of article two, article four or article eleven of the private housing finance law, including any subsidiary of the authority, and to undertake commitments therefor. Any such commitments or loans may contain such terms and conditions not inconsistent with the provisions of this title as the authority may deem necessary or desirable to secure repayment of its loan, the interest, if any, thereon and other charges in connection therewith;

15. Subject to the provisions of any contract with noteholders or bondholders, to sell, at public or private sale, any mortgage or other security for a mortgage loan made by the authority;

16. In connection with the making of mortgage loans and commitments therefor, to make, fix or establish and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the authority, service charges and insurance premiums, as the authority shall determine to be reasonable subject to the provisions of any contract with noteholders or bondholders;

17. To procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or notes, mortgages or any other evidences of indebtedness issued by the authority or its subsidiaries, including the power to pay premiums on any such insurance;

18. Subject to the provisions of any contract with noteholders or bondholders, to consent to the modification, with respect to rate of

interest, time of payment of any installment of principal or interest, security or any other term, of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party;

19. In connection with any property on which the authority has made a mortgage loan, to foreclose on any such property or commence any action to protect or enforce any right conferred upon the authority by any law, mortgage, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; and in such event the authority may complete, administer, pay the principal of and interest on any obligations incurred in connection with such property, and dispose of, and otherwise deal with, such property, in such manner as may be necessary or desirable to protect the interests of the authority therein;

20. To manage any project, whether or not then owned or leased by the authority, and to enter into agreements with the state or any municipality or any agency or instrumentality thereof, or with any person, firm, partnership or corporation, either public or private, for the purpose of causing any project to be managed;

21. To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;

22. Notwithstanding the provisions of this title or of any other law, general, special or local, whenever the authority shall find that the maximum rentals charged tenants of the dwellings in any project financed by the authority in whole or in part shall not be sufficient, together with all other income of the mortgagor, to meet within reasonable limits all necessary payments to be made by the mortgagor of all expenses including fixed charges, sinking funds, reserves and dividends, to request the mortgagor to make application to vary the rental rate for such dwellings so as to secure sufficient income, and upon failure of the mortgagor to take such action within sixty days after receipt of

written request from the authority to do so, to vary such rental rate by action of the authority.

23. To do all things necessary or convenient to carry out the powers expressly given in this title.

24. To borrow money and issue negotiable bonds, notes or other obligations and to provide for the rights of the holders thereof;

25. To carry out its powers and responsibilities with respect to the chapter of the laws of nineteen hundred ninety which enacted this subdivision.

§ 1974-a. Subsidiaries; how created. 1. The authority by resolution from time to time may direct any of its members, officers or employees to organize one or more wholly-owned subsidiary corporations pursuant and subject to article two, article four or article eleven of the private housing finance law. Such resolution shall prescribe the purposes for which such subsidiary is to be organized.

2. The authority may transfer to any subsidiary any money or real or personal or mixed property or any project in order to carry out the purposes of this title. Each such subsidiary shall have all the privileges, immunities, tax exemptions and other exemptions of the authority to the extent the same are not inconsistent with the statute or statutes pursuant to which such subsidiary was organized. Except as may be inconsistent with the provisions of this title, such subsidiary shall have all the rights and powers granted to housing companies by the private housing finance law and by any other statute pursuant to which such subsidiary was organized.

3. No member or officer of the authority shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of his duties, by reason of his serving as a member, director, trustee or officer of any subsidiary.

§ 1974-b. Lease and other agreements. 1. As used or referred to in this title, unless a different meaning clearly appears from the context:

(a) "owner" shall mean any individual, partnership, trust or public or private corporation (including a cooperative housing corporation), holding the tenant's interest in a residential lease.

(b) "residential lease" shall mean a lease, sublease or other agreement that relates to all or a portion of a project, where all of such project, or the portion thereof to which such lease, sublease or other agreement relates, is designed and intended for the purpose of providing housing accommodations and such facilities as may be incidental thereto, the landlord's interest in which is held by the authority at the time such lease, sublease or other agreement is entered into.

(c) "underlying parcel" shall mean a parcel subject to a residential lease; provided, however, that in any case where the tenant's interest in a residential lease is held by a unit owner, "underlying parcel" shall mean the parcel in which the unit is included.

(d) the terms "unit owner" and "unit" shall have the meanings specified in section three hundred thirty-nine-e of the real property law. The term "parcel" shall have the meaning specified in section one hundred two of the real property tax law; provided, however, that in any case where the tenant's interest in a residential lease is held by a unit owner, "parcel" shall mean the real property deemed to be a parcel pursuant to paragraph (a) of subdivision two of section three hundred thirty-nine-y of the real property law.

2. (a) If an underlying parcel is exempt from real property taxes, or no real property taxes are payable with respect thereto, pursuant to the provisions of section nineteen hundred eighty-one of this title or of section twenty-two of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, the residential lease for such underlying parcel shall provide for the payment by the owner of such residential lease to the authority of annual or other periodic amounts equal to the amount of real property taxes that otherwise would be paid or payable with respect to such underlying parcel, after giving effect to any real

property tax abatements and exemptions, if any, which would be applicable thereto, if the provisions of section nineteen hundred eighty-one of this title or of section twenty-two of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight were not applicable to such underlying parcel.

(b) If an underlying parcel is owned by the city of New York, the residential lease for such underlying parcel shall provide for the payment by the owner of such residential lease to the city of New York of annual or other periodic amounts equal to the amount of real property taxes that are payable with respect to such underlying parcel, after giving effect to any real property tax abatements and exemptions, if any, which are applicable thereto.

(c) Where the owner of a residential lease is assessed for real property taxes with respect to the underlying parcel subject to such residential lease pursuant to section five hundred two of the real property tax law and section three hundred thirty-nine-y of the real property law, payment of such real property taxes shall be credited against the annual or periodic amounts of tax equivalency payments, payments in lieu of taxes or similar payments required to be paid under such residential lease.

§ 1974-c. Additional powers of the authority. 1. It is hereby found and declared that the legislature, pursuant to the housing New York program act, has established a housing New York program under which the city of New York, any agency or instrumentality thereof (other than the housing New York corporation) and the New York city housing development corporation will cause the acquisition, construction, equipping, improving, rehabilitation and renovation of dwelling accommodations within the city of New York for persons and families for whom the ordinary operations of private enterprise cannot supply such accommodations; that such program is necessary in order to increase the presently inadequate supply of dwelling accommodations in such city for persons and families of low and moderate income; that such program shall require a substantial commitment of funds from public sources; and that the need for such moneys necessitates that the authority be granted the additional powers and be made subject to the additional requirements of this section. The legislature therefore finds that the authority, subject to the terms and conditions specified herein, should be given the power to assign certain excess revenues to secure bonds and notes to be issued by the housing New York corporation for use by the city of New York, and any agency or instrumentality thereof (other than the housing New York corporation) or the New York city housing development corporation in the housing New York program; that the assignment of such excess revenues for the financing of residential housing facilities in accordance with the housing New York program is a public purpose for which moneys may be granted; and that the powers and duties of the authority as recited in this section are necessary and proper for achieving the ends herein recited.

2. In addition to the powers of the authority set forth in section nineteen hundred seventy-four of this title, the authority shall have the power:

(a) to borrow money by issuing bonds and notes and to issue such bonds and notes for the purposes of (i) repaying appropriations from the state to the authority in accordance with the provisions of any repayment agreements with the state, (ii) furthering the development of the infrastructure of the Battery Park project area, and (iii) refunding any bonds and notes of the authority issued pursuant to this section;

(b) subject to the provisions of any contract with noteholders and bondholders, to (i) pledge any excess revenues or assets (other than real property) of the authority, including, but not limited to such excess revenues as the authority shall deem necessary, to secure any bonds or notes issued by the authority pursuant to this section and (ii) assign such excess revenues as the authority shall deem necessary to secure any bonds or notes issued or any agreeements entered into by the housing New York corporation pursuant to section six hundred fifty-four-c of the private housing finance law or pay any expenses related thereto for the purpose of financing the acquisition, construction, equipping, improvement, enlargement, rehabilition and renovation of residential housing facilities in accordance with the provisions of the housing New York program and to enter into any agreement or execute any document to accomplish the foregoing;

(c) to procure insurance, letters of credit or other credit enhancements with respect to its bonds or notes issued pursuant to this section and to pay the premiums and fees therefor;

(d) to adopt, amend or rescind rules and regulations appropriate to carry out its corporate purposes and to establish such requirements and enter into such agreements to achieve the objectives of this section; and

(e) to exercise any and all other powers authorized by this title and not inconsistent with the provisions of this section.

3. Notwithstanding any contrary provision of law, general, special, or local, no moneys of the authority, or moneys received from the authority, which are expended pursuant to a chapter of the laws of nineteen hundred eighty-six entitled "An Act to enact the housing New York program act for the purpose of establishing a housing New York program and to amend the public authorities law, in relation to authorizing Battery Park city authority to assign excess revenues to secure bonds to be issued by the housing New York corporation and the private housing finance law, in relation to creating such corporation and authorizing the financing of certain housing accommodations within the city of New York", shall be used by the authority, directly or indirectly, for the design, planning, acquisition, financing, construction or implementation of any landfill or any pilings, platforms, decks or similar structures and in addition, any dredging or filling activities, in the Hudson river between the northern boundary of the Battery Park project area as provided for in subdivision five of section nineteen hundred seventy-two of this title and forty-second street in the city of New York except to the extent that such activities are necessary to maintain the Battery Park project area landfill site, nor shall any such moneys authorized to be assigned or pledged by such act be assigned or pledged, directly or indirectly, to secure or pay the debt service on any bonds or notes issued or any agreements entered into by the housing New York corporation if the proceeds of such bonds or notes are to be used directly or indirectly, or the purpose of such agreements is to accomplish directly or indirectly, any of the prohibited activities listed in this subdivision.

4. No excess revenues may be assigned by the authority to the housing

New York corporation to finance residential housing facilities pursuant to section six hundred fifty-four-c of the private housing finance law unless the authority has entered into an agreement or agreements with the housing New York corporation, which provides, in addition to any other terms and conditions, that:

(a) such residential housing facilities are to provide dwelling accommodations which are to be occupied by persons and families for whom the ordinary operations of private enterprise cannot provide an adequate supply of safe, sanitary and affordable dwelling accommodations;

(b) neither the state nor the authority are to have any responsibility as to the financing, operation, maintenance, repair or use of such residential housing facilities unless otherwise specifically provided by law;

(c) the housing New York corporation shall use the moneys assigned to it by the authority pursuant to this section to secure and pay bonds and notes issued to finance residential housing facilities in accordance with provisions of the housing New York program and shall comply with the terms and conditions of the housing New York program act and this section; and

(d) the timing, amount, maturity schedule and all other terms and conditions of any issuance of bonds or notes by the housing New York corporation pursuant to section six hundred fifty-four-c of the private housing finance law, will provide for the authority's requirements as to the development, management or operation of the project and the effect of such terms and conditions on the availability of excess revenues and the pledge or assignment thereof.

5. For the purposes of furthering the development of the infrastructure of the Battery Park project area and repaying appropriations from the state to the authority pursuant to this section, the authority may, in addition to the authorization contained in subdivision one of section nineteen hundred seventy-seven-a of this title, borrow money by issuing bonds or notes in an aggregate principal amount not exceeding one hundred million dollars plus a principal amount of bonds or notes issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest, and (iii) to provide fees and other charges and expenses, including underwriters' discount,

related to the issuance of such bonds or notes and the maintenance of such reserves, all as determined by the authority, excluding bonds and notes issued to refund outstanding bonds and notes issued pursuant to this section.

In computing the total principal amount of bonds and notes that may at any time be issued for any purpose under this title, the amount of the outstanding bonds or notes that constitutes interest under the United States Internal Revenue Code of nineteen hundred fifty-four, as amended to the effective date of this section, shall be excluded.

6. The authority may covenant and consent that the interest on any of its bonds or notes issued pursuant to subdivision five of this section shall be includible, under the United States Internal Revenue Code of nineteen hundred fifty-four or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law.

7. The state of New York does pledge to and agree with the holders of any bonds or notes issued by the housing New York corporation under section six hundred fifty-four-c of the private housing finance law, that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with such corporation to assign any excess revenues, or in any way impair the rights and remedies of such corporation thereunder, until the bonds and notes, together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders and noteholders are fully met and discharged.

8. It is the intention of the legislature that any assignment of excess revenues or portion thereof by the authority pursuant to this section shall be valid and binding from the time when the assignment is made in accordance with its terms; that the excess revenues so assigned

by the authority shall immediately be subject to the lien of such assignment without any physical delivery thereof or further act, and that the lien of any such assignment shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution or any other instrument by which an assignment is created need be recorded.

§ 1974-d. Contracts. In connection with development, construction, operations and maintenance contracts for projects of the authority, minority and women-owned business enterprises and minority group members and women shall be given the opportunity for meaningful participation. The authority shall establish measures and procedures to secure meaningful participation by minority and women-owned business enterprises on contracts for projects of the authority. Such measures and procedures shall also promote the employment of minority group members and women on such contracts. For the purposes thereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or American Indian, and such ownership interest is real, substantial and continuing and "women-owned business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident noncitizens who are women and such ownership interest is real, substantial and continuing. The provisions of this section shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract. In order to implement the requirements and objectives of this section in connection with such projects, the authority shall be responsible for monitoring compliance with the provisions hereof, providing advice on the availability of competitive qualified minority and women-owned business enterprises to perform contracts proposed to be awarded, and making recommendations to improve the access of minority and women-owned business enterprises to these contracts.

§ 1975. Moneys of the authority. 1. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the authority. The moneys in such accounts shall be paid by the treasurer or other agent duly designated by the authority on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys, shall, if required by the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. The obligations shall either be deposited with the treasurer or be held by a trustee or agent satisfactory to the authority. The comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

2. Notwithstanding any provision of law to the contrary, the authority is hereby authorized to contribute two hundred million dollars to the state treasury to the credit of the general fund.

3. Any moneys of the authority, including the proceeds of bonds or notes, not required for immediate use may, at the discretion of the authority be invested in obligations of the state or of the United States of America or obligations the principal of and interest on which are guaranteed by the state or the United States of America, or in any other obligations in which the comptroller of the state of New York is authorized to invest pursuant to section ninety-eight of the state finance law.

4. The authority shall have power to contract with holders of any of its bonds or notes, as to the custody, collection, securing, investment,

and payment of any moneys of the authority, of any moneys held in trust or otherwise for the payment of bonds or notes, and to carry out such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

5. Subject to the provisions of any contract with bondholders or noteholders and to the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 1976. Bonds of the authority. * 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for any corporate purpose, including incidental expenses in connection therewith. The authority shall have power from time to time and whenever it deems refunding expedient to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Except as may be otherwise expressly provided by the authority, every issue of bonds by the authority shall be general obligations payable out of any moneys, earnings, or revenues of the authority, subject only to any agreements with the holders of particular bonds, pledging any particular moneys, earnings or revenues.

* NB There are two sub one's

* 1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds for any corporate purpose, including incidental expenses in connection therewith. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Except as may be otherwise expressly provided by the authority, every issue of bonds by the authority shall be general obligations payable out of any moneys, earnings, or revenues of the

authority, subject only to any agreements with the holders of particular bonds, pledging any particular moneys, earnings or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds for registration.

* NB There are two sub one's

2. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms of redemption prior to maturity as such resolution or resolutions may provide.

3. All bonds of the authority shall be sold at public or private sale as may be determined by the authority.

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

(a) pledging all or any part of the moneys, earnings, income and revenues derived from the project to secure the payment of the bonds or of any issue of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed, established and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

(d) limitations on the right of the authority to restrict and regulate the use of the project;

(e) limitations on the purposes to which and the manner in which the proceeds of sale of any bonds or any issue of bonds may be applied;

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

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

(h) the creation of special funds into which any earnings or revenues of the authority may be deposited;

(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of its properties;

(m) limitations on the amount of moneys derived from the project to be expended for operating, administrative and other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the project and the safeguarding and application of all moneys;

(p) the payment of the proceeds of bonds and revenues of the project to a trustee or other depositary, and for the method of disbursement thereof and such safeguards and restrictions as the authority may determine;

(q) any other matters, of like or different character which may in any way affect the security or protection of the bonds.

5. It is the intention of the legislature that any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

6. Neither the members of the authority nor any person executing the bonds or other obligations shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority shall have power out of any funds available therefor to purchase (as distinguished from the power of redemption hereinabove provided) any bonds, and all bonds so purchased shall be cancelled.

8. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the project, and the custody, safeguarding and application of all moneys. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project to

the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the project. If the bonds shall be secured by a trust indenture the bondholders shall have no authority to appoint a separate trustee to represent them.

§ 1977. Notes of the authority. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of such notes, including renewals thereof, shall not exceed seven years from the date of issue of such original note. Such notes shall be payable from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes may be issued for any corporate purpose of the authority. Whether or not the notes are of the form and character as to be negotiable instruments under article eight of the uniform commercial code, the notes shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to provisions of the notes for registration. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale. The authority shall have power to make contracts for the future sale from time to time of the notes, pursuant to which the purchaser shall be committed to purchase the notes from time to time on terms and conditions stated in the contracts, and the authority shall have power to pay such consideration as it shall decree proper for such commitments. In case of default on its notes or violation of any obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

§ 1977-a. Bond and Note Authorization. 1. (a) For the purpose of financing project costs for the project for the Battery Park project area other than the financing of loans, advances and mortgage loans to housing companies organized to provide housing within the Battery Park project area, the authority may issue bonds and notes in an aggregate principal amount at any one time outstanding not exceeding three hundred million dollars, excluding bonds and notes issued to refund outstanding bonds and notes.

(b) Commodities and futures exchange facility. For the purpose of financing project costs to further the development of a commodities and futures exchange facility as part of the project to be located in the Battery Park project area, the authority may, in addition to the authorizations contained elsewhere in this title, borrow money by issuing bonds or notes in an aggregate principal amount not exceeding one hundred ten million dollars plus a principal amount of bonds or notes issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest, and (iii) to provide fees and other charges and expenses, including underwriters' discount, related to the issuance of such bonds or notes and the maintenance of such reserves, all as determined by the authority, excluding bonds and notes issued to refund outstanding bonds and notes issued pursuant to this section. The authority may make loans from the proceeds of such issuance and may make temporary loans or advances, for the purpose of developing a commodities and futures exchange within the Battery Park project area, and may undertake commitments therefor. Any such loans, advances or commitments shall be secured by a mortgage on or security interest in the property interests of such exchanges within the Battery Park project area and shall contain such terms and conditions not inconsistent with the provisions of this title as the authority may deem necessary or desirable to secure payment of its loan, the interest thereon and other changes in connection therewith.

(c) Additional authorizations. In addition to the authorizations contained elsewhere in this title, the authority may issue indebtedness for the purpose of refunding outstanding indebtedness of the housing New York corporation which is secured by revenues of the authority, and indebtedness for the purpose of refunding such refunding indebtedness issued by the authority including the funding of reserves and providing for fees and other charges and expenses, including underwriters' discounts, related to the issuance of such refunding bonds or notes, all as determined by the authority.

(d) Additional authorizations. For the purpose of financing capital costs in connection with development of the project area, the authority may, in addition to the authorizations contained elsewhere in this title, borrow money by issuing bonds or notes in an aggregate principal amount not exceeding one hundred fifty million dollars plus a principal amount of bonds or notes issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest, and (iii) to provide for fees and other charges and expenses including any underwriters' discounts, related to the issuance of such bonds or notes, all as determined by the authority, excluding bonds and notes issued to refund outstanding bounds and notes issued pursuant to this section.

(e) Additional authorizations. For the purpose of financing costs of the state, the authority may, in addition to the authorizations contained elsewhere in this title, borrow money by issuing bonds or notes in an aggregate principal amount not exceeding two hundred fifty million dollars plus a principal amount of bonds or notes issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest, and (iii) to provide for fees and other charges and expenses including any underwriters' discounts, related to the issuance of such bonds or notes, all as determined by the authority, excluding bonds and notes issued to refund outstanding bonds and notes issued pursuant to this section.

(f) Additional authorizations. For the purpose of financing capital costs in connection with a program of infrastructure construction, improvements and other capital expenditures for the project area, the authority may, in addition to the authorizations contained elsewhere in this title, borrow money by issuing bonds and notes in an aggregate principal amount not exceeding two billion five hundred million dollars, plus a principal amount of bonds or notes issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest, and (iii) to provide for fees and other charges and expenses including any underwriters' discounts, related to the issuance of such bonds or notes, all as determined by the authority, excluding bonds and notes issued to refund outstanding bonds and notes issued pursuant to this section.

2. For the purposes of financing loans, advances and mortgage loans to housing companies organized pursuant to article two, article four or article eleven of the private housing finance law, including subsidiaries of the authority, for housing accommodations to be erected in the Battery Park project area, the authority may issue bonds and notes in an aggregate principal amount at any one time outstanding not exceeding four hundred million dollars, excluding bonds and notes issued to refund outstanding bonds and notes.

3. The fixing of the statutory maximums as provided in subdivisions one and two of this section shall not be construed as constituting a contract between the authority and the holders of its bonds or notes that additional bonds and notes may not be issued subsequently by the authority in the event that such statutory maximums shall subsequently be increased by law.

4. The authority shall have the power to enter into interest rate exchange agreements, which shall mean written contracts entered into in connection with the issuance of authority debt or in connection with such authority debt already outstanding to provide for exchange of payments based upon fixed and/or variable interest rates, and shall be for exchanges in currency of the United States of America only. The authority shall have the power: (a) until December thirty-first, two thousand three, to enter into such interest rate exchange agreements, and (b) thereafter to enter into replacements and substitutions for and amendments to exchange agreements, provided that no such replacement, substitution or amendment shall increase the notional principal amount under an exchange agreement or extend the term of an exchange agreement. The authority shall be subject to subdivision three of section sixty-nine-d of the state finance law.

§ 1977-b. Reserve funds and appropriations. 1. In addition to setting aside of such other reserves or sinking funds as it shall deem advisable and necessary, and the regulation and disposition thereof, the authority shall create and establish a special fund to be known as and hereinafter called the "Battery Park project area capital reserve fund" and shall pay into such fund (a) any moneys appropriated and made available by the state only for the purposes of such fund, (b) any proceeds of sale of any bonds issued to finance the Battery Park project area to the extent provided in the resolution of the authority authorizing the issuance thereof, (c) any funds directed to be transferred by the authority to such fund, and (d) any other moneys made available to the authority only for the purposes of such fund from any other source or sources. The moneys held in or credited to such capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of such bonds or of the sinking fund payments hereinafter mentioned with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when any of such bonds are redeemed prior to maturity; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the amount of the Battery Park project area capital reserve fund requirement hereinbelow referred to, except for the purpose of making with respect to such bonds payment, when due, of principal, interest and the sinking fund payments hereinafter mentioned for the payment of which other moneys of the authority are not available. Moneys in such capital reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the United States of America or obligations the principal and interest of which are guaranteed by the state or the United States of America or obligations of agencies of the United States of America which may from time to time be legally purchased by savings banks of the state as investment of funds belonging to them or in their control. In computing the amount of such capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par or, if purchased at less than par, at their cost to the authority.

2. The authority shall not issue any of such bonds at any time secured by such capital reserve fund if the amount in such capital reserve fund

at the time of issuance does not equal or exceed the amount of said capital reserve fund requirement unless the authority at the time of issuance of such bonds shall deposit in such fund from the proceeds of such bonds or other sources an amount which together with the amount then in such fund will not be less than the amount of said capital reserve fund requirement.

3. In order to assure the continued operation and solvency of the authority for the fulfillment of its corporate purposes with respect to the Battery Park project area, the chairman of the authority shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore such capital reserve fund to the amount as of the particular date of computation equal to the greatest (herein sometimes called the "Battery Park project area capital reserve fund requirement") of the respective amounts for the then current or any future fiscal year of the authority, of annual debt service with respect to such bonds, such annual debt service for any fiscal year being the amount of money equal to the aggregate of (a) all interest payable during such fiscal year on all such bonds outstanding on said date of computation, plus (b) the principal amount of all such bonds outstanding on said date of computation which mature during such fiscal year, plus (c) all amounts specified in any resolution of the authority authorizing any of such bonds as payable during such fiscal year as a sinking fund payment with respect to any of such bonds which mature after such fiscal year, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due and the payment when due and application in accordance with the resolution authorizing those bonds of all of such sinking fund payments payable at or after said date of computation; and there shall be annually apportioned and paid to the authority for deposit in such capital reserve fund the sums so certified by the chairman of the authority. All sums so apportioned and paid shall be deposited by the authority in such capital reserve fund. The principal amount of bonds secured by such capital reserve fund to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of

this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed two hundred million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

4. All amounts paid over to the authority by the state pursuant to the provisions of this section shall constitute and be accounted for as advances by the state to the authority and, subject only to the rights of the holders of any bonds or notes of the authority theretofore or thereafter issued, shall be repaid to the state from all available operating revenues of the authority in excess of the capital reserve fund requirement and operating expenses.

5. As used in this section, (a) the term "operating expenses" for the fiscal year shall mean ordinary expenditures for operation and administration of the authority; and (b) the term "available operating revenues" for the fiscal year shall mean all amounts received on account of rentals and fees charged by the authority, if any, and income or interest earned or added to funds of the authority due to the investment thereof, and not required under the terms or provisions of any convenant or agreement with holders of any bonds or notes of the authority to be applied to any purposes other than payment of expenses of the authority.

6. This section is applicable only to the Battery Park project area capital reserve fund.

§ 1977-c. Reserve funds and appropriations for loans, advances and mortgage financing to housing companies.

1. Definitions.

(a) "Revenues". All amounts received on account of fees and other charges imposed by the authority for loans, advances and mortgage loans, if any, and all or any part of the moneys received in payment of loans, advances and mortgage loans and interest thereon, including prepayments.

(b) "Housing loan capital reserve fund requirement". The amount of money, as of any particular date of computation and with reference to outstanding bonds issued by the authority for the purposes of financing loans, advances and mortgage loans to housing companies, equal to the greatest of the respective amounts for the then current or any future fiscal year of the authority, of annual debt service with respect to such bonds.

For purposes of the housing loan capital reserve fund requirement, "annual debt service" shall mean an amount of money equal to the aggregate of:

(i) All interest payable during such fiscal year on all such bonds outstanding on said date of computation; plus,

(ii) The principal amount of all such bonds outstanding on said date of computation which mature during such fiscal year; plus,

(iii) All amounts specified in any resolution of the authority authorizing any of such bonds as payable during such fiscal year as a sinking fund payment with respect to any of such bonds which mature after such fiscal year, such sinking fund payments to be calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due and the payment when due and application in accordance with the resolution authorizing those bonds of all of such sinking fund payments payable at or after said date of computation.

(c) "Operating expenses". All ordinary expenditures for operation and administration of the authority in connection with its loans, advances and mortgage loans to housing companies.

(d) "Amortized value". When used with respect to securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (a) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (b) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

2. Reserve funds. (a) In addition to the setting aside of such other reserves or sinking funds as it shall deem advisable and necessary, and the regulation and disposition thereof, the authority may create and establish one or more capital reserve funds for bonds issued by the authority for the purposes of financing loans, advances and mortgage loans to housing companies.

(b) The authority shall pay into each such fund: (i) any monies appropriated and made available by the state only for the purposes of such fund; (ii) any proceeds of the sale of any bonds issued to the extent provided in the resolution of the authority authorizing the issuance of such bonds; (iii) any moneys directed to be transferred by the authority to such fund; and (iv) any other moneys made available to the authority only for the purposes of such fund from any other source or sources.

(c) The moneys held in or credited to each such capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds issued to finance loans, advances and mortgage loans to housing companies or of the sinking fund payments with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when any of such bonds are redeemed prior to maturity; provided, however, that moneys in such capital reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the amount of the housing loan capital reserve fund requirement therefor, except for the purpose of making with respect to such bonds payment, when due, of principal, interest and the sinking fund payments for the payment of which other moneys of the authority are not available. All income or interest earned by, or increment to, each such capital reserve fund due to the investment thereof may be transferred by the authority to other funds or accounts of the authority to the extent it does not reduce the amount of such capital reserve fund below the housing loan capital reserve fund requirement therefor.

(d) Moneys in such a capital reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the United States of America or obligations the principal of and interest on which are guaranteed by the state or the United States of America or obligations of agencies of the United States of America or obligations which may from time to time be legally purchased by savings banks of the state, as investment of funds belonging to them or in their control. In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par if purchased at par or, if purchased at other than par, at their amortized value.

(e) The authority shall not issue any bonds at any time secured by such a capital reserve fund if the amount in the capital reserve fund which will secure such bonds at the time of issuance does not equal or exceed the amount of the housing loan capital reserve fund requirement for such fund unless the authority at the time of issuance of such bonds shall deposit in such fund from the proceeds of such bonds or other sources an amount which together with the amount then in such fund will not be less than the amount of the housing loan capital reserve fund requirement for such fund.

3. Preservation of solvency. (a) In order to assure the continued operation and solvency of the authority for the fulfillment of its corporate purposes, the chairman of the authority shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore each capital reserve fund to the housing loan capital reserve fund requirement therefor. There shall be annually apportioned and paid to the authority for deposit in each such capital reserve fund the sum so certified by the chairman of the authority as required to restore such capital reserve fund to the housing loan capital reserve fund requirement therefor. All sums so apportioned and paid shall be

deposited by the authority in the respective capital reserve funds. The principal amount of bonds secured by a capital reserve fund or funds to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed eighty-five million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(b) All amounts paid over to the authority by the state pursuant to the provisions of this section shall constitute and be accounted for as advances by the state to the authority and, subject only to the rights of the holders of any bonds or notes of the authority theretofore or thereafter issued, shall be repaid to the state from all available revenues of the authority in excess of housing loan capital reserve fund requirements and operating expenses.

4. Applicability. This section is applicable solely to capital reserve funds for bonds issued to finance housing loans, advances and mortgage loans and is not applicable to the Battery Park project area capital reserve fund.

§ 1978. Agreements of the state. The state of New York does pledge to and agree with the holders of the bonds and notes that the state will not limit or alter the rights hereby vested in the authority to acquire, lease, mortgage or dispose of real or personal property or any interest therein or construct, improve, enlarge, operate and maintain the project, to fix, establish and collect the rates, rentals, fees and other charges referred to in this act and to fulfill the terms of any agreements made with the holders of the bonds and notes, or in any way impair the rights and remedies of such bondholders and noteholders until the bonds and notes, together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders and noteholders are fully met and discharged.

§ 1979. State and city not liable on bonds and notes. The bonds, notes and other obligations of the authority shall not be a debt of the state of New York or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 1980. Bonds and notes legal investments for public officers and fiduciaries. The bonds and notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1981. Exemption from taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, the county of New York, and the city, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes upon any of the properties acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. All bonds, notes and other obligations issued pursuant to this title, together with the income therefrom, as well as the income and property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

§ 1982. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds and notes issued by the authority pursuant to this title, in consideration of the acceptance of and payments for the bonds and notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds and notes, shall at all times be free from taxation except for transfer and estate taxes.

§ 1983. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the Register of the city of New York in the county of New York and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the authority to collect revenues, rates, rentals, fees and other charges adequate to carry out any agreement as to, or pledge of such revenues, rates, rentals, fees and other charges and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders.

4. Before declaring the principal of all such bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee whether or not the issue of bonds represented by such trustee be declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of such project, and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from such part or parts of such project and proceed with any construction thereon or the acquisition of any property, real or

personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom, subject to any pledge thereof or agreement with bondholders relating thereto, and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

6. Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1984. Actions. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

§ 1985. Limitation of liability. Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the acquisition, construction, improvement, enlargement, operation and maintenance of the project, or any part or parts thereof, or from carrying out any of the powers expressly given in this act.

§ 1986. Assistance by state officers, departments, agencies and commissions.

(1) The department of audit and control, department of law, the division of housing and community renewal and all other state agencies may render such services to the authority within their respective functions as may be requested by the authority.

(2) Upon request of the authority, any state agency is hereby authorized and empowered to transfer to the authority such officers and employees as it may deem necessary from time to time to assist the authority in carrying out its functions and duties under this title. Officers and employees so transferred shall not lose their civil service status or rights.

§ 1987. Separability. If any section, clause or provision of this title shall be held unconstitutional, or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall, on account thereof, be deemed invalid or ineffective.

§ 1988. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

TITLE 13

ONONDAGA COUNTY SOLID WASTE DISPOSAL AUTHORITY

§ 2015. Short title. This section shall be titled Onondaga county solid waste disposal authority.

§ 2016. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context.

1. The term "authority" shall mean the corporation created by section two thousand seventeen of this title;

2. The term "county" shall mean the county of Onondaga;

3. The term "treasurer" shall mean the treasurer of the authority;

4. The term "comptroller" shall mean the comptroller of the state of New York;

5. The term "personnel commissioner" shall mean the personnel commissioner of the county of Onondaga;

6. The term "properties" shall mean the receiving/transfer and/or treatment stations including the plants, works, instrumentalities or part thereof and appurtenances thereto, lands, easements, rights in land, rights-of-way, contract rights, franchises, approaches and equipment;

7. The term "bonds" shall mean the bonds, notes and obligations, issued by the authority, pursuant to this act;

8. The term "revenues" shall mean all charges and other income derived by the operation of the authority;

9. The term "municipality" shall mean any county, city, town, village, town water district, fire district, fire protection district, fire alarm district, school district, and any other political subdivision of the state.

§ 2017. Onondaga county solid waste disposal authority. 1. A corporation known as the "Onondaga county solid waste disposal authority" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall consist of five members, all of whom shall be residents of the county, who shall be appointed by the county executive of the county of Onondaga subject to confirmation by a majority of the Onondaga county legislature. The first members shall be appointed for the following terms from the effective date of this act, as follows: two for a term of three years, two for a term of two years and one for a term of one year. Subsequent appointments shall be made in the same manner and for terms of three years. All members shall continue to hold office until their successors are appointed and qualify. The first chairman shall be designated by the county executive. Subsequent chairmen shall be elected annually by the members of the authority. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointments by the county executive for the unexpired terms. Members of the authority may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the members at a meeting duly called and held and three members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least three members. The authority may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The authority and its corporate existence shall continue until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged and thereupon all rights and properties of the authority shall pass to and be vested in the county of Onondaga.

3. The officers of the authority shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. The vice-chairman, treasurer and secretary shall be appointed by the authority and shall serve at the pleasure of the authority. The authority may appoint and at pleasure remove an attorney and an engineer, which positions, in addition to the position of secretary, shall be in the exempt class of the civil service, and such additional officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law of the state of New York. The authority may also from time to time contract for expert

professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the authority and the premium therefor shall be paid by the authority.

4. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the county of Onondaga and the state of New York, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

5. Upon creation of the authority, from time to time the county legislature may, by resolution, appropriate sums of money to defray the preliminary expenses of the authority. The moneys so appropriated shall be repaid by the authority to the county out of the proceeds of the first bond issue of the authority.

§ 2018. Powers of the authority. The authority shall have power:

1. To sue and be sued;

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

3. To acquire, in the name of the authority, lease, hold and dispose of real estate and personal property or any interest therein for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the exercise of the power of condemnation hereinafter granted;

4. To acquire in the name of the authority any lands, easements, rights in lands, contract rights and franchises for the purpose of erecting receiving/transfer stations and/or treatment stations including equipment or any other property incidental to and included in such improvements;

5. To receive, transport, process and dispose of solid waste materials;

6. To condemn in the name of the authority, within the territorial limits of the county of Onondaga, any lands, easements or rights in land required by the authority for the purpose of constructing and erecting proper receiving/transfer and/or treatment stations;

7. To construct and develop disposal sites for solid waste materials within the county of Onondaga, and to have the right to contract with other municipalities or any other governmental subdivision for disposal outside the county of Onondaga, and to purchase, lands, easements, rights in lands and rights-of-way in connection therewith within such county and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to provision of this title, any of its properties acquired or constructed under this title, all of which, together with the acquisition of such properties, are hereby declared to be public purposes;

8. To receive from any or all municipalities, as well as private parties, within the county of Onondaga, or from such other sources as the authority may deem proper, solid wastes for the purpose of disposal thereof, with the right of the authority to sell and dispose of any such products of the waste material as they may deem best and proper;

9. To contract with municipalities within the county of Onondaga or outside the county of Onondaga or with private contractors for the purpose of treating and disposing of solid waste materials;

10. To acquire, hold, use, lease, sell, transfer and dispose of any property, real, personal or mixed, or any interest therein, for its corporate purposes;

11. To make by-laws for the management and regulation of its affairs and subject to agreements with bondholders, rules for the receiving and disposing of solid wastes and charges therefor. A copy of such rules and

by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of the county and thereafter published once in two newspapers having a general circulation in the county;

12. To use the officers, employees, facilities and equipment of the county with the consent of the county, paying a proper portion of the compensation or cost;

13. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

14. To enter on any lands, waterways and premises for the purpose of making surveys, soundings and examinations;

15. To borrow money and to issue negotiable bonds or notes or other obligations and to fund or refund the same, and to provide for the rights of the holders of its obligations;

16. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, notes or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority;

17. To accept grants, loans or contributions from the United States, the state of New York, or any agency or instrumentality of either of them, or the county, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

18. To do all things necessary or convenient to carry out the powers

expressly given in this title.

§ 2019. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state of New York designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer on requisition by the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York or of the county of a market value equal at all times to the amount of deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives of the county of Onondaga, and the comptroller if they so elect, are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, security, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

§ 2020. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any of its corporate purposes, including incidental expenses in connection therewith, and to secure the payment of the same by a lien or pledge covering all or part of its contract, earnings or revenues. The authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Except as may be otherwise expressly provided by the authority, every issue of bonds by the authority shall be general obligations payable out of any moneys, earnings or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys, earnings or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under the terms of negotiable instruments law (constituting chapter thirty-eight of the consolidated laws) the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the negotiable instruments law, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at the best possible interest rate per annum as may be obtainable, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide.

All bonds of the authority shall be sold at public or private sale as the authority shall determine. No bonds of the authority may be sold at private sale, however, unless such sale and the terms thereof have been approved by the county legislature. If such bonds are sold at public sale, such sale shall be upon sealed bids to the bidder who shall offer the lowest interest cost to the authority to be determined by the authority. Notice of any public sale shall be published at least once, not less than ten nor more than forty days before the date of sale, in a financial newspaper published and circulated in the city of New York and designated by the authority. The notice shall call for the receipt of sealed bids and shall fix the date, time and place of sale.

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

(a) pledging all or any part of the moneys, earnings, income and revenues derived from all or any part of the properties of the authority to secure the payment of the bonds or of any issue of the bonds subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

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

(d) limitations on the right of the authority to restrict and regulate the use of the properties in connection with which such bonds are issued;

(e) limitations in the purposes to which and the manner in which the proceeds of sale of any issue of bonds may be applied;

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

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

(h) the creation of special funds into which any earnings or revenues of the authority may be deposited;

(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section eleven hundred forty-three hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of its properties;

(m) any other matters, of like or different character which in any way affect the security or protection of the bonds;

(n) limitations on the amount of moneys derived from the properties to be expended for operating, administrative or other expenses of the authority;

(o) the protection and enforcement of the rights and remedies of the bondholders;

(p) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(q) the payment of the proceeds of bonds and revenues of the the properties to a trustee or other depositary, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine.

4. It is in the intention of the legislature that any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the authority nor any person executing the bonds or other obligations shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The authority shall have power out of any funds available therefor to purchase (as distinguished from the power of redemption hereinabove provided) any bonds issued by it or which may be assumed by such authority at a price of not more than the principal amount thereof and accrued interest, and all such bonds shall be cancelled.

7. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the properties, and the custody, safeguarding and application of all moneys, and may provide that the properties shall be constructed and paid for under the supervision and approval of consulting engineers. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the properties to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the properties. If the bonds shall be secured by a trust indenture the bondholders shall have no authority to appoint a separate trustee to represent them.

Notwithstanding any other provisions of this title, any resolution or resolutions authorizing bonds or notes of the authority shall contain a covenant by the authority that it will at all times maintain rates, fees, rentals and/or other charges sufficient to pay, and that any contracts entered into by the authority for the receipt and treatment and/or disposal of solid wastes shall contain rates, fees, rentals or other charges sufficient to pay, the cost of operation and maintenance of the properties, the principal of and interest on any obligation issued pursuant to such resolution or resolutions as the same severally become due and payable, and to maintain any reserves or other funds required by the terms of such resolution or resolutions.

§ 2021. Notes of the authority. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale at not less than par and shall bear interest at the legal interest rate. Such notes shall be as fully negotiable as the bonds of the authority.

§ 2022. Duty of authority to maintain and operate. It shall be the duty of the authority, subject to any limitation on the amount of revenues to be expended for such purpose, to maintain and operate and where necessary to reconstruct its properties.

§ 2023. Transfer of officers and employees. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board or department by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authorty. But notwithstanding the provisions of this act, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers or employee, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the state civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. It is hereby declared that in the interest of efficiency and in so far as it may be practicable, all employees engaged in the operation of any property or properties, except in an executive capacity, at the time such property or properties shall have been acquired by the authority, pursuant to the provisions of this act, shall become the employees of the authority. The authority shall be deemed an employer within the meaning of the state labor relations law. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law (constituting chapter seven of the consolidated laws).

§ 2024. Agreements of the state. The state of New York does pledge to and agree with the holders of the bonds or notes that the state will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, operate, reconstruct and improve the properties, to establish and collect the revenues, rates, rentals, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or notes, or in any way impair the rights and remedies of such bondholders or noteholders, until the bonds or notes together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully met and discharged.

§ 2025. State, county and municipalities not liable on bonds or notes. The bonds or notes of the authority shall not be a debt of the state of New York or of the county or of any municipality in the county, and neither the state nor the county nor any municipality in the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 2026. Bonds and notes legal investments for fiduciaries. The bonds, or notes, are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds or notes shall not be eligible for the investment of funds including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds or notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 2027. Exemption from taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county of

Onondaga and its environments, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes upon any of the properties acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

§ 2028. Tax contract by the state. The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation except for transfer and estate taxes.

§ 2029. Officers and employees not to be interested in transactions. It shall be a misdemeanor for any of the members of the authority, or any officer, agent, servant or employee thereof, employed or appointed by them to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2030. Contracts. All contracts, or orders, for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure of more than two thousand five hundred dollars shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed proposals shall be published at least once in a newspaper or trade paper selected by the authority for such purpose, such publication to the be at least ten days before the date for the receipt of bids. If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest bidder, unless the authority shall determine that it is for the public interest that a bid other than the lowest bid should be accepted. In any contract for work, material or supplies, there shall be inserted in the discretion of the authority a provision that additional work may be done or material or supplies furnished for the purpose of completing such contract at an expense not exceeding fifteen per centum of the amount of such contract if such additional work, materials or supplies shall be ordered by the authority. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain for such period as shall be stipulated any construction done under the contract, all in the manner prescribed and required by the authority; and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the authority or its duly authorized agent. If the bidder whose bid has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security the authority shall have the right to declare his deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the authority may, if the best interest of the authority be thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made; and the authority shall in the manner provided herein readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the subcontract or subcontracts so adopted. No bid shall be accepted from or any contracts awarded to, any person or corporation who is in arrears to the authority, or the county of Onondaga upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation of the authority, or the county. Every contract involving an expenditure of more than two thousand five hundred dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor.

§ 2031. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Onondaga and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(a) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the authority to collect revenues, rates, rentals, fees and other charges adequate to carry out any agreement as to, or pledge of such revenues, rates, rentals, fees and other charges and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul

such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders.

4. Before declaring the principal of all such bonds due and payable the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the properties and subject to any pledge or agreement with bonders shall take possession of all moneys and other property derived from such part or parts of the properties and proceed with any construction thereon or the acquisition of any property, real or personal in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appopriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 2032. Actions. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

§ 2033. Audit of authority; annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and such state comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and the books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. The authority shall annually submit to the governor and the comptroller and to the legislature a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the chief fiscal officer of the county.

§ 2034. Limitation of liability. Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance or operation of the properties or any of the improvements or from carrying out any of the powers expressly given in this title.

§ 2035. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be held unconstitutional, or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall, on account thereof, be deemed invalid or ineffective.

§ 2036. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of any city, the provisions of this title shall be controlling. Nothing contained in this title shall be held to alter or abridge the powers and duties of the state department of health over solid waste disposal matters.

*** § 2037. Limitation on power of the authority.** Notwithstanding any other provision of this title, the authority, on and after the effective date of this section, shall not exercise any of the powers granted pursuant to subdivisions three, four, six, seven, eight, nine, ten, thirteen, fourteen and fifteen of section two thousand eighteen, or section two thousand twenty or two thousand twenty-one of this title, without approval by resolution of the county legislature; provided, however, that the authority may continue to exercise such powers granted pursuant to subdivisions three, four, six, seven, eight, nine, ten, thirteen, fourteen and fifteen of section two thousand eighteen of this title as may be necessary for the routine operation and ordinary maintenance of the properties of the authority unless the county legislature otherwise acts to the contrary within forty-five days of the submission to the county legislature of a request by the authority for approval to exercise any such powers.

* NB Expired April 1, 1982

TITLE 13-AA

MONTGOMERY, OTSEGO, SCHOHARIE SOLID WASTE MANAGEMENT AUTHORITY

§ 2041. Short title. This title shall be known and may be cited as the "Montgomery, Otsego, Schoharie solid waste management authority act".

§ 2041-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Area of operation" shall mean any or all of the participating counties.

2. "Authority" shall mean the public benefit corporation created by section two thousand forty-one-b of this title, known as the Montgomery, Otsego, Schoharie solid waste management authority.

2-a. "Authorities budget office" shall mean the independent entity within the department of state established pursuant to section four of this chapter.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders which shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Construction" shall mean the acquisition, erection, building, alteration, repair, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management resource recovery facility including any appurtenances thereto which may be necessary or desirable to promote the efficiency or effectiveness of a project; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

5. "Cost", as applied to any contract, means and includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land and the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems,

facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to a county, any municipality, state authority, the state, the United States government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

6. "Governing body" shall mean the members of the authority constituting and acting as the governing body of the authority.

7. "Legislative body" or "legislative bodies" shall mean any or all of the boards of supervisors of the counties of Montgomery and Schoharie and the board of representatives of the county of Otsego.

8. "Municipality" shall mean any county, including any participating county, city, town, village, refuse district under the county law, improvement district under the town law, any other such instrumentality, including an agency or public corporation of the state, or any of the foregoing, or any combination thereof.

9. "Participating counties" shall mean those of the counties of Montgomery, Otsego and Schoharie that shall have appointed members of the authority and shall have filed a certificate in accordance with section two thousand forty-one-b of this title.

10. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

11. "Primary public water supply aquifer" shall mean a highly

productive water bearing formation identified by the department consisting of unconsolidated (non-bedrock) geologic deposits, which: (1) receives substantial recharge from the overlying land surface; and (2) is presently utilized as a major source of water for public water supply.

12. "Principal aquifer" shall mean unconsolidated (non-bedrock) geologic deposits identified by the department which: (1) receives substantial recharge from the overlying land surface; (2) is known to be highly productive or whose geology suggests a potentially abundant source of water; and (3) is not presently used as a major source of water for public water supply.

13. "Project" shall mean any solid waste management resource recovery facility and any appurtenances thereto necessary or desirable to promote the efficiency or effectiveness of any facility, of which, or any portion of which, the planning, development, financing, construction, operation or maintenance is authorized to be undertaken in whole or in part by the authority pursuant to this title.

14. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands underwater, riparian rights, air rights, space rights and any fixtures, equipment and articles of personal property affixed to or used in connection therewith, and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgment, mortgages or otherwise and all claims for damages for such real estate.

15. "Resource recovery" shall mean the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, incineration, recycling centers or other programs, projects or facilities.

16. "Revenues" shall mean all rates, fees, rents, charges and other income derived by the authority from its operations.

17. "Solid waste" shall mean all putrescible and non-putrescible solid wastes, including, but not limited to, materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, or are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded, having served their intended use, or are a manufacturing by-product, including, but not limited to, garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations and from community activities, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

18. "Solid waste management resource recovery facility" or "facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is being used, occupied or employed for or is incidental to the collecting, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution and related plants and facilities, sanitary landfills, leachate treatment facilities, plants and facilities for compacting, composting or

pyrolization of solid wastes, secure land burial facilities, landspreading facilities, surface impoundments and waste oil storage, reprocessing and recycling facilities, incinerators, and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law. Any such facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in subdivision two-a of section two of the public service law.

19. "Source separation" shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

20. "State" shall mean the state of New York.

§ 2041-b. Montgomery, Otsego, Schoharie solid waste management authority. 1. A corporation known as the Montgomery, Otsego, Schoharie solid waste management authority is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation consisting of members appointed by the participating counties. Its membership shall consist of a board of no more than eight members, who shall be appointed as follows: three members from the county of Montgomery to be appointed by the chairman of the board of supervisors and confirmed by the board of supervisors of such county all of whom shall be residents of the county and at least one of whom shall be a resident of the city of Amsterdam; three members from the county of Otsego to be appointed by the chairman of the board of representatives and confirmed by the board of representatives of such county all of whom shall be residents of the county and at least one of whom shall be a resident of the city of Oneonta; two members from the county of Schoharie both of whom shall be residents of the county, and who shall be appointed by the chairman of the board of supervisors and confirmed by the board of supervisors of such county. The first members of the authority shall be appointed for the following terms from the thirty-first day of December of the year in which this title shall take effect; one member each to be appointed by each county for a term of four years; one member each to be appointed by each county for a term of two years; one member to be appointed by the county of Montgomery for a term of three years; one member to be appointed by the county of Otsego for a term of three years. Subsequent appointments of members shall be made in the same manner and for terms of four years ending in each case on the thirty-first day of December of the last year of each such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies occurring at the end of a term shall each be filled in the manner provided for original appointment and for a four year term. Vacancies occurring otherwise than by expiration of a term shall be filled by the affected participating county in the same manner respectively, for the unexpired terms. Members may be removed from office by the governing body of the county from which appointed for inefficiency, neglect of duty or misconduct in office after the authority or governing body has given such member a copy of the charges against him and an opportunity to be heard in person or by counsel in his defense, upon not less than ten days notice. If any member shall be so removed, there shall be filed with the chairman of the authority and the chairman of such governing body a complete statement of charges made against such member and the findings of the governing body thereon, together with a complete record of the proceeding.

2. The members of the authority shall receive no compensation for their services whether as members or officers of the authority but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in the members thereof in office from time to time and a majority of members shall constitute a quorum at any meeting of the authority. No vacancy in the membership of the authority shall impair the right of such members to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of this title may be authorized at a meeting of the authority by resolution approved by a majority of the total number of members then in office, which resolution shall take

effect immediately.

3. The officers of the authority shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the authority and a secretary, who need not be a member of the authority. Such officers shall be selected by the governing body and shall serve in such capacities at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove an executive director, an attorney, an engineer and such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority, which positions shall be in the exempt class of civil service, and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law, provided however, that no elected official of a participating county or any municipality therein shall be appointed as an employee of the authority; provided, however, that nothing contained in this section shall prohibit an elected official of a participating county or municipality therein from furnishing work, materials, supplies or labor pursuant to a contract which the authority is empowered to make pursuant to this title. The governing body may delegate to one or more of its members, officers, agents, or employees such powers and duties as it may deem proper. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the governing body and the premium for which shall be paid by the authority.

4. (a) Each of the counties of Montgomery, Otsego and Schoharie electing to participate in the authority shall file, on or before October first of the year following the year in which this title shall take effect, in the office of the secretary of state, a certificate signed by the chairman of its legislative body setting forth: the name of the authority; the names of the members appointed by that county; and the effective date of this title.

(b) The authority shall be perpetual in duration and shall continue until terminated by law, except if the certificate referred to in paragraph (a) of this subdivision is not filed by two or more counties on or before the date specified in such paragraph, then the corporate existence of the authority shall thereupon terminate and it shall be deemed to be and shall be dissolved, provided, however, that no such termination shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon any termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and be vested in the participating counties in accordance with such law.

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

§ 2041-c. Advances on behalf of authority; transfer of property to authority; acquisition of property by participating counties for authority. 1. In addition to any powers granted to it by law, any participating county may by resolution advance sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority to be incurred prior to the first issuance of bonds. Subject to the rights of any bondholders, the moneys so appropriated may be repaid by the authority to the participating county at such time and in such manner as may be agreed upon between the authority and the participating county.

2. Any participating county or any other municipality within the area of operation may give, grant, sell, convey, loan or license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of any bondholders, as the authority and the participating county or other municipality may agree.

3. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority or any participating county from the state may be used for any corporate purpose of the authority.

§ 2041-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued.

2. To have a seal and alter the same.

3. To acquire in the name of the authority, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein, without limitation, for its corporate purposes.

4. To condemn, in the name of the authority pursuant to the eminent domain procedure law, any real property within the area of operation and required by the authority to carry out the powers granted by this title.

5. To collect, receive, extract, transport, process, dispose of, sell, store, convey, recycle, and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any solid waste management resource recovery facility. Any such disposal or sale may be effected on such terms and in such manner as the authority may deem proper.

6. To plan, develop, purchase and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with municipalities or persons within or without the area of operation and to own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, replace, enlarge, increase and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to enter into contracts for any and all such purposes and for the management and operation of a project, and to sell,

lease, mortgage or otherwise dispose of any project or part thereof to the state, any person, public corporation, or municipality, subject to such conditions and limitations as the authority may determine to be in the public interest.

7. To assist in the planning, development and construction of and the financing of the cost of any project to be located in the area of operation whether or not such project is to be owned or operated by the authority, which assistance may include loans to any person or municipality.

8. To collect or receive from the United States, the state, any participating county, any other municipality, public corporation, corporation or person, solid waste for the purpose of treatment or disposal thereof, with the right of the authority to sell and dispose of any products or by-products, including energy, of such process of treatment or disposal, as the authority may deem proper.

9. To contract with any participating county, other municipalities, state agencies, public corporations, corporations or persons within or without the area of operation, for the purpose of collecting, receiving, treating and disposing of solid waste, including, without limitation, to contract with participating counties, other municipalities, state agencies, public corporations or persons for the delivery of all solid waste generated within a stated area to a specific facility.

10. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the authority, which by-laws and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the authority and in the office of the clerk of the legislative body of each participating county, and to provide for the enforcement of such by-laws by legal or equitable actions or proceedings which are or may be provided or authorized by law. In addition, the legislative bodies shall have power to prescribe that violations of specific by-laws of the authority, including, without limitation, any failure to comply with any by-law

requiring the payment of any fee or other charge by any person in connection with the delivery of solid waste to any facility or any other use of any facility by such person, shall constitute offenses or infractions and provide for the punishment of violations thereof.

11. With the consent of the chairman of the legislative body of a participating county or the legislative body of any municipality, to use the officers or employees of such participating county or any municipality within a participating county and to pay a proper portion of the compensation or costs for the services for such officers or employees. Provided, however, that a full time officer, member or employee shall not be compensated in the aggregate in an amount in excess of such officer's, member's or employee's full time compensation without the express approval of the county legislature.

12. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable.

13. To enter on any lands, waterways or premises within the area of operation for the purpose of making surveys, soundings, and examinations, any liability for which shall not exceed actual damages.

14. To borrow money and to issue bonds for any of its corporate purposes, to secure the same with its revenues or other funds, to fund or refund the same, and to provide for the rights of the holders thereof.

15. Subject to any limitations imposed by any contract pursuant to subdivision one of section two thousand forty-one-t of this title, to fix and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the authority and to contract with any participating county, other municipality or person in respect thereto, so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the authority, together with the maintenance of proper reserves therefor, in addition to paying, as the

same shall become due, the expenses of operating and maintaining the properties of the authority, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority, provided, however, that the authority shall not have the power, within any city, to collect rentals, charges, rates or fees from the owners of real estate, or the occupants of real estate (other than the occupants of premises owned or controlled by the authority, or by the state or any civil division thereof), for services or facilities furnished or supplied in connection with such real estate, if such services or facilities are of a character or nature that, as of the effective date of this title, are or formerly were furnished or supplied by the city, unless the electors of the city shall approve the granting to the authority of such powers by a majority vote at a general or special election in the city.

16. To accept gifts, grants, loans or contributions from the United States, the state or any authority or instrumentality of either of them, or any municipality or from any person, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the authority.

17. To enter into agreements, in its discretion, to pay annual sums in lieu of taxes to any municipality, political subdivision or taxing district of the state in respect to any real property which is owned by the authority and located in such municipality, political subdivision or taxing district.

18. To establish standards and criteria which shall be used to determine if real property shall be utilized in conjunction with any solid waste management program provided, however, that in no instance shall such standards and criteria provide for the placement of sanitary landfills, leachate treatment facilities, secure land burial facilities, landspreading facilities, surface impoundments and waste oil storage facilities over a primary public water supply aquifer or principal aquifer. Once such standards and criteria are established, no real property shall be acquired except in accordance with such standards and criteria. Such standards and criteria shall be established after a public hearing in each participating county upon such proposed standards

and criteria, which public hearing shall be on at least ten days notice in a newspaper or newspapers of general circulation in the counties of Montgomery, Otsego and Schoharie. Such notice shall also be sent by regular mail to the clerk of each municipality in such three counties, including the clerk of each county.

19. To make payments to, and settle claims asserted by owners of property in proximity to and adversely affected by, landfill facilities of the authority in order to compensate such owners in whole or in part for diminution of the value of their property, if any, directly resulting from the siting of the authority landfill facility or the activities undertaken therein. The amount and manner of such payments shall be determined by resolution of the authority, and shall be based on real estate market studies and/or appraisals undertaken at the direction of the authority, in such form and substance satisfactory to the authority. The authority may establish rules and regulations setting forth the specifications pursuant to which real estate market studies and/or appraisals shall be conducted and such other rules and regulations as may be necessary to effectuate the purposes of this subdivision. Such rules and regulations shall include a requirement that all property owners requesting payments in accordance therewith must file a claim with the authority by a date specified by the authority. Any payments made pursuant to the provisions of this subdivision shall be considered a cost of the authorities in the computation of rates, fees, and charges in accordance with subdivision fifteen of this section.

20. In addition to the power granted by subdivision seventeen of this section, to make payments to and settle claims asserted by municipalities either adversely affected by landfill facilities of the authority, or, in which landfill facilities of the authority are located to compensate such municipalities for additional municipal service support, monitoring and similar activities occasioned by the siting, construction, and operation of said landfill. The amount and manner of such payments shall be determined by resolution of the authority in its discretion and shall be utilized by the recipient municipality in conformance with the purposes heretofore set forth. Any payments made

pursuant to the provisions of this subdivision shall be considered a cost of the authority and may be included in the computation of rates, fees and charges in accordance with this section.

21. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 2041-e. Governmental capacity of the authority and municipalities. The authority, participating counties and other municipalities within the area of operation, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the authority, shall be deemed to be the performance of an essential government function by the authority acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or other public corporation.

§ 2041-f. Transfer of officers and employees. Any officer or employee of a participating county or of any municipality located within a participating county under civil service who is selected by the authority may, with the consent of the legislative body of the employing county or municipality, be transferred to the authority and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section who are members of or benefit under any existing pension or retirement fund or system shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law but, during this period of their employment by the authority, all contributions to such fund or system heretofore made by the employing county or municipality, shall be made by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the personnel officer of the county or any employing municipality shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 2041-g. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

2. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds. Obligations with a maturity of five years or less from the date of their original issuance may be designated as notes. Bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in registered form, be executed in such manner, be payable in such medium

of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices, in such manner and from time to time, as the authority shall determine, provided that no bonds of the authority, other than obligations designated as notes, shall be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the state comptroller, where such sale is not to the comptroller, or by the state director of the budget, where such sale is to the comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

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

(a) pledging all or any part of the revenues, other moneys or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to section two thousand forty-one-h of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

4. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the

mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

7. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (i) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next

interest payment date or, (ii) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2041-h. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to subdivision three of section two thousand forty-one-g of this title:

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

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county where the principal office of the authority is located.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any,

shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2041-i. State, county and municipalities not liable on authority bonds. Neither the state, the participating counties nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the participating counties or any other municipality or public corporation, and such bonds shall contain on the face thereof a statement to such effect.

§ 2041-j. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in interest-bearing accounts in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States, the state, or the participating counties, of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2041-k. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2041-l. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged, provided, however, that this section shall not be construed to limit in any manner the ability of the state to alter, amend or enforce laws or regulations to protect public health and the environment. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 2041-m. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the participating counties and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property acquired or owned by it or under its jurisdiction, control or supervision or upon its activities, income and operations, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or any participating county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. Mortgages made or financed, directly or indirectly, by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law. The authority shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for estate or gift taxes on such bonds and taxes on transfers. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of any

payment for the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for estate or gift taxes on such bonds and taxes on transfers.

§ 2041-n. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers, or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (i) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law, (ii) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (iii) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter. Except that actions to recover damages for personal injury or injury to property caused by the latent effects of exposure to any substance or combination of substances, in any form, upon or within the body or upon or within property shall be governed by section two hundred fourteen-c of the civil practice law and rules.

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

3. The authority may require any person presenting for settlement an

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

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county in which the principal office of the authority is located.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2041-o. Contracts. All contracts or orders for work, material or supplies performed or furnished in connection with construction, shall be awarded by the authority pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the authority.

The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the authority and the sufficiency of such security shall, in addition to the justification and acknowledgement, be approved by the authority. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid proposal or, if he accepts but does not execute the contract and give proper security, the authority shall have the right to declare his deposit forfeited. In case any work shall be abandoned by any contractor, the authority may, if it determines that the public interest is thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid proposal shall be accepted from or any contract awarded to, any person or corporation who is in arrears to the authority or any participating county upon any obligation of the authority or any participating county. Every contract shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by any participating county with respect to any proposed project. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, or any other general, special or local law, or the charter of any participating county.

The authority shall ensure that, where possible, all employees or applicants for employment are afforded equal employment opportunity without discrimination.

§ 2041-p. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2041-q. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the chairman of the legislative body of each participating county. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two, and two thousand eight hundred three of title one of article nine of this chapter.

§ 2041-r. Limited liability. Neither the members of the governing body, nor any municipality, officer, or employee acting in its behalf, while acting within the scope of his or her authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title provided, however, that this shall not be held to apply to any independent contractor.

§ 2041-s. Agreements with the participating counties. Each participating county is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the county will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall be issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds are fully met and discharged.

§ 2041-t. Special powers of participating counties and municipalities. 1. The participating counties and one or more municipalities within the area of operation, or the authority and the participating counties, shall have power to contract from time to time between or among themselves, or among themselves and with the authority, in relation to the collecting, receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any facility. Any such contract to which the authority, or any participating county, or any municipality within the area of operation, are parties may include provisions stipulating the minimum or maximum rates, rentals, fees and other charges to be collected for the use and availability of facilities. Any such contract may also include provisions in connection with a facility obligating such participating county or municipality to deliver or cause to be delivered, periodically to a specified facility or facilities, all or any portion of the solid waste generated in such participating county or municipality for processing or disposal and to make periodic payments for such processing or disposal whether or not delivery of any such solid waste shall be made, subject only to such exceptions, terms and conditions as may be provided therein.

2. To further the governmental and public purposes of the authority, including the implementation of any contract or proposed contract contemplated by this title, any participating county and municipalities within the area of operation shall have power to adopt and amend local laws, ordinances and regulations imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste or the recovery by any means of any material or energy product or resource therefrom, and shall further have the power to adopt and amend local laws requiring that all solid waste generated, originated or brought within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified facility or facilities; provided, however, that any such local law enacted by a participating county shall take precedence over and shall supersede any inconsistent provisions of any such local law enacted by a municipality within that participating county. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum. For the purposes of this section, solid waste shall have the same meaning as defined in section two thousand forty-one-a of this title, but shall not include any scrap or other material of value separated from the waste stream and held for purposes of materials recycling. Upon the adoption of any local law, ordinance or regulation pursuant to this section, the participating county or municipality shall file with the commissioner of the department of environmental conservation a verified copy of such local law, ordinance or regulation.

3. Each participating county is authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased, received or obtained from the authority pursuant to subdivision one of this section. Any resale or other disposition may be made in such manner as each participating county may deem proper and upon such terms and conditions as may be agreed upon by the parties

thereto.

4. Each participating county and all other municipalities within the area of operation shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the authority.

5. Except as otherwise provided by section one hundred twenty-w of the general municipal law, any contract entered into by a municipality in connection with, or in any manner relating to, any project or facility pursuant to this section may be for such term or duration, not to exceed twenty-five years, as may be agreed upon by the parties thereto.

6. Any contract entered into pursuant to this section to which the authority shall be a party may be pledged by the authority as security for any issue of bonds, and may be assigned, in whole or in part, by the authority to any public corporation or person which shall construct, purchase, lease or otherwise acquire any facility, or part thereof, financed in whole or in part by the authority.

7. Any contract, lease or agreement entered into by the authority pursuant to this title and which provides for the construction of a facility which combusts solid waste shall provide for the utilization of Best Available Control Technology to control the environmental impact of such facility. Such technology may include fabric filtration and dry scrubbers to control particulate and acid gas emissions. Any facility at a minimum shall be constructed and operated in compliance with requirements of the department of environmental conservation. Any such contract, lease or agreement also shall include but not be limited to provisions for:

(a) monitoring of emissions for toxic air contaminants or surrogates thereof where appropriate to determine permit compliance at least twice during the first year of operation and after any detection of permit violations, and at least annually thereafter; such monitoring to include provisions for use of statistically valid sampling procedures in all monitoring; and

(b) sampling and testing of ash and dust residues at least semi-annually, pursuant to a method assuring statistical validity, to determine appropriate disposition or disposal based on relative toxicity.

§ 2041-u. Solid waste reserve fund. The legislative body of each participating county may establish a special fund, to be known as the solid waste reserve fund of that county. There shall be credited to such reserve fund all amounts paid to the participating county and specifically designated by the payor for deposit in such reserve fund, together with such county moneys as may be appropriated thereto from time to time. Moneys in such reserve funds may be appropriated only for the purpose of paying amounts due from the county under the terms of any contract entered into pursuant to this title, for which an insufficient or no provision has otherwise been made, except that upon the adoption of a resolution by at least a two-thirds vote of the voting strength of the participating county's legislative body, all or any portion of the moneys in such reserve fund may be transferred to any other reserve fund established by the county pursuant to the general municipal law. To the extent not inconsistent with the provisions of this section, the management of such reserve fund and the investment of moneys therein shall be subject to the provisions of section six-h of the general municipal law.

§ 2041-v. Transfer of environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purpose of or contemplated by this title or any proceeding commenced by any participating county, with the department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the participating county to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

§ 2041-w. Dissolution. 1. Notwithstanding any provision of law to the contrary, the Montgomery, Otsego, Schoharie county solid waste management authority shall be dissolved on a date established by resolution adopted upon a vote of a majority of the board of directors of said authority. In any such resolution, the date of dissolution shall not occur prior to the termination of the "Service Agreement" dated as of May first, nineteen eighty-nine, as amended by amendment No. 1 dated as of May first, two thousand ten, by and between the counties of Montgomery, Otsego and Schoharie and the authority, nor later than October first, two thousand fourteen. Upon the adoption of such resolution, the board of directors shall make provision for the winding down of the business and affairs of the authority, and shall distribute the assets and liabilities of the authority to the member counties as of a transfer date or dates established by the authority, which shall be on or prior to the date of dissolution, all in accordance with subdivisions two and three of this section.

2. In distribution of the assets and liabilities of the authority to the member counties, the following transactions shall occur:
(a) The authority shall convey, and the counties of Montgomery, Otsego and Schoharie, respectively, shall accept, all of the authority's right title and interest in the real property, structures and improvements

constituting the transfer stations owned by the authority, including but not limited to any and all permits and licenses attendant thereto, according to the following distribution, without regard to appraised value and without other consideration except as set forth in this section.

(i) to the county of Montgomery, the transfer stations known as the Western transfer station located at 4583 Route 5S in Sprakers, N.Y., and the Amsterdam transfer station located at 1247 Route 5S in Amsterdam, N.Y.;

(ii) to the county of Otsego, the transfer stations known as the Northern transfer station located at 5802 State highway 28 in Cooperstown, N.Y., and the Oneonta transfer station located at 75 Silas Lane in Oneonta, N.Y.; and

(iii) to the county of Schoharie the transfer station known as the Schoharie transfer station located at 2805 Route 7 in Cobleskill, N.Y. together with the balance of the real property owned by the authority at such location, including but not limited to the administrative office building of the authority located adjacent to said transfer station.

(b) Concurrently with the conveyance of title to the real property and improvements described in paragraph (a) of this subdivision, the authority shall convey, and the counties of Montgomery, Otsego and Schoharie, respectively, shall accept, with respect to each such transfer station, all of the authority's right title and interest in the moveable fixtures and equipment located at, and attendant to, the operation of such transfer stations. The inventory of moveable fixtures and equipment prepared by the authority as of November fourth, two thousand thirteen and on file with the clerk of each county, unless otherwise agreed by the counties, shall be the basis for such transfers, subject to ordinary use by the authority prior to the transfer date. On the written request of any of the counties, made not later than fifteen days after the first of the conveyances described in paragraph (a) of this subdivision, the authorities budget office shall designate a mediator and/or an appraiser to examine the distribution of moveable fixtures and equipment at each of the transfer stations, which mediator or appraiser shall be authorized to order a more equitable distribution of such moveable fixtures and equipment, to ensure that each such transfer station is functionally capable of continuing operations after the authority ceases provision of solid waste services. Any such order issued by such mediator or appraiser shall be final and binding on each of the counties.

(c) The authority shall convey, and the counties of Montgomery, Otsego and Schoharie shall accept, in common ownership, all of the authority's right title and interest in the real property, structures and improvements constituting the landfills more fully described in the "Post Closure Monitoring and Maintenance Agreement" dated December tenth, two thousand nine, entered into between the Montgomery, Otsego, Schoharie county solid waste management authority and the three counties, together with all monies held by the authority in the landfill operating account and the authority's interest in the post closure reserve account established pursuant to said agreement. From and after the transfer of title to the landfills from the authority to the counties, the authority shall have no future obligation and responsibility under said Post Closure Monitoring and Maintenance Agreement, which responsibilities shall be assumed by the counties.

(d) Concurrently with the conveyance of title to the real property and improvements described in paragraph (c) of this subdivision, the authority shall convey, and the counties of Montgomery, Otsego and Schoharie shall accept in common ownership, with respect to each such landfill, all of the authority's right title and interest in the moveable fixtures and equipment located at, and attendant to, the monitoring, maintenance and other post-closure activities required at such landfills by law. The inventory of moveable fixtures and equipment referred to in paragraph (b) of this subdivision shall be the basis for such transfers, subject to ordinary use by the authority prior to the transfer date.

(e) Upon the completion of the property transfers set forth in paragraphs (a), (b), (c) and (d) of this subdivision, but in any event not later than October first, two thousand fourteen, all other assets of the authority, including all operating and reserve funds, shall be distributed to the member counties in accordance with the allocation percentages specified in the "Post Closure Monitoring and Maintenance Agreement", dated December tenth, two thousand nine, entered into between the Montgomery, Otsego, Schoharie county solid waste management authority and the three counties, provided however, that the board of directors of the authority shall be authorized to set aside such funds as are necessary and proper to settle, pay, and otherwise resolve all outstanding accounts, claims, and other liabilities of the authority prior to the date of dissolution, and any remainder shall be distributed to the member counties pursuant to the allocation established in this paragraph; and provided further, that in the event that any funds set aside by the board of directors to resolve outstanding accounts, claims, and other liabilities of the authority are insufficient for such purpose, the counties shall be responsible for the payment of any lawful obligations, accounts, claims and liabilities of the authority in accordance with the allocation percentages specified in the aforesaid "Post Closure Monitoring and Maintenance Agreement".

(f) Notwithstanding any other provision of law to the contrary, all transfers provided for in this section shall be without regard to appraised value, and without other consideration. It is hereby determined that the transfers of property pursuant to this section are for the benefit of the people of the participating counties and the state and are for a public purpose. The dissolution of the authority as provided in this section and the transfers of property authorized and directed in this section shall be deemed to be ministerial acts of an official nature, involving no exercise of discretion, within the meaning of paragraph (ii) of subdivision five of section 8-0105 of the environmental conservation law.

3. Upon dissolution, the books and records of the authority shall be delivered to the custody of the county of Schoharie, and shall be made available, at reasonable times, to any receiver appointed pursuant to this subdivision and to authorized representatives of the counties of Montgomery, Otsego and Schoharie on request, and to other persons in accordance with law. The finances and accounts of the authority as of the date of dissolution shall be the subject of a final audit, which shall be subject to the review and approval of the authorities budget office, and any accounts payable and receivable, and any claims, obligations or other liabilities remaining unsettled or unresolved at the date of dissolution shall be assigned to a receiver to be appointed by the authorities budget office. Unless otherwise agreed by the counties and the authorities budget office, such receiver shall be

selected from a list of qualified persons maintained by the office of court administration and the compensation and conduct of such receiver shall be governed by the rules of the chief judge. Said receiver shall be authorized to pay, collect, settle or resolve all such accounts, claims, obligations and liabilities in accordance with law, and to defend and maintain actions at law with respect thereto in the name of the authority.

§ 2041-x. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 2041-y. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter, any local law, ordinance or resolution of a participating county or any other municipality within the area of operation, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 13-B

ONONDAGA COUNTY RESOURCE RECOVERY AGENCY

§ 2045-a. Short title. This title shall be known and may be cited as the "Onondaga county resource recovery agency act".

§ 2045-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Agency" shall mean the public benefit corporation created by section two thousand forty-five-c of this title, known as the Onondaga county resource recovery agency.

2. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the agency pursuant to this title and the

provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Cost", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the agency providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the agency.

4. "County" shall mean the county of Onondaga.

5. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management-resource recovery facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

6. "Governing body" shall mean the members of the agency constituting

and acting as the governing body of the agency.

7. "Municipality" shall mean any county, city, town or village or any combination thereof.

8. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

9. "Project" shall mean any solid waste management-resource recovery facility, the planning, development, financing, construction, operation, or maintenance of which is authorized to be undertaken in whole or in part by the agency pursuant to this title.

10. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

11. "Resource recovery" shall mean the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, recycling centers or other programs, projects or facilities.

12. "Revenues" shall mean all rates, fees, rents, charges and other income derived by the agency from its operations.

13. "Solid waste" shall mean all materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage

and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

14. "Solid waste management-resource recovery facility" or "facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed beyond the initial solid waste collection process for the receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolization of solid wastes, incinerators, and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law.

15. "State" shall mean the state of New York.

16. "Source separation" shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

§ 2045-c. Onondaga county resource recovery agency. 1. A corporation known as the Onondaga county resource recovery agency is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The agency shall be a body corporate and politic constituting a public benefit corporation. It shall consist of eleven members, provided, however, that after July thirty-first, nineteen hundred eighty-nine, such board shall consist of fifteen members, who shall be appointed as follows: (i) four by the county executive; (ii) three by the chairman of the county legislature; (iii) two by the mayor of the city of Syracuse, subject to confirmation by the common council of such city, provided, however, that after July thirty-first, nineteen hundred eighty-nine, such mayor may make four additional appointments to the board subject to confirmation by the common council of such city; (iv) one by the town board of the town of Camillus, except that any other provision of any other law to the contrary notwithstanding, this appointment shall expire on July thirty-first, nineteen hundred eighty-nine, and replaced by a member to be appointed by the town board of the town in which the agency sanitary landfill portion of the solid waste management-resource recovery facility is designated to be located or is designated as the preferred site by resolution of the county legislature, as provided in subdivision one-a of this section; and (v) one by the town board of the town of Onondaga, except that any other provision of any other law to the contrary notwithstanding this appointment shall expire on July thirty-first, nineteen hundred eighty-nine, and be replaced by a member to be appointed by the town board of the town in which the agency waste-to energy portion of the solid waste management-resource recovery facility is designated to be located by resolution of the county legislature. The appointments by the county executive and the chairman of the county legislature each shall be subject to confirmation by the county legislature. In making appointments of members, the county executive and the chairman of the county legislature shall give due consideration to the representation of diverse geographical areas. The first members appointed by the county executive shall be appointed for the following terms of office: one for a term ending on December thirty-first, nineteen hundred eighty-two; one for a term ending on December thirty-first, nineteen hundred eighty-three; and two for a term ending on December thirty-first, nineteen hundred eighty-four. The first members appointed by the chairman of the county legislature shall be appointed for staggered terms of office ending on December thirty-first in each of the years nineteen hundred eighty-two to nineteen hundred eighty-four, inclusive. The first members appointed by the mayor of the city of Syracuse shall be appointed for staggered terms of office ending, respectively, on December thirty-first in each of the years nineteen hundred eighty-two and nineteen hundred eighty-three, except that if such appointments were not made prior to such dates, then the first two members appointed by such mayor shall be appointed for staggered terms of office ending, respectively, on December thirty-first in each of the years nineteen hundred ninety and nineteen hundred ninety-one; and provided further that of the four additional members appointed pursuant to this subdivision by such mayor to the board after July thirty-first, nineteen hundred eighty-nine, two shall be appointed for terms of office ending on December thirty-first, nineteen hundred ninety-one, and two shall be appointed for terms of office ending on December thirty-first, nineteen hundred ninety-two. The first member appointed by the town board of the town of Camillus shall be appointed for a term of office ending on December thirty-first, nineteen hundred eighty-two. The first member appointed by the town board of the town in which the agency sanitary landfill portion of the solid waste management-resource recovery facility is designated to be located or is designated as the preferred site shall be appointed for a term of office ending on December thirty-first, nineteen hundred ninety-one. The first member appointed by the town board of the town of Onondaga shall be appointed for a term of office ending on December thirty-first, nineteen hundred eighty-three. Except as provided herein, subsequent appointments of members shall be made by the same appointing authorities for a term of three years ending in each case on December thirty-first of the last year of such term. No person who has served as a member for two consecutive terms shall be eligible for reappointment as a member for a third term, except after an interval of at least three years. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointments. Vacancies, occurring otherwise than by expiration of term of office, shall be filled for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the agency shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the agency shall be vested in and be exercised by the governing body at a meeting duly called and held and six members shall constitute a quorum provided that after July thirty-first, nineteen hundred eighty-nine, eight members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least six members provided that after July thirty-first, nineteen hundred eighty-nine, no action shall be taken except pursuant to the favorable vote of at least eight members. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

1-a. Pursuant to a resolution adopted by the county legislature on or before the effective date of this subdivision designating a town as the preferred site for the agency sanitary landfill portion of the solid waste management-resource recovery facility, the town board of such town may appoint a member to serve on the agency board until: (a) an explicit finding by resolution of the county legislature with respect to the preferred site, pursuant to subdivision eight of section 8-0109 of the environmental conservation law; or (b) withdrawal of the preferred site from consideration by resolution of the county legislature and designation of another preferred site in another town by resolution of such legislature; or (c) expiration of the term of the member from the town designated as the preferred site, whichever shall occur first. In the event that an explicit finding has not been made by resolution of the county legislature with respect to the preferred site prior to the expiration of the term, the town board of the town designated as the preferred site by resolution of the county legislature prior to the effective date of this subdivision may reappoint such member or a new member for an additional term not to exceed one year. In the event the county legislature shall designate another preferred site in another town by a resolution, the term of the member then serving from the town previously identified by such county legislature as the preferred site shall terminate on the effective date of such resolution and the newly designated town shall succeed to the rights of the town initially identified as the preferred site, as shall be true of any subsequent town identified by resolution of the county legislature as the preferred site for the sanitary landfill; provided, however that the first term of any such member shall expire on December thirty-first of the year in which he or she has been appointed. Upon adoption of a resolution by the county legislature making an explicit finding with respect to the site of the sanitary landfill portion of the solid waste management-resource recovery facility, pursuant to subdivision eight of section 8-0109 of the environmental conservation law, the town board of the town in which such sanitary landfill is designated to be located by such resolution may appoint one member to the agency board to succeed the member appointed by the previously identified by resolution of the county legislature as the preferred site for such landfill.

2. The officers of the agency shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the agency, and a secretary, who need not be a member of the agency. Such officers shall be appointed by the governing body and shall serve at the pleasure of the governing body. The governing body may appoint and at pleasure remove an attorney and an engineer, which positions, in addition to the position of secretary, shall be in the exempt class of the civil service, and such additional officers and employees as it may determine necessary for the performance of the powers and duties of the agency, and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the agency.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the agency, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment; provided, however, that no public official elected to his or her office pursuant to the laws of the state or any

municipality thereof may serve as a member of the governing body of the agency during his or her term of office.

4. (a) The county executive shall file on or before March thirty-first, nineteen hundred eighty-two, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the agency; (2) the names of the members appointed by the county executive and at least three other members of the agency and their terms of office; and (3) the effective date of this title. The agency shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the agency shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the agency and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the agency shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the agency, all of the rights and properties of the agency then remaining shall pass to and vest in the county.

5. In addition to any powers granted to it by law, the county legislature from time to time may appropriate by resolution sums of money to defray project costs or any other costs and expenses of the agency, to be incurred prior to the first issuance of bonds. Subject to the rights of bondholders, the county legislature may determine if the moneys so appropriated shall be subject to repayment by the agency to the county and, in such event, the manner and time or times for such repayment.

6. The agency shall not be deemed a successor in interest to the Onondaga county solid waste disposal authority for any purpose whatsoever. In the event that the county acquires any property from such authority and thereafter transfers such property to the agency, the agency shall not by reason of receiving such property become obligated for any indebtedness or liability of such authority. The agency, upon a

determination that it is in the public interest, may assume and pay any compromised or settled claim against such authority which shall be outstanding as of the date of the first issuance of bonds. Nothing in this title shall be construed to require the agency to assume any liability of such authority.

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

§ 2045-d. Transfer of property to agency; acquisition of property by county for agency. 1. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the agency any property or facility which is useful in connection with the exercise by the agency of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the agency and the county or other municipality may agree.

2. The county may acquire by purchase or condemnation real property in the name of the county for any corporate purpose of the agency.

3. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the agency or the county from the state may be used for any corporate purpose of the agency.

§ 2045-e. Powers of the agency. The agency shall have the power:

1. To sue and be sued;

2. To have a seal and alter the same;

3. To acquire in the name of the agency, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein, without limitation, for its corporate purposes; provided, however, that (i) the agency shall not have the power of eminent domain, (ii) the acquisition by the agency of any real property designated as the site for any facility shall be subject to prior approval by the county legislature, and (iii) in selecting the location for any such site the agency shall give consideration to the present and any proposed land use character of the area in which such site is to be located and the zoning laws or regulations, if any, otherwise generally applicable to such area;

4. To receive, transport, process, dispose of, sell, store, convey, recycle, and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any solid waste management-resource recovery facility. Any such disposal or sale may be effected on such terms and in such manner as the agency may deem proper;

5. To plan, develop and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with municipalities or persons within or without the county and to own and operate, maintain, repair, improve, reconstruct, enlarge, and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any person or public corporation, subject to such conditions and limitations as the agency may determine to be in the public interest;

6. To assist in the planning, development and construction of and the financing of the cost of any solid waste management-resource recovery facility to be located in the county whether or not such solid waste management-resource recovery facility is to be owned or operated by the agency, which assistance may include loans to any person or public corporation. Any such solid waste management-resource recovery facility

producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in subdivision two-a of section two of the public service law;

7. To receive from the United States, the state, the county, any other municipality or public corporation or person, solid waste for the purpose of treatment or disposal thereof, with the right of the agency to sell and dispose of any products or by-products (including energy) of such process of treatment or disposal, as the agency may deem proper;

8. To contract with the county, other municipalities, state agencies, public corporations or persons within or without the county, for the purpose of receiving, treating and disposing of solid waste including without limitation to contract with persons for the delivery of all solid waste generated within a stated area to a specific solid waste management-resource recovery facility;

9. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the agency, which by-laws and all amendments thereto, duly certified by the secretary of the agency, shall be filed in the office of the agency and in the office of the clerk of the county, and to provide for the enforcement of such by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the county legislature shall have power to prescribe that violations of specific by-laws of the agency shall constitute offenses or infractions and provide for the punishment of violations thereof by civil penalty;

10. With the consent of the county executive, to use officers or employees of the county and to pay a proper portion of the compensation or costs for the services for such officers or employees;

11. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

12. To enter, with the consent of the county executive, on any lands, waterways and premises for the purpose of making surveys, soundings, and examinations, and liability therefor shall not exceed actual damages;

13. To borrow money and to issue bonds and to fund or refund the same, and to provide for the rights of the holders thereof;

14. Subject to any limitations imposed by any contract pursuant to subdivision two of section two thousand forty-five-t of this title, to determine classification of users, to fix and collect, including directly from service recipients, including owners of real property within the county from whom waste is disposed at agency facilities, rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the agency, which rates, rentals, fees and other charges may be different for each classification of users and may reflect the source and composition of solid waste and may provide for fee reductions to the user in proportion to waste generated or to reflect participation in source separation programs, and to contract with any municipality in the county in respect thereto, so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the agency, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the agency, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the agency. In any instance where the county is or would be required by law, with respect to solid waste management, to conduct a public hearing in connection with a contract, lease, service agreement, classification of user, rate, rental, fee or other charge, the agency shall not enter into such contract, lease, service agreement, or establish, fix, or revise any classification of user, rate, rental, fee or other charge unless and until the agency has held a public hearing at which interested persons have had an opportunity to be heard concerning the same, provided however, that if the county has conducted a public hearing in connection with such contract, lease, service agreement, classification of user, rate, rental, fee or other charge, the agency shall not be required to

hold a public hearing. Notice of such public hearing shall be published at least ten days before the date set therefor, in at least one newspaper of general circulation in the county. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such meeting. A copy of the notice shall be filed in the office of the clerk of the county and shall be available for inspection by the public. At any such hearing, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision by the agency at such public hearing shall be in writing and be made available in the office of the agency for public inspection during regular office hours. All rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, the agency and billed directly by the agency to the service recipient pursuant to a classification of users adopted by the agency as herein provided shall be a lien upon the real property upon which, or in connection with which, services were provided, as and from the first date fixed for payment of such rates, rentals, fees and other charges. Any such lien shall take precedence over all other liens or encumbrances, except taxes or assessments. The treasurer of the agency shall prepare and transmit to the respective legislative body of each municipality, on or before the first day of December in each year, a list of those properties within each respective municipality for which such services were provided and from which the payment of rates, rentals, fees and other charges are in arrears for a period of thirty days or more after the last day fixed for payment of such rates, rentals, fees and other charges without penalty. The list shall contain a brief description of the properties for which such services were provided, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interest computed to December thirty-first of that year. Each governing body shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the various municipalities under the heading "solid waste disposal charge". Such amounts, when collected by the several municipal collectors or receivers of taxes, shall be paid over to the treasurer of the agency. Alternatively, the legislative body of any municipality which provides solid waste collection service to all or a portion of the properties within its boundaries using municipally owned and operated collection vehicles may execute an agreement with the agency to collect and be responsible for the collection of, on behalf of the agency, any overdue or delinquent rates, rentals, fees or other charges and such municipality shall have the power to pay directly to the agency such overdue or delinquent rates, rentals, fees and other charges whether or not they are actually collected from the service recipients of such municipality. The legislative body of any such municipality entering into such an agreement with the agency on or after the effective date of this subdivision, shall be required prior to entering into such an agreement, to provide notice of, and convene a public hearing on such an agreement under the same terms and conditions of public notice and hearing required of the agency pursuant to this subdivision.

All of the provisions of the tax law of the state governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges. Except as may be otherwise expressly permitted under this title, any such rates, rentals, fees and other charges shall be fixed without discrimination among the municipalities within the county entering into contracts with the county pursuant to section two thousand forty-five-t of this title on or before the first date on which the county enters into a contract with the agency pursuant to paragraph (i) of subdivision two of such section two thousand forty-five-t of this title. The agency shall in no event fix any such rates, rentals, fees or other charges with respect to municipalities entering into such contracts with the county subsequent to such date in amounts less than those fixed with respect to municipalities entering into such contracts with the county on or before such date;

15. To accept gifts, grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or from any person, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the agency; and

16. To make payments to, and settle claims asserted by owners of

property in proximity to and adversely affected by, landfill facilities of the agency in order to compensate such owners in whole or in part for diminution of the value of their property, if any, directly resulting from the siting of the agency landfill facility or the activities undertaken therein. The amount and manner of such payments shall be determined by resolution of the agency, and shall be based on real estate market studies and/or appraisals undertaken at the direction of the agency, in such form and substance satisfactory to the agency. The agency shall establish rules and regulations setting forth the specifications pursuant to which real estate market studies and/or appraisals shall be conducted and such other rules and regulations as may be necessary to effectuate the purposes of this subdivision. Such rules and regulations shall include a requirement that all property owners requesting payments in accordance therewith must file a claim with the agency by a date specified by the agency. Any payments made pursuant to the provisions of this subdivision shall be considered a cost of the agency in the computation of rates, fees, and charges in accordance with subdivision fourteen of this section.

17. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 2045-f. Governmental capacity of the agency and municipalities. The county, other municipalities within the county and the agency in carrying out their respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the agency, shall be deemed to be the performance of an essential governmental function by the agency acting in its governmental capacity, whether such project shall be owned or operated by the agency or by any person or other public corporation.

§ 2045-g. Transfer of officers and employees. Any officer or employee of the county or of the Onondaga county solid waste disposal authority, under civil service, selected by the agency may, with the consent of the county or such authority, be transferred to the agency and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the agency. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the agency. Any such officers or employees so transferred to the agency pursuant to this subdivision, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the agency, all contributions to such fund or system to be paid by the employer on account of such officers or employees shall be paid by the agency. All such officers or employees so transferred to the agency who have been appointed to positions under the rules and classifications of the personnel officer of the county shall have the same status with respect thereto after transfer to the agency as they had under their original appointment.

§ 2045-h. Bonds of the agency. 1. The agency shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The agency shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The agency shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the agency may be general obligations secured by the faith and credit of the agency or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the agency under which the bonds shall be authorized to be issued and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. Bonds shall be authorized by resolution of the agency, be in such denominations and bear such date or dates, mature at such time or times, except that notes and any renewals thereof shall mature within five years from the date of the original issuance and bonds and any renewals thereof shall mature within thirty years from the date of the original issuance. The bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the agency shall determine. Bonds of the agency shall not be sold by the agency at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to the comptroller, or by the director of the budget, where such sale is to the comptroller.

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

(a) pledging all or any part of the revenues, other moneys or property of the agency to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the agency received from any private or public source;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the agency and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the agency to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section two thousand forty-five-i of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the agency to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the agency;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the agency may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

4. In addition to the powers herein conferred upon the agency to secure its bonds, the agency shall have power in connection with the issuance of bonds to enter into such agreements as the agency may deem

necessary, consistent or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act (including refraining from doing any act) which the agency would have the right to do in the absence of such agreements. The agency shall have power to enter into amendments of any such agreements within the powers granted to the agency by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the agency.

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the agency shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the agency irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

7. Neither the members of the agency nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The agency, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the agency, which shall thereupon be cancelled, at a price not

exceeding (i) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date, (ii) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2045-i. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision three of section two thousand forty-five-h of this title:

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

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

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the agency to collect rents, rates and charges adequate to carry out any agreement as to, or pledge of such rents, rates and charges and to require the agency to carry out any other agreements with the holders of such bonds to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the agency.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the project and subject to any pledge or agreement with holders of such bonds shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the agency is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any,

shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2045-j. State, county and municipalities not liable on agency bonds. Neither the state, the county nor any other municipality or public corporation shall be liable on the bonds of the agency and such bonds shall not be a debt of the state, the county or any other municipality or public corporation, and such bonds shall contain on the face thereof, a statement to such effect.

§ 2045-k. Moneys of the agency. All moneys of the agency from whatever source derived shall be paid to the treasurer of the agency and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The agency shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the agency and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the agency not required for immediate use or disbursement may, at the discretion of the agency, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the agency shall prescribe a system of accounts.

§ 2045-l. Bonds legal investment for fiduciaries. The bonds of the agency are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2045-m. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the agency pursuant to this title that the state will not alter or limit the rights hereby vested in the agency to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the agency shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2045-n. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the agency or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. The agency shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Except in the case of a municipality in which there shall be located a solid waste management-resource recovery facility, the agency shall not be authorized to make any payments in lieu of real property taxes or assessments. The provisions of this subdivision shall not be deemed to prohibit the agency from paying for specific governmental services provided to it by any municipality, fire district or fire protection district, and any fire district or fire protection district providing such services is hereby authorized to charge for such services and to receive such payments.

3. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the agency shall be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the agency pursuant to this title, in consideration of

the acceptance of and payment for the bonds, that the bonds of the agency issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2045-o. Actions against agency. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the agency for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the agency or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the agency within the time limit by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the agency for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the agency upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2045-p. Contracts. 1. All contracts or orders, for work, material or supplies performed or furnished in connection with construction, shall be awarded by the agency pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the agency may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the agency.

2. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the agency may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the agency and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the agency. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security, the agency shall have the right to declare his deposit

forfeited. In case any work shall be abandoned by any contractor, the agency may, if it determines that the public interest is thereby served, adopt on behalf of the agency any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from or any contract awarded to, any person or corporation who is in arrears to the agency or the county upon any obligation of the agency or of the county. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the agency and one copy of which shall be delivered to the contractor. The agency may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the county with respect to any proposed project, and the agency may adopt, utilize, accept and confirm any bids or proposals submitted to the county and heretofore or hereafter received and publicly opened by the county. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, any other general, special or local law, or the charter of the county. The agency shall be deemed an authority for the purpose of section twenty-eight hundred seventy-eight of this chapter.

§ 2045-q. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the agency to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the agency is empowered by this title to make.

§ 2045-r. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the agency shall be subject to the supervision of the state comptroller. The agency shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of this chapter, and a copy of such report shall be filed with the county executive. The agency shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two, and two thousand five hundred three of title one of article nine of this chapter.

§ 2045-s. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the agency or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2045-t. Pledge by county; contracts with municipalities; powers of municipalities. 1. The county is hereby authorized to pledge to and agree with the holders of the bonds that the county will not limit or impair the rights hereby vested in the agency to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the agency shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

2. The county and one or more municipalities within the county, or the agency and the county, shall have power to contract from time to time between or among themselves, or among themselves and with the agency, in relation to the receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of any materials, energy,

by-products or residue generated by or resulting from the operation of any solid waste management-resource recovery facility. Any such contract to which the county and any municipality within the county are parties may include provisions stipulating the maximum rates, rentals, fees and other charges to be collected for the use of facilities. Any contract to which the agency and the county are parties may include provisions (i) requiring the periodic delivery to the facilities of the agency of minimum amounts of solid waste and providing for specified minimum periodic payments whether or not such delivery is made, (ii) limiting the right of the agency to receive or to contract to receive, treat and dispose of solid waste originating outside the county, or (iii) requiring the county to pay, within appropriations available therefor, such amounts as shall be necessary to assure the continued operation and solvency of the agency, such payments to be determined and paid in such manner and at such times as may be provided in such contract. To further the governmental and public purposes of the agency including the implementation of any contract or proposed contract contemplated by this title, the county and all other municipalities within the county shall have power to adopt and amend local laws imposing appropriate and reasonable limitations on competition, including, without limiting the generality of the foregoing, as to the municipalities within the county local laws requiring that all solid waste generated or originating within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified solid waste management-resource recovery facility; provided, however, that the county shall not be empowered under this section to adopt any such local law requiring the delivery of solid waste to a specified solid waste management-resource recovery facility. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum.

3. The county is hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased from the agency pursuant to subdivision two of this section. Any resale or other disposition may be made in such manner as the county may deem proper and upon such terms and conditions as may be agreed upon

by the parties thereto.

4. The county and all other municipalities within the county shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purposes of this title, including the making of gifts, grants, loans or contributions to the agency.

5. Any contract entered into by a municipality pursuant to this section may be for such term or duration, not to exceed twenty-five years, as may be agreed upon by the parties thereto, except that any contract relating to or affecting the security of any project financed in whole or in part by the agency may provide that the same shall remain in full force and effect so long as the bonds issued for such project shall remain outstanding or until adequate provision has been made for the payment or satisfaction thereof.

6. Any contract entered into pursuant to this section to which the agency shall be a party may be pledged by the agency as security for any issue of bonds, and may be assigned, in whole or in part, by the agency to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management-resource recovery facility, or part thereof, financed in whole or in part by the agency.

§ 2045-u. Solid waste facility reserve fund. The county legislature may establish a special fund, to be known as the solid waste facility reserve fund of the county. There shall be credited to such reserve fund all amounts paid to the county and specifically designated by the payor for deposit in such reserve fund, together with such county moneys as may be appropriated thereto from time to time. Moneys in such reserve fund may be appropriated only for the purpose of paying amounts due from the county under the terms of any contract entered into pursuant to this title, for which an insufficient or no provision has otherwise been made, except that upon the adoption of a resolution by at least a two-thirds vote of the voting strength of the county legislature, all or any portion of the moneys in such reserve fund may be transferred to any other reserve fund established by the county pursuant to the general municipal law. To the extent not inconsistent with the provisions of this subdivision, the management of such reserve fund and the investment of moneys therein shall be subject to the provisions of section six-h of the general municipal law.

§ 2045-v. Transfer of environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the agency to the same extent and in the same manner as if the agency had been a party to such application or proceeding from its inception, and the agency shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the agency and shall be assigned and transferred by the county to the agency, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the agency.

§ 2045-w. Separability clause. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2045-x. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter or any local law, ordinance or resolution of the county or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the agency otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation.

TITLE 13-C

TOWN OF ISLIP RESOURCE RECOVERY AGENCY

2046-u. Title not affected if in part unconstitutional or ineffective.

§ 2046-a. Short title. This title may be cited as the "Islip resource recovery agency act".

§ 2046-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Agency" shall mean the public benefit corporation created by section two thousand forty-six-c of this title and shall be deemed a public authority.

2. "Bonds and notes" shall mean the bonds, notes or other obligations issued by the agency pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Construction" shall mean the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension of a solid waste management-resource recovery facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

4. "Cost", as applied to any project, shall include the cost of acquisition of any project, the cost of construction of the project, the cost of acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges,

interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants and legal services, the cost of lease guarantee or bond or note insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the agency providing for the issuance of bonds or notes to be paid into any reserve or other special fund from the proceeds of such bonds or notes and the financing of the placing of any project in operation, including reimbursement to the town for expenditures made with the prior approval of the agency, that would be costs of the project hereunder had they been made directly by the agency.

5. "Governing body" shall mean the directors of the agency.

6. "Municipality" shall mean any county, city, town, village, school district, fire district or a county or town acting on behalf of an improvement district.

7. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

8. "Project" shall mean any solid waste management-resource recovery facility, the planning, financing, construction, operation or maintenance of which is authorized to be undertaken, in whole or in part, by the agency pursuant to this title, including any real property required in connection therewith.

9. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

10. "Revenues" shall mean all rates, fees, rents, charges and other income derived by the agency from its operations.

11. "Resource recovery" shall mean the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, recycling centers or other programs, projects or facilities.

12. "Solid waste" shall mean all putrescible and non-putrescible solid wastes, including, but not limited to, materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the Atomic Energy Act of nineteen hundred fifty-four, as amended, and waste which appears on the list of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

13. "Solid waste management-resource recovery facility" or "facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed beyond the initial solid waste collection process for the receiving, transporting, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, processing systems, resource recovery facilities, steam and electric generating facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or

pyrolyzation of solid wastes, incinerators, and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law.

14. "Source separation" shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

15. "State" shall mean the state of New York.

16. "Town" shall mean the town of Islip.

17. "Town board" shall mean the town board of the town of Islip.

§ 2046-c. The Islip resource recovery agency. 1. A corporation known as the "Islip resource recovery agency" is hereby created for the purposes and charged with the duties and having the powers provided in this title. The agency shall be a body corporate and politic constituting a public benefit corporation. Its membership shall consist of a board of five directors comprised, ex-officio, of the members of the town board. A quorum of the governing body shall consist of at least three members for the transaction of any business or the exercise of any power. At any meeting of the agency where a quorum is present, the governing body shall have the power to act by the vote of a majority of all its members. The agency may delegate to one or more of its members, or its officers, agents or employees, such powers and duties as it may deem proper. No member of the agency shall be appointed or serve as an officer, agent or employee of the agency. The members of the agency shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title.

2. The officers of the agency shall consist of a president, executive vice-president, treasurer and a secretary appointed by the agency for a term not to exceed five years. The executive vice-president shall

possess such professional qualifications as shall be established by the commissioner of environmental conservation and shall perform such powers and duties with respect to the supervision of design and construction of projects as may be determined by the governing body. The agency may terminate the office of executive vice-president at any time after the completion of construction of any project. The president, treasurer and secretary shall execute bonds, each conditioned on the faithful performance of the duties of his office, the amount and sufficiency of each of which shall be approved by the governing body, and the premium therefor shall be paid by the agency. The agency may appoint an attorney who may be an officer of the agency, to act as its general counsel. Other officers may be appointed as the agency may deem proper. The agency may also from time to time contract for expert and professional services. No member of the agency shall be eligible to serve as an officer of the agency.

3. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any municipality thereof, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law by reason of his acceptance of appointment as an officer, agent or employee of the agency, provided, however, that no member of the town board shall be eligible for appointment as an officer, agent or employee of the agency.

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

5. The agency and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the agency shall have bonds, notes or other obligations outstanding, unless adequate provision has been made for the payment or

satisfaction thereof. Upon termination of the existence of the agency, all of the rights and properties of the agency then remaining shall pass to and be vested in the town in accordance with such law.

6. From time to time, the town board may, by resolution, appropriate moneys to be advanced to the agency for the purpose of defraying project costs or any other costs and expenses of the agency. The moneys so advanced shall be repaid by the agency, subject to the rights of the holders of any bonds or notes, at such time and in such manner as may be agreed upon between the agency and the town board.

7. There shall be an annual independent audit of the accounts and business practices of the agency performed by independent outside auditors. Any such auditor shall serve no more than three consecutive years.

§ 2046-d. State and town not liable on bonds or notes. Neither the state, the town nor any other municipality or other public corporation shall be liable on the bonds and notes of the agency and such bonds and notes shall not be a debt of the state, the town or any other municipality or public corporation, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 2046-e. Transfer of property. The town is authorized and empowered to give, grant, sell, convey, loan, license the use of or lease, to the agency, any property or facility of the town which is useful in connection with the exercise by the agency of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, subject to the rights of the holders of any bonds or notes, as the agency and the town may agree.

§ 2046-f. Powers. The agency shall have the power:

1. To sue and be sued;

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

3. To acquire, hold or lease, in the name of the agency or to sell, mortgage, lease, or otherwise dispose of property, real, personal, mixed, or any interest therein, without limitation for its corporate purposes, provided that the agency may not acquire any real property without the town except with the consent of the town board of the town in which such property is located or, if located within the boundaries of a village, with the consent of the board of trustees of such village;

4. To receive, collect, transport, process, dispose of, sell, store, convey, recycle and deal with, in any lawful manner and way, solid waste and any by-products thereof now or hereafter developed or discovered, including energy generated by the operation of any facility;

5. To condemn with consent of town board and the supervisor in the name of the agency, pursuant to the eminent domain procedure law, any real property within the town required by the agency to carry out the powers granted by this title;

6. To plan, construct and develop projects and to have the right to contract in relation thereto with the town and with other municipalities or persons within or without the town and to own, acquire and purchase real property in connection therewith and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its properties acquired or constructed under this title, and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any persons or municipality, subject to such conditions and limitations as the agency may determine to be in the public interest;

7. To assist in the planning, construction and development of and the financing of the cost of any solid waste management-resource recovery facility to be located in the town whether or not such facility is to be owned or operated by the agency, which assistance may include loans to any person or public corporation. Any such solid waste

management-resource recovery facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in subdivision two-a of section two of the public service law;

8. To receive from the United States, the state, the town, any other municipality or public corporation or person, or from such other sources as the agency may deem proper, solid waste for the purpose of treatment or disposal thereof, with the right of the agency to sell and dispose of any products or by-products of such process of treatment or disposal, as the agency may deem proper;

9. To contract with the town, other municipalities, state agencies or authorities, or persons for the purpose of receiving, treating and disposing of solid waste by the agency;

10. To adopt by-laws for the management and regulation of its affairs, subject to agreements with bondholders and noteholders, rules for the receiving and disposing of solid waste and charges therefor. A copy of such rules and by-laws, and all amendments thereto, duly certified by the secretary of the agency shall be filed in the office of the agency;

11. To use officers or employees of the town, subject to the payment to the town by the agency of a proper portion of the compensation or costs for the services of such officers or employees;

12. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

13. To enter with consent of the town supervisor on any lands, waterways and premises for the purpose of making surveys, soundings and examinations, and liability therefor shall not exceed actual damages;

14. To borrow money and to issue negotiable bonds or notes or other obligations and to fund or refund the same, and to provide for the rights of the holders of its bonds or notes;

15. To fix and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by the agency so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, notes or other obligations of the agency together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the agency, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the agency;

16. To accept grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or individual, by bequest or otherwise, and to expend the proceeds for any purposes of the agency, providing however, that any resource recovery facility or project constructed with state assistance shall be designed and constructed using proven technology acceptable to the commissioner of environmental conservation;

17. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 2046-g. Bonds and notes. 1. The agency shall have the power and is hereby authorized from time to time to issue bonds and notes, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith provided such bonds and notes shall in no event exceed fifty million dollars in outstanding indebtedness at any time, except as any such higher amount has been approved in advance of issuance by the qualified voters of the town of Islip at a public referendum conducted pursuant to the rules and regulations of the state board of elections. The agency shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds or notes. The agency shall have power from time to time to refund any bonds or notes by the issuance of new bonds or notes whether the bonds or notes to be refunded have or have not matured, and may issue bonds or notes partly to refund bonds or notes then outstanding and partly for any other corporate purpose. Bonds or notes issued by the agency may be general obligations secured by the faith and credit of the agency or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the agency under which the bonds or notes shall be authorized to be issued and subject to any agreements with the holders of outstanding bonds and notes pledging any particular revenues or moneys.

2. The bonds and notes shall be authorized by resolution of the governing body, shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide, provided that no note or any renewal thereof shall mature more than five years after the date of issue of the original note and provided that no bond shall mature more than forty years after the date of the original issuance. The bonds and notes of the agency may be sold by the agency at public or private sale at such price or prices as the agency shall determine, provided that the terms of any private sale of bonds shall be approved in writing by the state comptroller where such sale is not to the state comptroller, or by the director of the division of the budget where such sale is to the state comptroller. The agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof.

3. Any resolution or resolutions authorizing any bonds or notes or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the moneys or revenues derived by the agency from the ownership or operation of, or otherwise in connection with, any project or projects or any part or parts thereof to secure the payment of the bonds or notes or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) the amount, use and disposition of the rates, rentals, fees and other charges to be fixed and collected by the agency;

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

(d) limitations on the right of the agency to restrict and regulate the use of the properties in connection with which such bonds or notes are issued;

(e) limitations on the purpose to which the proceeds of sale of bonds or notes may be applied;

(f) limitations on the issuance of additional bonds or notes, the terms upon which additional bonds or notes may be issued and secured and the refunding of outstanding or other bonds or notes;

(g) the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any moneys or revenues of the agency may be deposited;

(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or notes or under which the bonds or notes may be issued;

(j) vesting in a trustee or trustees such property, rights, powers and duties in trust as the agency may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders or noteholders pursuant to this title, and limiting or abrogating the right of the bondholders or noteholders to appoint a trustee under this title or limiting the rights, powers and duties of such trustee;

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

(l) limitations on the power of the agency to sell or otherwise dispose of its properties;

(m) limitations on the amount of money derived from the properties to be expended for operating, administrative or other expenses of the agency;

(n) the protection and enforcement of the rights and remedies of the bondholders or noteholders;

(o) the obligations of the agency in relation to the construction, maintenance, operation, repairs and insurance of the properties of the agency, the safeguarding and application of all moneys and the requirements for the supervision and approval of consulting engineers in connection with construction, maintenance and operation of such properties;

(p) the payment of the proceeds of bonds and notes and other moneys and revenues of the agency to a trustee or other depositary, and for the method of disbursement thereof with such safeguards and restrictions as the agency may determine;

(q) any other matters, of like or different character which in any way affect the security or protection of the bonds and notes.

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

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues,

moneys, accounts, contract rights, general intangibles or other personal property made or created by the agency shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the agency irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

7. Neither the directors of the agency nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The agency, subject to such agreements with bondholders or noteholders as may then exist, shall have power out of any funds available therefor to purchase bonds or notes of the agency, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or (b) if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds or notes become subject to redemption plus accrued interest to such date.

§ 2046-h. Remedies of bondholders and noteholders. Subject to resolutions adopted pursuant to paragraph (j) of subdivision three of section two thousand forty-six-g of this title:

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

2. Such trustee may, and upon written request of the holders of twenty-five per centum in aggregate principal amount of such bonds or notes outstanding, shall in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders or noteholders, including the right to require the agency to collect rentals, rates, fees and charges adequate to carry out any agreement as to, or pledge of such rentals, rates, charges and other fees and to require the agency to carry out any other agreements with the holders of such bonds or notes to perform its duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or suit, require the agency to account as if it were the trustee of an express trust for the holders of such bonds or notes;

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

(e) declare all such bonds or notes due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum in aggregate principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and

protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action, or proceeding by the trustee on behalf of such bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county of Suffolk.

5. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days notice in writing to the governing body and president of the agency.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds or notes of such issue and such receiver may enter and take possession of such part or parts of the properties and subject to any pledge or agreement with holders of bonds or notes shall take possession of all moneys and other property derived from such part or parts of the properties and proceed with any construction thereon or the acquisition of any property, real or personal in connection therewith which the agency is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bond or note holders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 2046-i. Actions against agency. 1. In every action against the agency for damages, for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the agency or other officer designated for such purpose and that the agency has neglected or refused to make an adjustment or payment thereof.

2. Except in an action for wrongful death, an action against the agency founded on tort shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the agency within the time limited by and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the agency for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

4. The rate of interest to be paid by the agency upon any judgment for which it is liable, other than a judgment on its bonds or notes, shall not exceed nine per centum per annum.

§ 2046-j. Moneys of the agency. All moneys of the agency from whatever source derived shall be paid to the treasurer of the agency and shall be deposited forthwith in a bank or banks in the state designated by the agency. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the agency or of such other person or persons as the agency may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the town of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the agency, all such moneys shall be deposited in interest bearing accounts. The agency shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds or notes as to the custody, collection, security, investment and payment of any moneys of the agency, or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency and all banks and trust companies are authorized to give such security for such deposits. Subject to any agreements with the holders of any of its bonds or notes, any moneys of the agency not required for immediate use or distribution may, at the discretion of the agency, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to any agreements with the holders of any of its bonds or notes, the agency with the approval of the state comptroller shall prescribe a system of accounts.

§ 2046-k. Transfer of officers and employees. Any officer or employee of the town selected by the agency may, with the consent of the town, be transferred to the agency. The salary or compensation of any such officer or employee shall, after such transfer, be paid and fixed by the agency. Notwithstanding the provisions of this title any such officers or employees so transferred to the agency pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund, system or systems as are now prescribed by law, but during the period of their employment by the agency, all contributions to any pension or retirement system to be paid by the employer on account of such officers or employees, shall be paid by the agency.

§ 2046-l. Agreements of the state. The state does pledge to and agree with the holders of the bonds or notes that the state will not limit or alter the rights hereby vested in the agency to acquire, construct, maintain, operate, reconstruct and improve any project, or part or parts thereof, for which bonds or notes shall have been issued, to establish and collect rates, rentals, fees and other charges referred to in this title and to fulfill the terms of any agreement made with the holders of the bonds or notes, or in any way impair the rights and remedies of such bondholders or noteholders, until the bonds or notes together with interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully met and discharged.

§ 2046-m. Bonds and notes as legal investments. The bonds and notes are hereby made securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies, trusts, estates, or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries, and other persons carrying on a banking business, and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or notes or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds or notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purpose for which the deposit of bonds or notes or other obligations of this state is now or may hereafter be authorized.

§ 2046-n. Tax exemption. 1. It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the town and the state and is a public purpose, and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay taxes or assessments upon any of the real property or improvements thereon acquired by it or under its jurisdiction or control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. The bonds and notes issued pursuant to this title, together with the income therefrom, and all its fees, charges, gifts, grants, revenues, receipts and other moneys received or to be received, pledged to pay or secure the payment of such bonds or notes, shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 2046-o. Tax contract. The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the agency pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes that the bonds and notes of the agency issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes, shall at all times, be free from taxation except for estate and gift taxes and taxes on transfers.

§ 2046-p. Disinterested officers. It shall be a misdemeanor for any director, officer, agent or employee of the agency to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor, which the agency is empowered by this title to make.

§ 2046-q. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the agency shall be subject to the supervision of the state comptroller. The agency shall annually submit to the governor and the state comptroller and to the state legislature a detailed report pursuant to the provisions of sections two thousand five hundred, two thousand five hundred one, two thousand five hundred two and two thousand five hundred three of title one of article nine of this chapter, and a copy of such report shall be filed with the town clerk.

§ 2046-r. Limited liability. Neither the directors of the agency, nor the town or any other municipality, nor any person, or persons acting in behalf of the agency, while acting within the scope of their authority, shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance or operation of any project or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2046-s. Contracts. All contracts or orders, for work, material or supplies performed or furnished in connection with construction, shall be awarded by the agency pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, may be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the agency may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the agency.

The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the agency may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the agency and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the agency. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security, the agency shall have the right to declare his security forfeited. In case any work shall be abandoned by any contractor, the agency may, if it determines that the public interest is thereby served, adopt on behalf of the agency any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from or any contract awarded to, any person or corporation which is in arrears to the agency or the town upon any obligation of the agency or of the town. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the agency and one copy of which shall be delivered to the contractor. The agency may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the town with respect to any proposed project, and the agency may adopt, utilize, accept and confirm any bids or proposals submitted to the town and heretofore or hereafter received and publicly opened by the town. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, any other general, special or local law. The agency shall be deemed an authority for the purpose of section twenty-six hundred four of this chapter.

§ 2046-t. Agreements with the town. 1. The town is hereby authorized to pledge to and agree with the holders of the bonds and notes that:

(a) The town will not limit or alter the rights hereby vested in the agency to acquire, construct, maintain, reconstruct and operate any project, to establish and collect rates, rents, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds and notes, or in any way impair the rights and remedies of the bondholders or noteholders, until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders, are fully met and discharged; and

(b) Subject to such exceptions and limitations as may be deemed in the public interest, no facilities except those acquired, constructed and operated by the agency will be acquired, constructed or operated by the town, or by any public benefit or other corporation the members or the majority of which are appointed by the town board, until all bonds and notes, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged.

2. The town is hereby authorized from time to time to contract with the agency in relation to the receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of materials, energy, by-products or residue generated by or resulting from the operation of any solid waste management-resource recovery facility. Such contracts may be for the periods agreed upon by the parties, but not exceeding forty years, and without limiting the generality of the foregoing, may include provisions requiring (i) the periodic delivery of minimum amounts of solid waste and specified minimum periodic payments whether or not such delivery is made, and (ii) the payment, within appropriations available therefor, of such amounts as shall be necessary to assure the continued operation and solvency of the agency, such payments to be determined and paid in such manner and at such times as may be provided in such contracts.

3. To further the governmental and public purposes of the agency, including the implementation of any contract or proposed contract contemplated by this title, the town and all other municipalities within the town are hereby authorized and empowered to adopt and amend local laws imposing appropriate and reasonable limitations on competition within the town, including the areas within any incorporated villages in

the town, with respect to collecting, receiving, transporting, delivering, storing, processing, and disposing of solid waste or the recovery by any means of any material or energy product or resource therefrom, including, without limiting the generality of the foregoing, local laws requiring that all solid waste generated, originated or brought within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified solid waste management-resource recovery facility; provided, however, that any such local law enacted by the town shall take precedence over and shall supersede any inconsistent provisions of any such local law enacted by a municipality within the town. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum.

§ 2046-u. Title not affected if in part unconstitutional or ineffective. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation.

TITLE 13-D

DUTCHESS COUNTY RESOURCE RECOVERY AGENCY

§ 2047-a. Short title. This title shall be known and may be cited as the "Dutchess County Resource Recovery Agency Act."

§ 2047-b. Definitions. As used or to refer to in this title, unless a different meaning clearly appears from the context:

1. "Agency" means the public benefit corporation created by section two thousand forty-six-c of this title, known as the Dutchess County Resource Recovery Agency.

2. "Area of operation" means the county of Dutchess.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the agency pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the agency providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the agency.

5. "County" means the county of Dutchess.

6. "Construction" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management-resource recovery facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings,

specifications, procedures and other actions incidental thereto.

7. "Governing body" means the members of the agency constituting and acting as the governing body of the agency.

8. "Municipality" means any county, city, town, village, improvement district, or public corporation of the state, or any combination thereof.

9. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

10. "Project" means any solid waste management-resource recovery facility, the planning, development, financing, construction, operation, or maintenance of which is authorized to be undertaken in whole or in part by the agency pursuant to this title.

11. "Real property" means lands, structures, franchises and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgment, mortgages or otherwise.

12. "Resource recovery" means the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, recycling centers or other programs, projects or facilities.

13. "Revenues" means all rates, fees, rents, charges and other income derived by the agency from its operations.

14. "Solid waste" means all materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or

water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

15. "Solid waste management-resource recovery facility" or "facility" means any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for the collecting, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolization of solid wastes, incinerators, and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law.

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

17. "Source separation" means the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

§ 2047-c. Dutchess County Resource Recovery Agency. 1. A corporation known as the Dutchess County Resource Recovery Agency is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The agency shall be a body corporate and politic constituting a public benefit corporation. It shall consist of seven members, three of whom shall be appointed by the county executive, without confirmation of the county legislature, three of whom shall be appointed by the chairman of the county legislature subject to confirmation by the county legislature but without executive right to veto, and one of whom shall be jointly appointed by the county executive and the chairman of the county legislature, subject to confirmation by the county legislature. Subsequent appointment of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. No person who has served as a member for two consecutive three year terms shall be eligible for reappointment as a member for a third term, except after an interval of at least three years. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the agency shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the agency shall be vested in and be exercised by the governing body at a meeting duly called and held and four members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least four members. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the agency shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the agency, and a secretary, who need not be a member of the agency. Such officers shall be appointed by the governing body and shall serve at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties

of the agency, which positions shall be in the exempt class of civil service and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the agency.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality, or any public benefit corporation, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the agency, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment; provided, however, that no public official elected to his or her office pursuant to the laws of the state or any municipality thereof may serve as a member of the governing body of the agency during his or her term of office.

4. (a) The county executive shall file on or before March thirty-first, nineteen hundred eighty-three, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the agency; (2) the names of the members appointed by the county executive and their terms of office; and (3) the effective date of this title. The agency shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the agency shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the agency and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the agency shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the agency, all of the rights and properties of the agency then remaining shall pass to and vest in the county.

5. In addition to any powers granted to it by law, the county legislature from time to time may appropriate by resolution sums of money to defray project costs or any other costs and expenses of the agency. Subject to the rights of bondholders, the county legislature may determine if the moneys so appropriated shall be subject to repayment by the agency to the county and, in such event, the manner and time or times for such repayment.

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

§ 2047-d. Transfer of property to agency; acquisition of property by county for agency. 1. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the agency any property or facility which is useful in connection with the exercise by the agency of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the agency and the county or other municipality may agree.

2. The county may acquire by purchase or condemnation real property in the name of the county for any corporate purpose of the agency.

3. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the agency or the county from the state may be used for any corporate purpose of the agency.

§ 2047-e. Powers of the agency. The agency shall have the power:

1. To sue and be sued;

2. To have a seal and alter the same;

3. To acquire in the name of the agency, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein, without limitation, for its corporate purposes; provided, however, that in the acquisition of any real property designated as the site for any facility, the agency shall give consideration to the present and any proposed land use character of the area in which the site is to be located and the zoning laws or regulations, if any, otherwise generally applicable to such area.

4. To take by eminent domain, subject to the approval of the county legislature and the county executive in the name of the agency, pursuant to the eminent domain procedure law, within the area of operation any real property required by the agency to carry out the powers granted by this title.

5. To collect, receive, transport, process, dispose of, sell, store, convey, recycle, and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any solid waste management-resource recovery facility. Any such disposal or sale may be effected on such terms and in such manner as the agency may deem proper.

6. To plan, develop and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with municipalities or persons within or without the county and to own and operate, maintain, repair, improve, reconstruct, enlarge, and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any person or public corporation, subject to such conditions and limitations as the agency

may determine to be in the public interest.

7. To assist in the planning, development and construction of and the financing of the cost of any solid waste management-resource recovery facility to be located in the county whether or not such solid waste management-resource recovery facility is to be owned or operated by the agency, which assistance may include loans to any person or public corporation. Any such solid waste management-resource recovery facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in subdivision two-a of section two of the public service law.

8. To collect or receive from the United States, the state, the county, any other municipality or public corporation or person, solid waste for the purpose of treatment or disposal thereof, with the right of the agency to sell and dispose of any products or by-products (including energy) of such process of treatment or disposal, as the agency may deem proper;

9. To contract with the county, other municipalities, state agencies, public corporations or persons within or without the county, for the purpose of collecting, receiving, treating and disposing of solid waste including without limitation to contract with persons for the delivery of all solid waste generated within a stated area to a specific solid waste management-resource recovery facility.

10. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the agency, which by-laws and all amendments thereto, duly certified by the secretary of the agency, shall be filed in the office of the agency and in the office of the clerk of the county, and to provide for the enforcement of such by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the county legislature shall have power to prescribe that violations of specific by-laws of the agency shall constitute offenses or infractions and provide for the punishment of violations thereof by civil penalty.

11. With the consent of the county executive, to use officers or employees of the county and to pay a proper portion of the compensation or costs for the services for such officers or employees.

12. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable.

13. To enter on any lands with the consent of the county executive, waterways and premises within the county for the purpose of making surveys, soundings, and examinations, and liability therefor shall not exceed actual damages.

14. To borrow money and to issue bonds and to fund or refund the same, and to provide for the rights of the holders thereof.

15. Subject to any limitations imposed by any contract pursuant to subdivision two of section two thousand forty-six-t of this title, to fix and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the agency so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the agency, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the agency, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the agency.

16. To accept gifts, grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or from any person, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the agency; and

17. To negotiate a fee per ton of waste processed or other benefit with the municipality hosting a solid waste management facility; and

18. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 2047-f. Governmental capacity of the agency and municipalities. The county, other municipalities within the county and the agency in carrying out their respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the agency, shall be deemed to be the performance of an essential governmental function by the agency acting in its governmental capacity, whether such project shall be owned or operated by the agency or by any person or other public corporation.

§ 2047-g. Transfer of officers and employees. Any officer or employee of the county under civil service, selected by the agency may, with the consent of the county executive, be transferred to the agency and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the agency. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the agency. Any such officers or employees so transferred to the agency pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the agency, all contributions to such funds or system to be paid by the employer on account of such officers or employees shall be paid by the agency. All such officers or employees so transferred to the agency who have been appointed to positions under the rules and classifications of the personnel officer of the county shall have the same status with respect thereto after transfer to the agency as they had under their original appointment.

§ 2047-h. Bonds of the agency. 1. The agency shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The agency shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The agency shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the agency may be general obligations secured by the faith and credit of the agency or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the agency under which the bonds shall be authorized to be issued and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. Bonds shall be authorized by resolution of the agency, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, except that notes and any renewals thereof shall mature within five years from the date of the original issuance and bonds shall mature within thirty years from the date of original issuance of any such bond or note. The bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the agency shall determine. Bonds of the agency shall not be sold by the agency at private sale unless such sale and the terms thereof have been approved in writing by the state comptroller, where such sale is not to the comptroller, or by the state director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with

the holders of the bonds thereby authorized as to:

(a) Pledging all or any part of the revenues, other moneys or property of the agency to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the agency received from any private or public source;

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

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

(d) The rates, rents, fees and other charges to be fixed and collected by the agency and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) Limitations on the right of the agency to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds, the holders of which must consent thereto and the manner in which such consent may be given;

(h) The creation of special funds into which any revenues or moneys may be deposited;

(i) The terms and provisions of any trust deed or indenture securing the bonds under which the bonds may be issued;

(j) Vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section two thousand forty-six-i of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) Limitations on the power of the agency to sell or otherwise dispose of any project or any part thereof;

(m) Limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the agency;

(n) The payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the agency may determine; and

(o) Any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the agency shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims

of any kind in tort, contract or otherwise against the agency irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

7. Neither the members of the agency nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The agency, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the agency, which shall thereupon be cancelled, at a price not exceeding (i) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date, (ii) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2047-i. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision three of section two thousand forty-six-h of this title:

1. In the event that the agency shall default in the payment of principal or of interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate

principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

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

(a) By action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the agency to collect rents, rates and charges adequate to carry out any agreement as to, or pledge of such rents, rates and charges and to require the agency to carry out any other agreements with the holders of such bonds to perform its duties under this title;

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

(c) By action or proceeding, require the agency to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) Declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the agency.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the project and subject to any pledge or agreement with holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the agency is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2047-j. State, county and municipalities not liable on agency bonds. Neither the state, the county nor any other municipality or public corporation shall be liable on the bonds of the agency and such bonds shall not be a debt of the state, the county or any other municipality or public corporation, and such bonds shall contain on the face thereof, a statement to such effect.

§ 2047-k. Moneys of the agency. All moneys of the agency from whatever source derived shall be paid to the treasurer of the agency and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county or any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The agency shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the agency and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the agency not required for immediate use or disbursement may, at the discretion of the agency, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the agency shall prescribe a system of accounts.

§ 2047-l. Bonds legal investment for fiduciaries. The bonds of the agency are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2047-m. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the agency pursuant to this title that the state will not alter or limit the rights hereby vested in the agency to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the agency shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2047-n. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the agency or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. The agency shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the agency shall be exempt from taxes, except for transfer and estate taxes. The state hereby convenants with the purchasers and with all subsequent holders and transferees of bonds issued by the agency pursuant to this title, in consideration of the acceptance of any payment for the bonds, that the bonds of the agency issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2047-o. Actions against agency. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the agency for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the agency or of any member, officer, agent or employee thereof, unless (i) a notice of claim shall have been made and served upon the agency within the time limit by and in compliance with section fifty-e of the general municipal law, (ii) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (iii) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the agency for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the agency upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2047-p. Contracts. All contracts or orders, for work, material or supplies performed or furnished in connection with construction, shall be awarded by the agency pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the agency may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the agency.

The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the agency may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the agency and the sufficiency of such security shall, in addition to the justification and acknowledgement, be approved by the agency. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security, the agency shall have the right to declare his deposit forfeited. In case any work shall be abandoned by any contractor, the agency may, if it determines that the public interest is thereby served, adopt on behalf of the agency any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from or any contract awarded to, any person or corporation who is in arrears to the agency or the county upon any obligation of the agency or of the county. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the agency and one copy of which shall be delivered to the contractor. The agency may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the county with respect to any proposed project, and the agency may adopt, utilize, accept and confirm any bids or proposals submitted to the county and heretofore or hereafter received and publicly opened by the county. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, any other general, special or local law, or the charter of the county. The agency shall be deemed an authority for the purpose of section twenty-six hundred four of this chapter.

§ 2047-q. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the agency to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the agency is empowered by this title to make.

§ 2047-r. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the agency shall be subject to the supervision of the state comptroller. The agency shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the county executive. The agency shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two, and two thousand five hundred three of title one of article nine of this chapter.

§ 2047-s. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the agency or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2047-t. Pledge by county; contracts with municipalities; powers of municipalities. 1. The county is hereby authorized to pledge to and agree with the holders of the bonds that the county will not limit or impair the rights hereby vested in the agency to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the agency shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

2. The county and one or more municipalities within the county, or the agency and the county, shall have power to contract from time to time between or among themselves, or among themselves and with the agency, in relation to the collecting, receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any solid waste management-resource recovery facility. Any such contract to which the county and any municipality within the county are parties may include provisions stipulating the maximum rates, rentals, fees and other charges to be collected for the use of facilities. Any contract to which the agency and the county are parties may include provisions (i) requiring the periodic delivery to the particular facilities of minimum amounts of solid waste and providing for specified minimum periodic payments whether or not such delivery is made or (ii) requiring the county to pay, within appropriations available therefor, such amounts as shall be necessary to assure the continued operation and solvency of the agency, such payments to be determined and paid in such manner and at such times as may be provided in such contract.

3. In recognition of existing state policy, as declared in title one of article twenty-seven of the environmental conservation law, the legislature hereby affirms the primacy of the local and regional role in resource recovery procedures. To further the governmental and public purposes of the agency, including the implementation of any contract or proposed contract contemplated by this title, the county and all other municipalities within the county shall have the power to adopt and amend local laws imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste or the recovery by any means of any material or energy product or resource therefrom, including, without limiting the generality of the foregoing, local laws requiring that all solid waste generated, originated or

brought within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified solid waste management-resource recovery facility; provided, however, that any such local law enacted by the county shall take precedence over and shall supersede any inconsistent provisions of any such local law enacted by a municipality within the county. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum.

4. The county is hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased from the agency pursuant to subdivision two of this section. Any resale or other disposition may be made in such manner as the county may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

5. The county and all other municipalities within the county shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the agency.

6. Any contract entered into by a municipality pursuant to this section may be for such term or duration, not to exceed twenty-five years, as may be agreed upon by the parties thereto, except that any contract relating to or affecting the security of any project financed in whole or in part by the agency may provide that the same shall remain in full force and effect so long as the bonds issued for such project shall remain outstanding or until adequate provision has been made for the payment or satisfaction thereof.

7. Any contract entered into pursuant to this section to which the agency shall be a party may be pledged by the agency as security for any issue of bonds, and may be assigned, in whole or in part, by the agency

to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management-resource recovery facility, or part thereof, financed in whole or in part by the agency.

§ 2047-u. Solid waste facility reserve fund. The county legislature may establish a special fund, to be known as the solid waste facility reserve fund of the county. There shall be credited to such reserve fund all amounts paid to the county and specifically designated by the payor for deposit in such reserve fund, together with such county moneys as may be appropriated thereto from time to time. Moneys in such reserve funds may be appropriated only for the purpose of paying amounts due from the county under the terms of any contract entered into pursuant to this title, for which an insufficient or no provision has otherwise been made, except that upon the adoption of a resolution by at least a two-thirds vote of the voting strength of the county legislature, all or any portion of the moneys in such reserve fund may be transferred to any other reserve fund established by the county pursuant to the general municipal law. To the extent not inconsistent with the provisions of this subdivision, the management of such reserve fund and the investment of moneys therein shall be subject to the provisions of section six-h of the general municipal law.

§ 2047-v. Transfer of environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the agency to the same extent and in the same manner as if the agency had been a party to such application or proceeding from its inception, and the agency shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the agency and shall be assigned and transferred by the county to the agency, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the agency.

§ 2047-w. Separability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2047-x. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter or any local law, ordinance or resolution of the county or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the agency otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation.

TITLE 13-F

TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY

§ 2049-a. Short title. This title shall be known and may be cited as the "town of North Hempstead solid waste management authority act".

§ 2049-b. Definitions. As used in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the public benefit corporation created by section two thousand forty-nine-c of this title, known as the town of North Hempstead solid waste management authority.

2. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management-resource recovery facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

4. "Cost", as applied to any project, shall mean and include the cost of planning and design, construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the town or any municipality or state agency, the state, the United States government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

5. "Governing body" shall mean the members of the authority constituting and acting as the governing body of the authority.

6. "Municipality" shall mean any county, city, town, village, refuse district under the county law, improvement district under the town law, any other such instrumentality, including any agency or public corporation of the state, any such instrumentality created under the Nassau county civil divisions act, or any of the foregoing, or any combination thereof.

7. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

8. "Project" shall mean any solid waste management-resource recovery facility of which, or any portion of which, the planning, development, financing, construction, operation or maintenance is authorized to be undertaken in whole or in part by the authority pursuant to this title.

9. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

10. "Resource recovery" shall mean the separation, extraction or recovery of usable materials, energy or heat from solid waste through source separation, incineration, recycling centers or other programs, projects or facilities.

11. "Revenues" shall mean all rates, fees, rents, charges and other income derived by the authority from its operations.

12. "Solid waste" shall mean all putrescible and non-putrescible solid

wastes, including, but not limited to, materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded, has served its intended use, or is a manufacturing or mining by-product, including, but not limited to, garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, mining and agricultural operations and from community activities, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

13. "Solid waste management-resource recovery facility" or "facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for or is incidental to the collecting, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, shredding or baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, leachate treatment facilities, plants and facilities for compacting, composting or pyrolization of solid wastes, secure land burial facilities, landspreading facilities, surface impoundments and waste oil storage, reprocessing and rerefining facilities, incinerators and other solid waste disposal, reduction or conversion facilities, and "resource recovery equipment" and "disposal

equipment" as such terms are defined in subdivisions four and five of section 51-0903 of the environmental conservation law. Any such facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in subdivision two-a of section two of the public service law.

14. "Source separation" shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

15. "State" shall mean the state of New York.

16. "Town" shall mean the town of North Hempstead.

§ 2049-c. Town of North Hempstead solid waste management authority. 1. A corporation known as the Town of North Hempstead solid waste management authority is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation and a public authority. Its membership shall consist of a board of seven directors comprised, ex-officio, of the members of the town board.

2. The members of the authority shall receive no compensation for their services, whether as members or officers of the authority, but shall be reimbursed for all of their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of four members are present. No action shall be taken except by the favorable vote of at least four members. The officers of the authority, in addition to the chairman, shall consist of a vice-chairman and a treasurer who shall be members of the authority, and a secretary, who need not be a member of the authority. The officers of the authority other than the chairman shall be selected by the members of the authority, and such officers shall serve in such capacities at the

pleasure of the authority. In addition to the position of secretary, the authority may appoint and at pleasure remove an executive director, attorney and engineer, which positions shall be in the exempt class of the civil service, and such additional officers and employees as it may deem necessary, and may determine and fix their qualifications, duties and compensation, without regard to whether they are or shall also be employees or agents of the town and are or shall be being compensated as such, subject to the provisions of the civil service law. The authority may delegate to one or more of its members, officers, agents or employees any such powers as it may deem proper. The authority may also contract for expert professional services. The treasurer shall execute a bond conditioned on the faithful performance of the duties of his or her office, the amount of sufficiency of which shall be approved by the governing body and the premium for which shall be paid by the authority.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality or any public benefit corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as a member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment.

4. (a) The town shall file on or before March thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the town supervisor setting forth: (1) the name of the authority; (2) the names of the members; and (3) the effective date of this title.

(b) The authority shall be perpetual in duration, except that if the certificate referred to in paragraph (a) of this subdivision is not filed with the secretary of state on or before the date specified in such paragraph, then the corporate existence of the authority shall thereupon terminate and it shall be deemed to be and shall be dissolved, and except, further, that the authority and its corporate existence may be terminated by law or by resolution of the town board, provided, however, that no such termination shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon any termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the town. In connection with any such termination pursuant to a resolution of the town board, the town supervisor shall, within thirty days of the effective date of such termination, file in the office of the secretary of state a certificate setting forth the name of the authority and the effective date of the termination.

§ 2049-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued;

2. To have a seal and alter the same;

3. To acquire in the name of the authority, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein, without limitation, for its corporate purposes;

4. To condemn, with the consent of the town board and the supervisor, in the name of the authority, pursuant to the eminent domain procedure law, any real property required by the authority to carry out the powers granted by this title provided that condemnation of any real property not located within the town shall require the consent of the board of the town where such real property is located;

5. To collect, receive, extract, transport, process, dispose of, sell, store, convey, recycle and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any facility on such terms and in such manner as the authority may deem proper;

6. To plan, develop and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with

municipalities or persons and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any person or public corporation, subject to such conditions and limitations as the authority may determine to be in the public interest;

7. To assist in the planning, development and construction of and the financing of the cost of any facility whether or not such facility is to be owned or operated by the authority, which assistance may include loans to any person or public corporation;

8. To collect or receive from the United States, the state, the town, any other municipality or public corporation or person solid waste for the purpose of treatment or disposal thereof, with the right of the authority to sell and dispose of any products or by-products, including energy, of such process of treatment or disposal, as the authority may deem proper;

9. To contract with the town, other municipalities, state agencies, public corporations or persons, for the purpose of collecting, receiving, treating and disposing of solid waste, including, without limitation, to contract with municipalities, state agencies, public corporations or persons for the delivery of all solid waste generated within a stated area to a specific facility;

10. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the authority, which by-laws and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the authority and in the office of the clerk of the town, and to provide for the enforcement of such by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the town shall have power to prescribe under the town code that violations of specific by-laws of the authority, including, without limitation, any failure to comply with any

by-law requiring the payment of any fee or other charge by any person in connection with the delivery of solid waste to any facility or any other use of any facility by such person, shall constitute offenses or infractions and provide for the punishment of violations thereof by civil and criminal penalties;

11. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

12. To enter on any lands, waterways or premises for the purpose of making surveys, soundings and examinations, any liability for which shall not exceed actual damages;

13. To borrow money and to issue bonds and to fund or refund the same, and to provide for the rights of the holders thereof;

14. To fix and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the authority so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the authority, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the authority, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority;

15. To accept gifts, grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or from any person or public corporation, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the authority; and

16. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 2049-e. Advances on behalf of authority; transfer of property to authority; acquisition of property by town for authority. 1. In addition to any powers granted to it by law, the town may by resolution advance sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority to be incurred prior to the first issuance of bonds. Subject to the rights of any bondholders, the moneys so appropriated shall be repaid by the authority to the town at such time and in such manner as may be agreed upon between the authority and the town board.

2. The town or any other municipality may give, grant, sell, convey, loan or license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of any bondholders, as the authority and the town or other municipality may agree.

3. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority or the town from the state may be used for any corporate purpose of the authority.

§ 2049-f. Transfer of officers and employees. Any officer or employee of the town under civil service who is selected by the authority may, with the consent of the town supervisor, be transferred to the authority and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or system shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the personnel officer of the town shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 2049-g. Governmental capacity of the authority and municipalities. The authority, the town and other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the authority shall be deemed to be the performance of an essential governmental function by the authority acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or public corporation.

§ 2049-h. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have the power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. Bonds shall be authorized by resolution of the authority, be in

such denominations, bear such date or dates and mature at such time or times as such resolution shall provide, provided that bonds and any renewals thereof shall mature within forty years from the date of the original issuance of any such bonds. Obligations with a maturity of five years or less from the date of their original issuance may be deisgnated as notes. Bonds shall be subject to such terms of redemption, bear interest at such specified rate or rates, or, with respect to obligations designated as notes, at such rate or rates not in excess of such specified rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium or payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority, other than obligations designated as notes, may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the state comptroller where such sale is not to be to such comptroller, or by the state director of the budget where such sale is to be to said comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

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

(a) pledging all or any part of the moneys or revenues, other moneys or property of the authority to secure the payment of the bonds or of any issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected

by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, mortgage or deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to section two thousand forty-nine-i of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

any provisions of the bonds for registration.

7. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2049-i. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision three of section two thousand forty-nine-h of this title:

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

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

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

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of Nassau.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and

proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2049-j. State, town and municipalities not liable on bonds. Neither the state, town nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, town or any other municipality or public corporation, and such bonds shall contain, on the face thereof, a statement to such effect.

§ 2049-k. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States, the state or the town of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2049-l. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2049-m. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way to impair the rights and remedies of bondholders until the bonds, together with the interest thereon, including interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2049-n. Agreement with the town. The town is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the town will not limit or impair the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

§ 2049-o. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the town and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the town, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of any payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2049-p. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law or (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2049-q. Contracts. 1. All contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the authority.

2. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the authority and the sufficiency of such security shall, in addition to the justification and acknowledgement, be approved by the authority. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal or if he accepts but does not execute the contract and give proper security, the authority shall have the right to declare his deposit forfeited. In the event that any work shall be abandoned by any contractor the authority may, if it determines that the public interest is thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from or any contract awarded to any person or corporation who is in arrears to the authority or the town upon any obligation of the authority or of the town. Every contract shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the town with respect to any proposed project. The provisions of this section shall supercede any inconsistent provisions of the general municipal law, or any other general, special or local law.

§ 2049-r. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2049-s. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the town supervisor. The authority shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two, and two thousand five hundred three of title one of article nine of this chapter.

§ 2049-t. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2049-u. Contracts with municipalities; powers of municipalities. 1. The town and one or more municipalities within the town, or the authority and the town, shall have power to contract from time to time between or among themselves, or among themselves and with the authority in relation to the collecting, receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any solid waste management facility. Any such contract to which the authority and any municipality are parties may include provisions stipulating the maximum rates, rentals, fees and other charges to be collected for the use of facilities. To further the governmental and public purposes of the authority, including the implementation of any contract or proposed contract contemplated by this title, the authority and all other municipalities within the town shall have power to adopt and amend local laws imposing appropriate and reasonable limitations on competition including, without limiting the generality of the foregoing, local laws requiring that all solid waste generated or originated within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified solid waste management facility. The town shall be empowered under this section to adopt any such local law requiring the delivery of solid waste to a specified solid waste management facility. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum.

2. The town is hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased, received or obtained from the authority pursuant to subdivision one of this section. Any resale or other disposition may be made in such manner as the town may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

3. The town and all other municipalities shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the authority.

4. Notwithstanding any other law, general, special or local, any contract entered into by a municipality in connection with, or in any manner relating to, any project or facility pursuant to this section may be for such term or duration, not to exceed twenty years, as may be agreed upon by the parties thereto, except that any such contract may provide that the same shall remain in full force and effect so long as the bonds issued for or in connection with such project, including any

renewals thereof, shall remain outstanding or until adequate provision has been made for the payment or satisfaction thereof.

5. Any contract entered into pursuant to this section to which the authority shall be a party may be pledged by the authority as security for any issue of bonds, and may be assigned, in whole or in part, by the authority to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management facility, or part thereof, financed in whole or in part by the authority.

§ 2049-v. Environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title, or any proceeding commenced by the town, with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the town to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

§ 2049-w. Separability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2049-x. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or any local law, ordinance or resolution of the town or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation.

TITLE 13-FF

ONEIDA-HERKIMER SOLID WASTE MANAGEMENT AUTHORITY

§ 2049-aa. Short title. This title shall be known and may be cited as the "Oneida-Herkimer solid waste management authority act".

§ 2049-bb. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Area of operation" means either or both the counties of Oneida and Herkimer.

2. "Authority" means the public benefit corporation created by section two thousand forty-nine-cc of this title, known as the Oneida-Herkimer solid waste management authority.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders which shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Construction" means the acquisition, erection, building, alteration, repair, improvement, increase, enlargement, extension,

reconstruction, renovation or rehabilitation of a solid waste management-resource recovery facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

5. "Cost" as applied to any project, means and includes the cost of construction, the cost of the acquisition of all property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land and the cost of acquiring any lands to which such building or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee, credit enhancement or bond insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to either of the counties, any municipality, state agency, the state, the United States government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

6. "Counties" means the counties of Oneida or Herkimer, or Oneida and Herkimer individually, as shall be determined by the usage of such terms in this title.

7. "Governing body" means the members of the authority constituting and acting as the governing body of the authority.

8. "Legislative body" or "legislative bodies" means either or both of

the county legislatures of the counties of Oneida and Herkimer.

9. "Municipality" means any county, city, town, village, improvement district, or area established under the town law, refuse district established under the county law, district or area having powers similar to a refuse district created under any general or special law, or public corporation of the state, or any combination thereof.

10. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

11. "Project" means any solid waste management-resource recovery facility, and any appurtenances thereto necessary or desirable to promote the efficiency or effectiveness of any facility, the planning, development, financing, construction, operation, or maintenance of which is authorized to be undertaken in whole or in part by the authority pursuant to this title.

12. "Real property" means lands, structures, franchises and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgment, mortgages or otherwise and all claims for damage for such real property.

13. "Resource recovery" means the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, recycling centers or other programs, projects or facilities.

14. "Revenues" means all rates, fees, rents, charges and other income derived by the authority from its operation.

15. "Solid waste" means all putrescible and non-putrescible solid wastes, including, but not limited to, materials or substances discarded

or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, or are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as a manufacturing by-product, including, but not limited to, garbage, refuse, industrial, commercial and agricultural waste sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

16. "Solid waste management-resource recovery facility" or "facility" means any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for or is incidental to the collecting, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution and related plants and facilities, sanitary landfills, leachate treatment facilities, plants and facilities for compacting, composting or pyrolization of solid wastes, secure land burial facilities, landspreading facilities, surface impoundments and waste oil storage, reprocessing and recycling facilities, incinerators, and other solid waste disposal, reduction or conversion facilities and resource recovery equipment, source separation equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law. Any such facility producing either electricity or

shaft horsepower and useful thermal energy shall constitute a co-generation facility as designated in subdivision two-a of section two of the public service law.

17. "Source separation" means the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

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

§ 2049-cc. Oneida-Herkimer solid waste management authority. 1. A corporation known as the Oneida-Herkimer solid waste management authority is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall consist of ten members, four of whom shall be appointed by the legislative body of the county of Oneida, three of whom shall be appointed by the county executive of the county of Oneida, and three of whom shall be appointed by the legislative body of the county of Herkimer. The first members appointed by the legislative body of the county of Oneida shall be appointed for the following staggered terms of office: one member: five year term; one member: four year term; one member: three year term; one member: two year term. The first members appointed by the county executive of the county of Oneida shall be appointed for the following staggered terms of office: one member: five year term; one member: four year term; one member: three year term. The first members appointed by the legislative body of the county of Herkimer shall be appointed for the following staggered terms of office: one member: five year term; one member: four year term; one member: three year term. Subsequent appointment of members by each legislative body and such county executive shall be made for a term of five years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled by the affected legislative body or county executive in the manner provided for in the original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by the affected legislative body or county executive for the unexpired terms. Members may be removed from office by the county executive or by the legislative body of the county which appointed such members for inefficiency, neglect of duty or misconduct in office; provided, however, that such member shall be given a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days notice. The members of the authority shall receive such compensation for their services on a per diem basis as the legislative bodies of the counties shall determine and shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held and five of the members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of not less than a majority of the ten members which the authority would have would there be not vacancies and were none of the members disqualified from acting. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the authority shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. Such officers shall be appointed by the governing body and shall serve at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove an attorney, engineer and executive director which positions shall be in the exempt class of civil service and such additional officers and employees as they may determine necessary for the performance of the powers and duties of the authority, and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also, from time to time, contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the authority.

3. Notwithstanding any inconsistent provisions of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, the counties, any other municipality, or any public benefit corporation, shall forfeit his or her office of employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment.

4. Each of the counties electing to participate in the authority shall file on or before December thirty-first of the year in which this title shall take effect, in the office of the secretary of state, a certificate signed by the chairman of its legislative body setting forth: (a) the name of the authority; (b) the names of the members appointed by such county legislature and the county executive of such county, where applicable, and their terms of office; and (c) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date than the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved; provided, however, that no such termination shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the counties.

5. In the event that the chairman of the county legislature of only one of the counties shall file in the office of the secretary of state the certificate described in subdivision four of this section, then the solid waste management authority provided for in this title shall be created as the solid waste management authority for such county and the authority shall be created to serve the area of such county and shall have all powers set forth in this title. In such event, the authority shall be known as the solid waste management authority of that county, this title shall be known and cited as the solid waste management authority act of that county, the area of operation shall be limited to

that county, legislative body or legislative bodies shall mean the legislative body of that county, the membership of the authority shall consist of the members to be appointed by the legislative body and, if such certificate shall be filed by the chairman of the county legislature of the county of Oneida, by the county executive of such county and all references to the counties or each of the counties shall mean the county in which such chairman shall have filed such certificate. All other references or provisions in this title to more than one county shall be deemed to refer solely to such participating county, it being the intention of this section to permit the creation of the authority for only one county if such other county shall elect not to participate.

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

§ 2049-dd. Advances on behalf of authority; transfer of property to authority; acquisition of property for authority. 1. In addition to any powers granted to it by law, the legislative body of the counties may, from time to time, appropriate by resolution sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each such legislative body may determine if the moneys so appropriated shall be subject to repayment by the authority to any such county and, in such event, the manner and time or times for such repayment.

2. The counties or any other municipality within the area of operation, may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful in connection with the exercise by the authority of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease

shall be for such consideration, be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and such county or other municipality may agree. Any such gifts, grant, sale, conveyance, loan or license shall not be subject to referendum, permissive or mandatory. The authority, in furtherance of any purchase, conveyance or lease of any property or facility from any county or other municipality, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by such county or other municipality for such property or facility. For purposes of section 136.00 of the local finance law, any agreement by the authority to assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by any such county or other municipality shall, so long as such agreement shall continue to be honored by the authority, cause such bonds or notes to be deemed to have been refunded and any such county or other municipality may deduct from its gross indebtedness any outstanding indebtedness contracted for such property or facility to be acquired by the authority.

3. The counties may acquire by purchase or condemnation real property in the name of such counties or county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority or the counties from the state may be used for any corporate purpose of the authority.

§ 2049-ee. Powers of the authority. The authority shall have the power:

1. To sue and be sued.

2. To have a seal and alter the same.

3. To acquire in the name of the authority, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein, without limitation, for its corporate purposes and

to take by eminent domain, in the name of the authority, pursuant to the eminent domain procedure law, any real property required to carry out its corporate purposes; provided, however, that in the acquisition of any real property designated as the site for any facility, the authority shall give consideration to the present and any proposed land use character of the area in which the site is to be located and zoning laws or regulations, if any, otherwise generally applicable to such area.

4. To collect, receive, extract, transport, process, dispose of, sell, store, convey, recycle, and deal with, in any lawful manner and way, solid waste generated within the area of operation and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any solid waste management-resource recovery facility. Any such disposal or sale may be effected on such terms and in such manner as the authority may deem proper.

5. To plan, develop and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with the counties, or other municipalities or persons within or without the area of operation and to own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, replace, increase, enlarge, and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to enter into contracts for any and all such purposes and for the management and operation of a project, and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any person or public corporation, municipality or the state, subject to such conditions and limitations as the authority may determine to be in the public interest.

6. To assist in the planning, development and construction of and the financing of the cost of any project to be located in the area of operation, whether or not such project is to be owned or operated by the authority, which assistance may include loans to any person or public corporation.

7. To collect or receive, from the counties, any other municipality

located wholly or partially within the area of operation or public corporation or person, solid waste generated within the area of operation for the purpose of treatment or disposal thereof, with the right of the authority to sell and dispose of any products or by-products (including energy) of such process of treatment or disposal, as the authority may deem proper provided, however, that the authority may collect and receive recyclable material regardless of the place of generation of such recyclable materials.

8. To contract with the counties, or other municipalities, state agencies, public corporations or persons within or without the area of operation, for the purpose of collecting, receiving, treating and disposing of solid waste, including, without limitation, to contract with persons for the delivery of all solid waste generated within a stated area to a specific solid waste management-resource recovery facility provided, however, that no solid waste generated outside of the area of operation, other than recyclable materials, shall be received, collected, treated, or disposed of by the authority.

9. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the authority, which by-laws and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the authority and in the office of the clerk of each of the legislative bodies of the counties, and to provide for the enforcement of such by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the legislative bodies shall have power to prescribe that violations of specific by-laws of the authority, including, without limitation, any failure to comply with any by-law requiring the payment of any fee or other charge by any person in connection with the delivery of solid waste to any facility or any other use of any facility by such person, shall constitute offenses or infractions and provide for the punishment of violations thereof by civil penalty.

10. With the consent of the appropriate legislative body, or the chief executive officer of the legislative body of any other municipality, to

use officers or employees of such county or municipality and to pay a proper portion of compensation or costs for the services for such officers or employees.

11. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable.

12. To enter on any lands, waterways or premises within the area of operation for the purpose of making surveys, soundings, and examinations, any liability for which shall not exceed actual damages.

13. To borrow money and to issue bonds for any of its corporate purposes, to secure the same with its revenues or other funds to fund or refund the same, and to provide for the rights of the holders thereof.

14. Subject to any limitations imposed by any contract pursuant to subdivision two of section two thousand forty-nine-tt of this title, to determine classifications of users, to fix and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the authority, which rates, rentals, fees and other charges may be different for each classification of user and may reflect the source and composition of solid waste and provide for fee reductions to the user in proportion to waste generated or to reflect participation in source separation programs, and to contract with the counties or any other municipality or person in respect thereto, so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the authority, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the authority, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority. No such rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, the authority shall be established, fixed or revised unless the authority shall have held a public hearing at which the users of the facilities of, or services

rendered by, the authority together with the owners of property served or to be served and others interested have had the opportunity to be heard concerning the same. Notice of such public hearing shall be published by the authority at least ten days before the date set therefor in at least one newspaper having a general circulation in each of the counties. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such hearing. A copy of the notice shall be filed in the office of the clerk of each of the counties and shall be available for inspection by the public. At any such hearing, any person shall have an opportunity to be heard concerning the matters under consideration. Any decision of the authority on matters considered at any such public hearing shall be in writing and shall be made available to any such person in the office of the authority during regular office hours. All rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, the authority shall be a lien upon the real property upon which, or in connection with which, services were provided as and from the first date fixed for payment of such rates, rentals, fees and other charges. Any such lien shall take precedence over all other liens or encumbrances, except taxes or assessments. The treasurer of the authority shall prepare and transmit to the respective legislative body of each county, on or before the first day of December in each year, a list of those properties within each respective county for which such services were provided and which the payment of rates, rentals, fees and other charges are in arrears for a period of thirty days or more after the last day fixed for payment of such rates, rentals, fees and other charges without penalty. The list shall contain a brief description of the properties for which such services were provided, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interests computed to December thirty-first of that year. Each governing body shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the various municipalities under the heading "solid waste disposal charge". Such amounts, when collected by the several municipal collectors or receivers of taxes, shall be paid over to each respective county treasurer, who immediately shall pay the same over to the treasurer of the authority. All of the provisions of the tax laws of the state covering enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

15. To accept gifts, grants, loans or contributions from the United States, the state or any authority or instrumentality of either of them, or any municipality or from any person, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the authority.

16. To enter into agreements, in its discretion, to pay annual sums in lieu of taxes to the counties or any other municipality, political subdivision or taxing district of the state in respect to any real property which is owned by the authority and located in such counties, municipality, political subdivision or taxing district.

17. To do all things necessary or convenient to carry out the power expressly given in this title.

§ 2049-ff. Governmental capacity of the authority and municipalities. The counties, other municipalities within the area of operation and the authority, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the authority shall be deemed to be the performance of an essential governmental function by the authority acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or other public corporation.

§ 2049-gg. Transfer of officers and employees. Any officer or employee of the counties or any other municipality within the area of operation, under civil service, who is selected by the authority may, with the consent of the chief executive officer of the legislative body of the employing county or municipality, be transferred to the authority and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section who are members of or benefit under any existing pension or retirement fund or system shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but, during the period of their employment by the authority, all contributions to such fund or system to be paid by the employer on account of such officers or employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the personnel officer of the county or other employing municipality shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 2049-hh. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantee or other credit support to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

2. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds shall mature within thirty years from the date of original issuance of any such bonds. Obligations with a maturity of five years or less from the date of their original issuance may be denominated as notes. Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, be payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, shall be subject to tender to the authority with or without extinction or cancellation and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority shall be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the state comptroller, which such sale is not to the comptroller, or by the state director of the budget, where such sale is to the comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

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

(a) Pledging all or any part of the revenues, other moneys or property, of the authority to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements as may then exist;

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

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

(d) The rates, rents, fees and other charges to be fixed and collected

by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) Limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(h) The creation of special funds into which any revenues or moneys may be deposited;

(i) The terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) Vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section two thousand forty-nine-ii of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(l) Limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) Limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) The payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) Any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or perfected against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

6. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of

and for the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

7. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date, (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2049-ii. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to subdivision three of section two thousand forty-nine-hh of this title:

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

2. Such trustee may, and upon written request of the holder of

twenty-five per centum in principal amount of such bonds outstanding, shall in his or its own name:

(a) By action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates and charges adequate to carry out any agreement as to, or pledge of, such rents, rates and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

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

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

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

(e) Declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county where the principal office of the authority is located.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such

part or parts of the project and, subject to any pledge or agreement with holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom, subject to any pledge thereof or agreement with bondholders relating thereto, and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2049-jj. State, counties and municipalities not liable on authority bonds. Neither the state, the counties nor any other muncipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the counties or any other municipality or public corporation, and such bond shall contain on the face thereof, a statement to such effect.

§ 2049-kk. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in interest bearing accounts in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States, the state or of the counties of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2049-ll. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2049-mm. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged; provided, however, that this section shall not be construed to limit in any manner the ability of the state to alter, amend, or enforce laws or regulations to protect public health and the environment. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2049-nn. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the counties and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, income and operations, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf provided, however, that the authority shall annually pay a sum in lieu of taxes to each of the municipalities in which any real property owned by or under its jurisdiction, control or supervision of the authority are located in an amount equal to the taxes and assessments which would have been levied upon such real property in an unimproved state had such real property been owned by a person whose real property is subject to taxation. The construction, use, occupation or possession of any property owned by the authority or the counties, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. Mortgages made or financed, directly or indirectly, by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for transfer, and estate and gift taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of any payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer, and estate and gift taxes.

§ 2049-oo. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter. Actions to recover damages for personal injury or injury to property caused by the latent effects of exposure to any substance or combination of substances, in any form, upon or within the body, or upon or within property, shall be governed by section two hundred fourteen-c of the civil practice law and rules.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2049-pp. Contracts. All contracts or orders, for work, material and supplies performed or furnished in connection with construction, shall be awarded, when applicable, pursuant to paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law and such award shall be made by the authority pursuant to resolution of the governing body except as hereinafter provided. The authority, upon the receipt of proposals pursuant to a request for proposals issued in accordance with paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law, may, in its discretion, defer public announcement of proposed bids to facilitate and enhance the authority's ability to enter into negotiations with one or more proposers until such time as the authority shall determine to be in the best interest of the project, but in no event later than the date of the award of the contract. In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the authority. Every contract when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by either of the counties with respect to any proposed project, and the authority may adopt, utilize, accept and confirm any bids or proposals submitted to either of the counties and heretofore and hereafter received and publicly opened by such county. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, any other general, special or local law, or the charter of either county.

§ 2049-qq. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way of manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2049-rr. Audit and annual report. In conformity with the provisions of section five of article ten of the state constitution, the accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the chairman of each legislative body. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of title one of article nine of this chapter.

§ 2049-ss. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2049-tt. Pledge by counties; contracts with municipalities; powers of municipalities. 1. The counties are hereby authorized to pledge to and agree with the holders of any bonds that the counties will not limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

2. The counties and one or more municipalities within the area of operation, or the authority and the counties, shall have power to contract from time to time between or among themselves, or among

themselves and with the authority, in relation to the collecting, receiving, transporting, storage, processing or disposal of recyclables and/or solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any solid waste management-resource recovery facility. Any such contract to which the authority, the counties or any municipality within the area of operation are parties may include provisions stipulating the minimum and/or maximum rates, rentals, fees and other charges to be collected for the use and availability of facilities. Any contract may also include provisions: (a) requiring any such county or municipality to deliver, or cause to be delivered, periodically to a specified facility or facilities all or any portion of the solid waste generated, originated or brought within such county or municipality or minimum amounts of solid waste and providing for specified minimum periodic payments whether or not such delivery of any such solid-waste is made; (b) reserving to any such county or municipality, and granting by the authority to any such county or municipality, a portion of or the entirety of the capacity of a solid waste management-resource recovery facility as any such county or municipality determines is reasonably necessary to meet its present and reasonably anticipated needs and providing for specified minimum periodic payments in consideration thereof, or (c) requiring the counties to pay such amounts as shall be necessary to assure the continued operation and solvency of the authority, all such payments to be determined and paid in such manner and at such times as may be provided in such contract.

3. To further the governmental and public purposes of the authority, including the implementation of any contract or proposed contract contemplated by this title, and in recognition of the public policy of the state in the area of the control and management of solid waste and solid waste disposal activities to displace competition with regulation or monopoly public control, the counties and all other municipalities within the area of operation, as instrumentalities of the state, shall have the power to adopt and amend local laws, ordinances and regulations imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste or the recovery by any means of

any material or energy product or resource therefrom, including, without limiting the generality of the foregoing, local laws requiring that all solid waste generated, originated or brought within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified solid waste management-resource recovery facility; provided, however, that any such local law, ordinance or regulation enacted by the counties shall take precedence over and shall supersede any inconsistent provisions of any such local law, ordinance or regulation enacted by any other municipality within the area of operation. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum. Any such local law may include provisions for the enforcement thereof and penalties for the violation thereof, which may provide, but shall not be limited to providing, that any violation of a local law shall constitute an offense or infraction, and may provide that any violation may be punished by civil penalty, fine or other monetary charge, and/or, the suspension or revocation of permits or licenses granted by any other jurisdiction with respect to the collecting, receiving, transporting, delivery or storing of solid waste. For the purposes of this section, solid waste shall have the meaning set forth in subdivision fifteen of section two thousand forty-nine-bb of this title, but shall not include any scrap or other material of value separated from the waste stream and held for purposes of materials recycling. Upon the adoption of any local law, ordinance or regulation pursuant to this section, the counties or other municipality shall file a verified copy of such local law, ordinance or regulation with the commissioner of the department of environmental conservation; provided, however, that the failure to so file such a local law, ordinance or regulation shall not invalidate such local law, ordinance or regulation. Upon the adoption or amendment of any local law or ordinance pursuant to section one hundred twenty-aa of the general municipal law, either or both counties, by their respective legislative body, is authorized and empowered to delegate and assign to the authority, in whole or in part, by contract and on such terms as the parties may agree, the administration and implementation of the source separation and recycling program. Such delegation and assignment powers should be in addition to any other contracting powers and authority the counties may have under this section.

4. The counties are hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased from the authority pursuant to this section. Any resale of or other disposition may be made in such manner as the counties may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

5. The counties and all other municipalities within the area of operation shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the authority.

6. Any contract entered into by the counties or other municipality pursuant to this section may be for such term or duration, not to exceed twenty-five years, as may be agreed upon by the parties thereto.

7. Any contract entered into pursuant to this section to which the authority shall be a party may be pledged by the authority as security for any issue of bonds, and may be assigned, in whole or in part, by the authority, to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management-resource recovery facility, or part thereof, financed in whole or in part by the authority.

§ 2049-uu. Solid waste facility reserve fund. The legislative bodies of the counties may establish a special fund, to be known as solid waste facility reserve fund of such county. There shall be credited to such reserve fund all amounts paid to such county and specifically designated by the payor for deposit in such reserve fund, together with such county moneys as may be appropriated thereto from time to time. Moneys in such reserve funds may be appropriated only for the purpose of paying amounts due from the county under the terms of any contract entered into pursuant to this title, for which an insufficient or no provision has otherwise been made, except that upon the adoption of a resolution by at least a two-third vote of the voting strength of such counties legislative body, all or any portion of the moneys in such reserve fund may be transferred to any other reserve fund established by the county pursuant to the general municipal law. To the extent not inconsistent with the provisions of this section, the management of such reserve fund and the investment of moneys therein shall be subject to the provisions of section six-h of the general municipal law.

§ 2049-vv. Transfer of environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore or hereafter commenced, by either of the counties with the state department of environmental conservation, the department of transportation or any other state authority or instrumentality or with the United States environmental protection agency or any other federal authority or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by such county to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

§ 2049-ww. Preference for actions or proceedings against authority. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein, except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county in which the principal office of the authority is located.

§ 2049-xx. Separability. If any section, clause or provision in this title shall be held by a court of competent jurisdiction to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2049-yy. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any county charter or any local law, ordinance or resolution of the counties or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 13-G

ULSTER COUNTY RESOURCE

RECOVERY AGENCY

§ 2050-a. Short title. This title shall be known and may be cited as the "Ulster county resource recover agency act".

§ 2050-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears in the context, the following terms shall have the following meanings:

1. "Agency" means the public benefit corporation created by section two thousand fifty-c of this title, known as the Ulster county resource recovery agency.

2. "Area of operation" means the county of Ulster.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the agency pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such building or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants and legal services, the cost of lease guarantee, credit enhancement or bond insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the agency providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the agency.

5. "County" means the county of Ulster.

6. "County legislature" means the legislative body of the county.

7. "Construction" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management-resource recovery facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

8. "Governing body" means the members of the agency constituting and acting as the governing body of the agency.

9. "Municipality" means any county, city, town, village, improvement district, or public corporation of the state, or any combination thereof.

10. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

11. "Project" means any solid waste management-resource recovery facility, the planning, development, financing, construction, operation, or maintenance of which is authorized to be undertaken in whole or in part by the agency pursuant to this title.

12. "Real property" means lands, structures, franchises and interest in lands, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interest including, but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgment, mortgages or otherwise.

13. "Resources recovery" means the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, recycling centers or other programs, projects or facilities.

14. "Revenues" means all rates, fees, rents, charges and other income derived by the agency from its operation.

15. "Solid waste" means all materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

16. "Solid waste management-resource recovery facility" or "facility" means any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for or is incidental to the collecting, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution and related plants and facilities, sanitary landfills, leachate treatment facilities, landspreading facilities, waste oil storage, reprocessing and recycling facilities, plants and facilities for compacting, composting or pyrolization of solid wastes, incinerators, and other

solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law. Any such facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in subdivision two-a of section two of the public service law.

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

18. "Source separation" means the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

§ 2050-c. Ulster county resource recovery agency. 1. A corporation known as the Ulster county resource recovery agency is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The agency shall be a body corporate and politic constituting a public benefit corporation. It shall consist of five members to be appointed by the chairman of the county legislature including one member recommended to the chairman by the minority leader of the county legislature. All members so appointed shall be subject to confirmation by the county legislature. In making appointments of members, the chairman of the county legislature shall give due consideration to the representation of diverse geographical areas. The first members appointed by the chairman of the county legislature shall be appointed for the following terms of office; one for a term ending on December thirty-first, nineteen hundred eighty-seven; two for a term ending on December thirty-first, nineteen hundred eighty-eight; and two for a term ending on December thirty-first, nineteen hundred eighty-nine. Subsequent appointment of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies occurring otherwise than by expiration of term of office shall be filled for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the agency shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the agency shall be vested in and be exercised by the governing body at a meeting duly called and held and three members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least three members. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the agency shall consist of a chairman, a vice chairman and a treasurer, who shall be members of the agency, and a secretary, who need not be a member of the agency. Such officers shall be appointed by the governing body and shall serve at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and and at pleasure remove an attorney, engineer and executive director and such additional officers and employees as it may determine necessary for the performance of the powers and duties of the agency, which positions shall be in the exempt class of civil service and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the agency.

3. Notwithstanding any inconsistent provisions of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of any municipality or any public benefit corporation within the county or any adjoining county, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the agency, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment. Provided, however, that a full time officer, member or employee shall not be compensated in

the aggregate in an amount in excess of such officer's member's or employee's full time compensation without the express approval of the county legislature; and provided, further, however, that no public official elected to his or her office pursuant to the laws of the state or any municipality thereof may serve as a member of the governing body of the agency during his or her term of office.

4. (a) The chairman of the county legislature shall file on or before July first, nineteen hundred eighty-seven, in the office of the secretary of state, a certificate setting forth: (1) the name of the agency; (2) the names of the members appointed by the chairman of the county legislature and their terms of office; and (3) the effective date of this title. The agency shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date then the corporate existence of the agency shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the agency and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the agency shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the agency, all of the rights and properties of the agency then remaining shall pass to and vest in the county.

5. In addition to any powers granted to it by law, the county legislature from time to time may appropriate by resolution sums of money to defray project costs or any other costs and expenses of the agency. Subject to the rights of bondholders, the county legislature may determine if the moneys so appropriated shall be subject to repayment by the agency to the county and, in such event, the manner and time or times for such repayment.

6. It is hereby determined and declared, that the agency and the carrying out of its powers and duties are in all respects for the benefit of the people of the county and the state for the improvement of their health, welfare and prosperity and that such purposes are public

purposes and that the agency is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 2050-d. Transfer of property to agency; acquisition of property by county for agency. 1. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the agency any property or facility which is useful in connection with the exercise by the agency of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the agency and the county or other municipality may agree.

2. The county may acquire by purchase or condemnation real property in the name of the county for any corporate purpose of the agency.

3. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the agency or the county from the state may be used for any corporate purpose of the agency.

§ 2050-e. Powers of the agency. The agency shall have the power:

1. To sue and be sued;

2. To have a seal and alter the same;

3. To acquire in the name of the agency, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein, without limitation, for its corporate purposes; provided, however, that in the acquisition of any real property designated as the site for any facility, the agency shall give consideration to the present and any proposed land use character of the area in which the site is to be located and zoning laws or regulations, if any, otherwise generally applicable to such area;

4. To take by eminent domain, subject to the approval of the county legislature in the name of the agency, pursuant to the eminent domain procedure law, within the area of operation any real property required by the agency to carry out the powers granted by this title;

5. To collect, receive, transport, process, dispose of, sell, store, convey, recycle, and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any solid waste management-resource recovery facility. Any such disposal or sale may be effected on such terms and in such manner as the agency may deem proper;

6. To plan, develop and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with municipalities or persons within or without the county and to own and operate, maintain, repair, improve, reconstruct, enlarge, and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any person or public corporation, subject to such conditions and limitations as the agency may determine to be in the public interest;

7. To assist in the planning, development, construction and the financing of the cost of any solid waste management-resource recovery facility to be located in the county whether or not such solid waste management-resource recovery facility is to be owned or operated by the agency, which assistance may include loans to any person or public corporation.

8. Subject to the provisions of any laws or resolutions of the county, to collect or receive from the United States, the state, the county, any other municipality or public corporation or person, solid waste for the purpose of treatment or disposal thereof, with the right of the agency to sell and dispose of any products or by-products (including energy) of such process of treatment or disposal, as the agency may deem proper;

9. Subject to the provisions of any laws or resolutions of the county, to contract with the county, or other municipalities, state agencies, public corporations or persons within or without the county, for the purpose of collecting, receiving, treating and disposing of solid waste including without limitation to contract with persons for the delivery of all solid waste generated within a stated area to a specific solid waste management-resource recovery facility;

10. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the agency, which by-laws and all amendments thereto, duly certified by the secretary of the agency, shall be filed in the office of the agency and in the office of the clerk of the county, and to provide for the enforcement of such by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the county legislature shall have power to prescribe that violations of specific by-laws of the agency shall constitute offenses or infractions and provide for the punishment of violations thereof by civil penalty;

11. With the consent of the chairman of the county legislature, to use officers or employees of the county and to pay a proper portion of compensation or costs for the services for such officers or employees;

12. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or nonnegotiable;

13. To enter on any lands, waterways and premises within the county for the purpose of making surveys, soundings and examinations, and liability therefor shall not exceed actual damages;

14. To borrow money and to issue bonds and to fund or refund the same, and to provide for the rights of the holders thereof;

15. Subject to any limitations imposed by any contract pursuant to subdivision two of section two thousand fifty-t of this title, to fix

and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the agency so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the agency, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the agency, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the agency;

16. To accept gifts, grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or from any person, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the agency; and

17. To do all things necessary or convenient to carry out the power expressly given in this title.

§ 2050-f. Governmental capacity of the agency and municipalities. The county, other municipalities within the county and the agency in carrying out their respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the agency, shall be deemed to be the performance of an essential governmental function by the agency acting in its governmental capacity, whether such project shall be owned or operated by the agency or by any person or other public corporation.

§ 2050-g. Transfer of officers and employees. Any officer or employee of the county or a municipality under civil service, selected by the agency may, with the consent of the chairman of the county legislature, be transferred to the agency and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the agency. The salary or compensation of any officer or employee, after such transfer, shall be paid by the agency. Any such officers or employees so transferred to the agency pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the agency, all contributions to such funds or system to be paid by the employer on account of such officers or employees shall be paid by the agency. All such officers or employees so transferred to the agency who have been appointed to positions under the rules and classifications of the personnel officer of the county shall have the same status with respect thereto after transfer to the agency as they had under their original appointment.

§ 2050-h. Bonds of the agency. 1. The agency shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The agency shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the agency may be general obligations secured by the faith and credit of the agency or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the agency under which the bonds shall be authorized to be issued and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys. The agency may also enter into bank loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit in each case for securing its bonds or to provide direct payment of any costs which the agency is authorized to pay.

2. Bonds shall be authorized by resolution of the agency, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, except that notes and any

renewals thereof shall mature within five years from the date of the original issuance and bonds shall mature within thirty years from the date of original issuance of any such bond or note. The bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the agency shall determine. Bonds of the agency shall not be sold by the agency at private sale unless such sale and the terms thereof have been approved in writing by the state comptroller, which such sale is not to the comptroller, or by the state director of the budget, where such sale is to the comptroller. The agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

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

(a) Pledging all or any part of the revenues, other moneys or property, of the agency to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the agency received from any private or public source;

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

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

(d) The rates, rents, fees and other charges to be fixed and collected by the agency and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) Limitations on the right of the agency to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds, the holders of which must consent thereto and the manner in which such consent may be given;

(h) The creation of special funds into which any revenues or moneys may be deposited;

(i) The terms and provisions of any trust deed or indenture securing the bonds under which the bonds may be issued;

(j) Vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section two thousand fifty-i of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

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

(1) Limitations on the power of the agency to sell or otherwise dispose of any project or any part thereof;

(m) Limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the agency;

(n) The payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository and for the method of disbursement thereof with such safeguards and restrictions as the agency may determine; and

(o) Any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

4. In addition to the powers herein conferred upon the agency to secure its bonds and the notes, the agency shall have power in connection with the issuance of bonds and notes to enter into such agreements as the agency may deem necessary, convenient or desirable

concerning the use or disposition of its moneys or property including the mortgaging of any such property and the entrusting, pledging or creation of any other security interest in any such moneys or property and the doing of any act, including refraining from doing any act, which the agency would have the right to do in the absence of such agreements. The agency shall have power to enter into amendments of any such agreements within the powers granted to the agency by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds and notes of the agency.

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the agency shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or perfected against the agency irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

7. Neither the members of the agency nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The agency, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the agency, which shall thereupon be cancelled, at a price not

exceeding (a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date, (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2050-i. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision three of section two thousand fifty-h of this title:

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

2. Such trustee may, and upon written request of the holder of twenty-five per centum in principal amount of such bonds outstanding, shall in his or its own name:

(a) By action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the agency to collect rents, rates and charges adequate to carry out any agreement as to, or pledge of such rents, rates and charges and to require the agency to carry out any other agreements with the holders of such bonds to perform its duties under this title;

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

(c) By action or proceeding, require the agency to account as if it were the trustee of an express trust for the holders of such bonds;

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

(e) Declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the agency.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the project and subject to any pledge or agreement with holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the agency is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any,

shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2050-j. State, county and municipalities not liable on agency bonds. Neither the state, the county nor any other municipality or public corporation shall be liable on the bonds of the agency and such bonds shall not be a debt of the state, the county or any other municipality or public corporation and such bonds shall contain on the face thereof, a statement to such effect.

§ 2050-k. Moneys of the agency. All moneys of the agency from whatever source derived shall be paid to the treasurer of the agency and shall be deposited forthwith in interest-bearing accounts in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county or any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The agency shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the agency and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the agency not required for immediate use or disbursement may, at the discretion of the agency, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the agency shall prescribe a system of accounts.

§ 2050-l. Bonds legal investment for fiduciaries. The bonds of the agency are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2050-m. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the agency pursuant to this title that the state will not alter or limit the rights hereby vested in the agency to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the agency shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged; provided, however, that nothing in this section shall limit the ability of the state to enforce environmental and public health laws. The agency is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2050-n. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the agency or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in posssession shall claim ownership for federal income tax purposes. The agency shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the agency shall be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the agency pursuant to this title, in consideration of the acceptance of any payment for the bonds, that the bonds of the agency issued pursuant to this title and the income therefrom and all revenues, moneys and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2050-o. Actions against agency. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the agency for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the agency or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the agency within the time limit by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the agency for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter. Actions to recover damages for personal injury or injury to property caused by the latent effects of exposure to any substance or combination of substances, in any form, upon or within the body or upon or within property shall be governed by section two hundred fourteen-c of the civil practice law and rules.

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

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

4. The rate of interest to be paid by the agency upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law.

Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2050-p. Contracts. All contracts or orders, for work, material or supplies performed or furnished in connection with construction, shall be awarded by the agency pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with the general municipal law. Prior to entering into any contract, the agency shall seek the opinion of the attorney general with respect to conformance of such contract with the anti-trust laws, and of the comptroller with respect to conformance to the general municipal law. The agency may execute any contract within thirty days after such opinions are sought, whether nor not they have been received. In any construction contract, the agency may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the agency.

§ 2050-q. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the agency to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the agency is empowered by this title to make.

§ 2050-r. Audit and annual report. In conformity with the provisions of section five of article ten of the state constitution, the accounts of the agency shall be subject to the supervision of the state comptroller. The agency shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand five hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the chairman of the county legislature. The agency shall comply with the provisions of sections two thousand five hundred one, two thousand five hundred two and two thousand five hundred three of title one of article nine of this chapter.

§ 2050-s. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the agency or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2050-t. Pledge by county; contracts with municipalities; powers of municipalities. 1. The county is hereby authorized to pledge to and agree with the holders of the bonds that the county will not limit or impair the rights hereby vested in the agency to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the agency shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

2. The county and one or more municipalities within the county, or the agency and the county, shall have power to contract from time to time

between or among themselves, or among themselves and with the agency, in relation to the collecting, receiving, transporting, storage processing or disposal of solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any solid waste management-resource recovery facility. Any such contract to which the county and any municipality within the county are parties may include provisions stipulating the maximum rates, rentals, fees and other charges to be collected for the use of facilities. Any contract to which the agency and the county are parties may include provisions (a) requiring the periodic delivery to the particular facilities of minimum amounts of solid waste and providing for specified minimum periodic payments whether or not such delivery is made subject to such limitations, exceptions and provisions therein or (b) requiring the county to pay, within appropriations available therefor, such amounts as shall be necessary to assure the continued operation and solvency of the agency, such payments to be determined and paid in such manner and at such times as may be provided in such contract.

3. To further the governmental and public purposes of the agency, including the implementation of any contract or proposed contract contemplated by this title, the county shall have the power to adopt and amend local laws imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste or the recovery by any means of any material or energy product or resource therefrom, including, local laws requiring that all solid waste generated, originated or brought within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified solid waste management-resource recovery facility; provided, however, that any such local law enacted by the county shall take precedence over and shall supersede any inconsistent provisions of any local law enacted by a municipality within the county. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum. For purposes of this subdivision, solid waste

shall have the meaning specified in this title, but shall not include any scrap or other material of value separated from the waste stream and held for purposes of materials recycling.

4. The county is hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased from the agency pursuant to subdivision two of this section. Any resale of or other disposition may be made in such manner as the county may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

5. The county and all other municipalities within the county shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the agency.

6. Except as otherwise provided by section one hundred twenty-w of the general municipal law, any contract entered into by a municipality pursuant to this section may be for such term or duration, not to exceed twenty-five years, as may be agreed upon by the parties thereto, except that any contract relating to or affecting the security of any project financed in whole or in part by the agency may provide that the same shall remain in full force and effect as long as the bonds issued for such project shall remain outstanding or until adequate provision has been made for the payment or satisfaction thereof.

7. Any contract entered into pursuant to this section to which the agency shall be a party may be pledged by the agency as security for any issue of bonds, and may be assigned, in whole or in part, by the agency, to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management-resource recovery facility, or part thereof, financed in whole or in part by the agency.

8. Any contract, lease or agreement entered into by the agency

pursuant to this title and which provides for the construction of a facility which combusts solid waste, shall provide for the utilization of the best available technology to control the environmental impact of such facility. Such technology may include fabric filtration and dry scrubbers to control particulate and acid gas emissions. Any facility at a minimum shall be constructed and operated in compliance with requirements of the department of environmental conservation. Any such contract, lease or agreement also shall include but not be limited to provisions for:

(a) Monitoring of emissions for toxic air contaminants or surrogates thereof where appropriate to determine permit compliance at least twice during the first year of operation and after any detection of permit violations, and at least annually thereafter; such monitoring to include provisions for use of statistically valid sampling procedures in all monitoring; and

(b) Sampling and testing of ash and dust residues at least semi-annually, pursuant to a method assuring statistical validity, to determine appropriate disposition or disposal based on relative toxicity.

Any such contract, lease or agreement also may include provisions for the payment of up to one dollar and twenty-five cents per ton of solid waste processed at such facility. Such payments shall be apportioned as follows: one dollar or a portion thereof to such town or city in which the facility is located; and twenty-five cents or a portion thereof to such fire district or to such city, for fire protection purposes, in which such facility is located.

§ 2050-u. Solid waste facility reserve fund. The county legislature may establish a special fund, to be known as solid waste facility reserve fund of the county. There shall be credited in such reserve fund all amounts paid to the county and specifically designated by the payor for deposit in such reserve fund, together with such county moneys as may be appropriated thereto from time to time. Moneys in such reserve fund shall be deposited in interest-bearing accounts and may be appropriated only for the purpose of paying amounts due from the county under the terms of any contract entered into pursuant to this title, for which an insufficient or no provision has otherwise been made, except that upon the adoption of a resolution by at least a two-third vote of the voting strength of the county legislature, all or any portion of the moneys in such reserve fund may be transferred to any other reserve fund established by the county pursuant to the general municipal law. To the extent not inconsistent with the provisions of this section, the management of such reserve fund and the investment of moneys therein shall be subject to the provisions of section six-h of the general municipal law.

§ 2050-v. Affirmative action. 1. Any contracts entered into pursuant to this title shall contain the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue programs of affirmative action to insure that minority group persons and women are afforded equal employment opportunity without discrimination. Such action shall be taken with reference, but not be limited to recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) At the request of the agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which he has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, in performance of the contract that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of paragraphs (a) through (c) of this subdivision in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its working connection with a contract.

2. The agency shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action as required by this section. Such procedures may require, after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. Such procedures and guidelines shall be consistent with the guidelines promulgated by the office of federal contract compliance programs of the United States department of labor pursuant to presidential executive order eleven thousand two hundred forty-six, as amended, and any state statutory or regulatory requirements. The agency shall, in the promulgation of procedures and guidelines pursuant to this section, cooperate with any federal, state or local agency established for the purpose of implementing affirmative action compliance programs.

3. The agency in awarding contracts for design, construction, services or materials, shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, American Indian or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

4. In the implementation of subdivisions one and two of this section, the agency shall consider compliance by any contractor with the requirements of any federal, state or local law concerning equal employment opportunity, which may effectuate the requirements of this section. If the agency determines that by virtue of the imposition of the requirements of any such law, in respect to contracts affected by this section, that the provisions thereof duplicate or conflict with such law, the agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. In order to implement the requirements and objectives of this section, the agency shall be responsible for monitoring the contractors' compliance with the provisions hereof, for advising contractors on the availability of competing qualified minority business enterprises to perform contracts proposed to be awarded and for making recommendations to contractors to improve the access of minority business enterprises to such contracts.

6. Nothing in this section shall be construed to impair the ability of the agency to enter into contracts in accordance with the provisions of the general municipal law.

§ 2050-w. Transfer of environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, by the county with the department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the agency to the same extent and in the same manner as if the agency had been a party to such application or proceeding from its inception, and the agency shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the agency and shall be assigned and transferred by the county to the agency, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the agency.

§ 2050-x. Preference for actions or proceedings against agency. Any action or proceeding to which the agency or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein, except election cases, irrespective of position on the calendar. The same preference shall be granted upon application of the agency or its counsel in any action or proceeding questioning the validity of this title in which the agency may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

§ 2050-y. Separability. If any section, clause or provision in this title shall be held by a court of competent jurisdiction to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2050-z. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter or any local law, ordinance or resolution of the county or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the agency otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation and the department of health.

TITLE 13-H

EASTERN RENSSELAER COUNTY SOLID WASTE MANAGEMENT AUTHORITY

§ 2050-aa. Short title. This title shall be known and may be cited as the "Eastern Rensselaer County solid waste management authority act".

§ 2050-bb. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Area of operation" means area within the boundaries of those towns included in subdivision eighteen of this section which elect to participate in the authority pursuant to subdivision four of section two thousand fifty-cc of this title.

2. "Authority" means the public benefit corporation created by section two thousand fifty-cc of this title, known as the Eastern Rensselaer county solid waste management authority.

3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders which shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Construction" means the acquisition, erection, building, alteration, repair, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management-resource recovery facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

5. "Cost" as applied to any project, means and includes the cost of

construction, the cost of the acquisition of all property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land and the cost of acquiring any lands to which such building or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee, credit enhancement or bond insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to either of the towns, any municipality, state agency, the state, the United States government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

6. "Governing body" means the members of the authority constituting and acting as the governing body of the authority.

7. "Legislative body" or "legislative bodies" means either or all of the legislatures of those towns included in subdivision eighteen of this section.

8. "Municipality" means any county, city, town, village, improvement district, or area established under the town law, refuse district established under the county law, district or area having powers similar to a refuse district created under any general or special law, or public corporation of the state, or any combination thereof.

9. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

10. "Project" means any solid waste management-resource recovery facility, and any appurtenances thereto necessary or desirable to promote the efficiency or effectiveness of any facility, the planning, development, financing, construction, operation, or maintenance of which is authorized to be undertaken in whole or in part by the authority pursuant to this title.

11. "Real property" means lands, structures, franchises and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgment, mortgages or otherwise and all claims for damage for such real property.

12. "Resource recovery" means the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, recycling centers or other programs, projects or facilities.

13. "Revenues" means all rates, fees, rents, charges and other income derived by the authority from its operation.

14. "Solid waste" means all putrescible and non-putrescible solid wastes, including, but not limited to, materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, or are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as a manufacturing by-product, including, but not limited to, garbage, refuse, industrial, commercial and agricultural waste sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances

and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

15. "Solid waste management-resource recovery facility" or "facility" means any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for or is incidental to the collecting, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution and related plants and facilities, sanitary landfills, leachate treatment facilities, plants and facilities for compacting, composting or pyrolization of solid wastes, secure land burial facilities, landspreading facilities, surface impoundments and waste oil storage, reprocessing and recycling facilities, incinerators, co-composting recycling facilities and other solid waste disposal, reduction or conversion facilities and resource recovery equipment, source separation equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law. Any such facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as designated in subdivision two-a of section two of the public service law.

16. "Source separation" means the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

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

18. "Towns" means the towns of Stephentown, Berlin, Petersburg, Grafton, Hoosick, Pittstown, Poestenkill, Schaghticoke, Sand Lake, Nassau, Schodack, Brunswick, village of Schaghticoke, village of Castleton-on-Hudson, village of Nassau, village of Valley Falls, and the village of Hoosick jointly or individually as shall be determined by the usage of such terms in this title, or such of them that satisfy the requirements of subdivision four of section two thousand fifty-cc of this title by filing the certificate required by that section.

§ 2050-cc. Eastern Rensselaer county solid waste management authority. 1. A corporation known as the Eastern Rensselaer county solid waste management authority is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall consist of a maximum of seventeen members and a minimum of six members, one member appointed by each legislative body of the towns constituting the authority. Each member shall be appointed to serve a five year term. Subsequent appointment of members by each legislative body shall be made for a term of five years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled by the affected legislative body in the manner provided for in the original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by the affected legislative body for the unexpired terms. Members may be removed from office by the legislative body of the town which appointed such members for inefficiency, neglect of duty or misconduct in office; provided, however, that such member shall be given a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days notice. The members of the authority shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held and a majority of the members shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of not less than a majority of the members which the authority would have would there be no vacancies and were none of the members disqualified from acting. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the authority shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. Such officers shall be appointed by the governing body and shall serve at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove an attorney, engineer and executive director which positions shall be in the exempt class of civil service and such additional officers and employees as they may determine necessary for the performance of the powers and duties of the authority, and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also, from time to time, contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the governing body and the premium therefor shall be paid by the authority.

3. Notwithstanding any inconsistent provisions of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, Rensselaer county, the towns, any other municipality, or any public benefit corporation, shall forfeit his or her office of employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment.

4. The chairman of the town legislature of each of the towns shall file on or before December thirty-first, nineteen hundred ninety, in the office of the secretary of state, a certificate approved by the legislature setting forth: (a) the name of the authority; (b) the name of the member appointed by such town legislature; (c) a verified copy of

a duly adopted local law or ordinance as prescribed in section one hundred twenty-aa of the general municipal law; and (d) the effective date of this title. The authority shall be perpetual in duration, except that if any town shall not file such certificate, such town shall not be included within the definition of "towns" as such term is defined in subdivision eighteen of section two thousand fifty-bb of this title, and further, if such certificate is not filed by six or more towns with the secretary of state on or before such date then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved; provided, however, that no such termination shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Prior to termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the towns in such manner as shall be determined by the towns.

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

§ 2050-dd. Advances on behalf of authority; transfer of property to authority; acquisition of property for authority. 1. In addition to any powers granted to it by law, the legislative body of the towns may, from time to time, appropriate by resolution sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each such legislative body may determine if the moneys so appropriated shall be subject to repayment by the authority to any such town and, in such event, the manner and time or times for such repayment. The towns or any other municipality within the area of operation, may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful in connection with the exercise by the authority of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease shall be for such consideration, be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and such town or other municipality may agree. Any such gifts, grant, sale, conveyance, loan or license shall not be subject to referendum, permissive or mandatory.

2. The towns may acquire by purchase or condemnation real property in the name of such towns or town for any corporate purpose of the authority.

§ 2050-ee. Powers of the authority. The authority shall have the power:

1. To sue and be sued.

2. To have a seal and alter the same.

3. To acquire in the name of the authority, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein within the area of operation, without limitation, for its corporate purposes and to take by eminent domain, in the name of the authority, pursuant to the eminent domain procedure law, any real property required to carry out its corporate purposes; provided, however, that in the acquisition of any real property designated as the site for any facility, the authority shall give consideration to the present and any proposed land use character of the area in which the site is to be located and zoning laws or regulations, if any, otherwise generally applicable to such area. The authority shall not determine to construct a facility outside of its area of operation without approval of the solid waste management planning unit (as that term is defined in section 27-0107 of the environmental conservation law) responsible for the municipality in which such facility is to be constructed and without the approval of the chief executive officer and local legislative body of such municipality. The authority shall not site a solid waste

management-resource recovery facility within an agricultural district established pursuant to article twenty-five-AA of the agriculture and markets law.

4. To collect, receive, extract, transport, process, dispose of, sell, store, convey, recycle, and deal with, in any lawful manner and way solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any solid waste management-resource recovery facility. Any such disposal or sale may be effected on such terms and in such manner as the authority may deem proper.

5. To plan, develop and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with the towns, or other municipalities or persons within or without the area of operation and to own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, replace, increase, enlarge, and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to enter into contracts for any and all such purposes and for the management and operation of a project, and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any person or public corporation, municipality or the state, subject to such conditions and limitations as the authority may determine to be in the public interest.

6. To assist in the planning, development and construction of and the financing of the cost of any project to be located in the area of operation, whether or not such project is to be owned or operated by the authority.

7. To collect or receive from the United States, the state, any county within the state, the towns, any other municipality or public corporation or person, solid waste for the purpose of treatment or disposal thereof, with the right of the authority to sell and dispose of any products or by-products (including energy) of such process of treatment or disposal, as the authority may deem proper.

8. To contract with the towns, or other municipalities, state agencies, public corporations or persons within or without the area of operation, for the purpose of collecting, receiving, treating and disposing of solid waste, including, without limitation, to contract with persons for the delivery of all solid waste generated within a stated area to a specific solid waste management-resource recovery facility.

9. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the authority, which by-laws and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the authority and in the office of the clerk of each of the legislative bodies of the towns, and to provide for the enforcement of such by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the legislative bodies shall have power to prescribe that violations of specific by-laws of the authority, including, without limitation, any failure to comply with any by-law requiring the payment of any fee or other charge by any person in connection with the delivery of solid waste to any facility or any other use of any facility by such person, shall constitute offenses or infractions and provide for the punishment of violations thereof by civil penalty.

10. With the consent of the appropriate legislative body of any other municipality, to use officers or employees of such town or municipality and to pay a proper portion of compensation or costs for the services for such officers or employees.

11. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable.

12. To enter on any lands, waterways or premises within the area of operation for the purpose of making surveys, soundings, and examinations, any liability for which shall not exceed actual damages.

13. To borrow money and to issue bonds for any of its corporate purposes, to secure the same with its revenues or other funds or refund the same, and to provide for the rights of the holders thereof.

14. Subject to any limitations imposed by any contract pursuant to subdivision two of section two thousand fifty-tt of this title, to determine classifications of users, to fix and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the authority, which rates, rentals, fees and other charges may be different for each classification of user and may reflect the source and composition of solid waste, and to contract with the towns or any other municipality or person in respect thereto, so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the authority, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the authority, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority. No such rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, the authority shall be established, fixed or revised unless the authority shall have held a public hearing at which the users of the facilities of, or services rendered by, the authority together with the owners of property served or to be served and others interested have had the opportunity to be heard concerning the same. Notice of such public hearing shall be published by the authority at least ten days before the date set therefor in at least one newspaper having a general circulation in each of the towns. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such hearing. A copy of the notice shall be filed in the office of the clerk of each of the towns and shall be available for inspection by the public. At any such hearing, any person shall have an opportunity to be heard concerning the matters under consideration. Any decision of the authority on matters considered at any such public hearing shall be in writing and shall be made available to any such person in the office of the authority during regular office hours. All

rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, the authority shall be a lien upon the real property upon which, or in connection with which, services were provided. Any such lien shall take precedence over all other liens or encumbrances, except taxes or assessments. The treasurer of the authority shall prepare and transmit to the respective legislative body of each town, on or before the first day of December in each year, a list of those properties within each respective town for which such services were provided and which the payment of rates, rentals, fees and other charges are in arrears for a period of thirty days or more after the last day fixed for payment of such rates, rentals, fees and other charges without penalty. The list shall contain a brief description of the properties for which such services were provided, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interests computed to December thirty-first of that year. Each governing body shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the various municipalities under the heading "solid waste disposal charge". Such amounts, when collected by the several municipal collectors or receivers of taxes, shall be paid over to each respective town treasurer, who immediately shall pay the same over to the treasurer of the authority. All of the provisions of the tax laws of the state covering enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

15. To accept gifts, grants, loans or contributions from the United States, the state or any authority or instrumentality of either of them, or any municipality or from any person, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the authority.

16. To enter into agreements, in its discretion, to pay annual sums in lieu of taxes to the towns or any other municipality, political subdivision or taxing district of the state in respect to any real property which is owned by the authority and located in such towns, municipality, political subdivision or taxing district.

17. To covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includible, under the United States Internal Revenue Code of 1986, or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law.

18. To do all things necessary or convenient to carry out the power expressly given in this title.

§ 2050-ff. Governmental capacity of the authority and municipalities. The towns, other municipalities within the area of operation and the authority, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the authority shall be deemed to be the performance of an essential governmental function by the authority acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or other public corporation.

§ 2050-gg. Transfer of officers and employees. In accordance with section seventy of the civil service law, any officer or employee of a participating municipality under civil service who is selected by the authority may, with the consent of the chief elected official of such municipality, be transferred to the authority and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section who are members of or benefit under any existing pension or retirement fund or system shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law but, during the period of their employment by the authority, all contributions to such fund or system shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the personnel officer of the applicable participating municipality shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 2050-hh. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including the establishments of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The aggregate principal amount of such bonds, notes or other obligations shall not exceed fifty million dollars ($50,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than fifty million dollars ($50,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into bank loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

2. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds. Obligations with a maturity of five years or less from the date of their original issuance may be designated as notes.

Bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide.

Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect a satisfactory sale.

Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the executive director, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales.

The private or public bond sale guidelines set by the authority shall include, but not be limited to a requirement that where the interests of the state will be served by a private or public sale of bonds, the authority shall select underwriters for private or public bond sales conducted pursuant to a request for proposal process undertaken at least once annually and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the comptroller.

The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

The authority shall annually submit its bond sale report to the comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

The authority shall make available to the public copies of its bond sale report upon reasonable request therefor.

Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

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

(a) pledging all or any part of the revenues, other moneys or property of the authority to secure the payment of the bonds, or of any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements as they may exist;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

(g) the procedure, if any, by which the terms of any contracts with bondholders may be amended or abrogated, the amount of bonds, the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

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

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

5. Any provisions of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims

of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created, nor any financing statement, need be recorded or filed.

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

7. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority, subject to such agreements with bondholders as then may exist, shall have power, out of any moneys available therefor, to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (i) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date or, (ii) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2050-ii. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to subdivision three of section two thousand fifty-hh of this title:

1. In the event that the authority shall default in the payment of principal or of interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in the aggregate

principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the town in which the principal office of the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holder of twenty-five per centum in principal amount of such bonds outstanding, shall in his or its own name:

(a) By action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates and charges adequate to carry out any agreement as to, or pledge of, such rents, rates and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

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

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

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

(e) Declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county where the principal office of the authority is located.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom, subject to any pledge thereof or agreement with bondholders relating thereto, and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2050-jj. State, towns and municipalities not liable on authority bonds. Neither the state, the towns nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the towns or any other municipality or public corporation, and such bond shall contain on the face thereof, a statement to such effect.

§ 2050-kk. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in interest bearing accounts in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States, the state or of the towns of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2050-ll. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other

obligations of this state is now or hereafter may be authorized.

§ 2050-mm. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged; provided, however, that this section shall not be construed to limit in any manner the ability of the state to alter, amend, or enforce laws or regulations to protect public health and the environment. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2050-nn. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the towns and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, income and operations, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf provided, however, that the authority shall annually pay a sum in lieu of taxes to each of the municipalities in which any real property owned by or under its jurisdiction, control or supervision of the authority are located in an amount equal to the taxes and assessments which would have been levied upon such real property in an unimproved state had such real property been owned by a person whose real property is subject to taxation. The construction, use, occupation or possession of any property owned by the authority or the towns, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. Mortgages made or financed, directly or indirectly, by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for transfer, and estate and gift taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of any payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer, and estate and gift taxes.

§ 2050-oo. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter. Actions to recover damages for personal injury or injury to property caused by the latent effects of exposure to any substance or combination of substances, in any form, upon or within the body, or upon or within property, shall be governed by section two hundred fourteen-c of the civil practice law and rules.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2050-pp. Contracts. All contracts or orders, for work, material and supplies performed or furnished in connection with construction, shall be awarded, when applicable, pursuant to paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law and such award shall be made by the authority pursuant to resolution of the governing body except as hereinafter provided. In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the authority. Every contract when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by either of the towns with respect to any proposed project, and the authority may adopt, utilize, accept and confirm any bids or proposals submitted to either of the towns and heretofore and hereafter received and publicly opened by such town. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, any other general, special or local law, or the charter of either town.

§ 2050-qq. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way of manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2050-rr. Audit and annual report. In conformity with the provisions of section five of article ten of the state constitution, the accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with each legislative body. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of title one of article nine of this chapter.

§ 2050-ss. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2050-tt. Pledge by towns; contracts with municipalities; powers of municipalities. 1. The towns are hereby authorized to pledge to and agree with the holders of any bonds that the towns will not limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

2. The authority and the towns shall have power to contract from time to time in relation to the collecting, receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from

the operation of any solid waste management-resource recovery facility. Any such contract to which the authority, the towns or any municipality within the area of operation are parties may include provisions stipulating the minimum and/or maximum rates, rentals, fees and other charges to be collected for the use and availability of facilities. Any contract may also include provisions: (a) requiring any such town or municipality to deliver, or cause to be delivered, periodically to a specified facility or facilities all or any portion of the solid waste generated, originated or brought within such town or municipality and providing for specified minimum periodic payments whether or not such delivery of any such solid-waste is made; (b) reserving to any such town or municipality, and granting by the authority to any such town or municipality, a portion of or the entirety of the capacity of a solid waste management-resource recovery facility as any such town or municipality determines is reasonably necessary to meet its present and reasonably anticipated needs and providing for specified minimum periodic payments in consideration thereof, or (c) requiring the towns to pay such amounts as shall be necessary to assure the continued operation and solvency of the authority, all such payments to be determined and paid in such manner and at such times as may be provided in such contract.

3. To further the governmental and public purposes of the authority, including the implementation of any contract or proposed contract contemplated by this title, and in recognition of the public policy of the state in the area of the control and management of solid waste and solid waste disposal activities to displace competition with regulation or monopoly public control, the towns and all other municipalities within the area of operation, as instrumentalities of the state, shall have the power to adopt and amend local laws, ordinances and regulations imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste or the recovery by any means of any material or energy product or resource therefrom, including, without limiting the generality of the foregoing, local laws requiring that all solid waste generated, originated or brought within their respective boundaries, subject to such exceptions as may be determined to be in the

public interest, shall be delivered to a specified solid waste management-resource recovery facility; provided, however, that any such local law, ordinance or regulation enacted by the towns shall take precedence over and shall supersede any inconsistent provisions of any such local law, ordinance or regulation enacted by any other municipality within the area of operation. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum. Any such local law may include provisions for the enforcement thereof and penalties for the violation thereof, which may provide, but shall not be limited to providing, that any violation of a local law shall constitute an offense or infraction, and may provide that any violation may be punished by civil penalty, fine or other monetary charge, and/or, the suspension or revocation of permits or licenses granted by any other jurisdiction with respect to the collecting, receiving, transporting, delivery or storing of solid waste. Upon the adoption of any local law, ordinance or regulation pursuant to this section, the towns or other municipality shall file a verified copy of such local law, ordinance or regulation with the commissioner of the department of environmental conservation; provided, however, that the failure to so file such a local law, ordinance or regulation shall not invalidate such local law, ordinance or regulation. Upon the adoption or amendment of any local law or ordinance pursuant to section one hundred twenty-aa of the general municipal law, any or all of the towns, by their respective legislative body, is authorized and empowered to delegate and assign to the authority, in whole or in part, by contract and on such terms as the parties may agree, the administration and implementation of the source separation and recycling program. Such delegation and assignment powers should be in addition to any other contracting powers and authority the towns may have under this section.

For purposes of this subdivision, solid waste shall have the meaning specified in this title, but shall not include any scrap or other material of value separated from the waste stream and held for purposes of materials recycling.

4. The towns are hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased from the authority pursuant to this section. Any resale of or other disposition may be made in such manner as the towns may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

5. The towns and all other municipalities within the area of operation shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the authority.

6. Any contract entered into pursuant to this section to which the authority shall be a party may be pledged by the authority as security for any issue of bonds, and may be assigned, in whole or in part, by the authority, to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management-resource recovery facility, or part thereof, financed in whole or in part by the authority.

§ 2050-uu. Solid waste facility reserve fund. The legislative bodies of the towns may establish a special fund, to be known as solid waste facility reserve fund of such town. There shall be credited to such reserve fund all amounts paid to such town and specifically designated by the payor for deposit in such reserve fund, together with such town moneys as may be appropriated thereto from time to time. Moneys in such reserve funds may be appropriated only for the purpose of paying amounts due from the town under the terms of any contract entered into pursuant to this title or for the construction, operation or closure of solid waste management facilities within the town, for which an insufficient or no provision has otherwise been made, except that upon the adoption of a resolution by at least a two-third vote of the voting strength of such towns legislative body, all or any portion of the moneys in such reserve fund may be transferred to any other reserve fund established by the town pursuant to the general municipal law. To the extent not inconsistent with the provisions of this section, the management of such reserve fund and the investment of moneys therein shall be subject to the provisions of section six-h of the general municipal law.

§ 2050-vv. Transfer of environmental applications, proceedings, approvals and permits. Any application in relation to the purposes of or contemplated by this title or any proceeding commenced by any participating municipality with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority has been a party to such application or proceeding and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the participating municipality to the authority, unless such assignment and transfer is prohibited by federal law.

§ 2050-ww. Preference for actions or proceedings against authority. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein, except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county in which the principal office of the authority is located.

§ 2050-xx. Separability. If any section, clause or provision in this title shall be held by a court of competent jurisdiction to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2050-yy. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any town charter or any local law, ordinance or resolution of the towns or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 13-I

COUNTY OF FRANKLIN SOLID WASTE MANAGEMENT AUTHORITY

§ 2051-a. Short title. This title shall be known and may be cited as the "County of Franklin Solid Waste Management Authority Act."

§ 2051-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the public benefit corporation created by section two thousand fifty-one-c of this title, known as the county of Franklin solid waste management authority.

2. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management

facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

4. "Cost", as applied to any project, shall mean and include the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds, the financing of the placing of any project in operation and reimbursement to the county, any municipality, and state agency, the state, the United States government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

5. "County" shall mean the county of Franklin.

6. "Governing body" shall mean the members of the authority constituting and acting as the governing body of the authority.

7. "Municipality" shall mean any county, city, town, village or any combination thereof.

8. "Person" shall mean any natural person, partnership, association,

joint venture or corporation, exclusive of a public corporation.

9. "Project" shall mean any solid waste management facility, the planning, development, financing, construction, operation or maintenance of which is authorized to be undertaken in whole or in part by the authority pursuant to this title.

10. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

11. "Resource recovery" shall mean the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, recycling centers or other programs, projects or facilities.

12. "Revenues" shall mean all rates, fees, rents, charges and other income derived by the authority from its operations.

13. "Solid waste" shall mean all materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including, but not limited to, garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

14. "Solid waste management facility" or "facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed beyond the initial solid waste collection process for the receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolization of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment source separation equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law.

15. "Source separation" shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

16. "State" shall mean the state of New York.

§ 2051-c. County of Franklin solid waste management authority. 1. A corporation known as the County of Franklin solid waste management authority is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. It shall consist of seven members who shall be appointed by the county legislature.

2. The first members of the authority shall be appointed according to the following schedule for their terms of office; two for a one-year

term ending on December thirty-first of the year following the year in which this title shall have become a law; two for a two-year term ending on December thirty-first of the second year following the year in which this title shall have become a law; and three for a three-year term ending on December thirty-first of the third year following the year in which this title shall have become a law. Subsequent appointments of members shall be made in the same manner and for terms of three years ending in each case on December thirty-first of the last year of each such term. No person who has served as a member for two consecutive terms shall be eligible for reappointment as a member for a third term except after an interval of at least three years. All members shall continue to hold office until their successors are appointed and qualify. Vacancies occurring at the end of a term shall each be filled and appointed for a three-year term. Vacancies occurring otherwise than by expiration of term shall be filled in the same manner, respectively, for the unexpired term. Members may be removed from office for the same reasons and in the same manner as provided by law for the removal of officers of the county. Appointments to fill expired and unexpired terms shall be made within sixty days upon receipt of notification by the chairman of the county legislature that a vacancy exists.

3. The members of the authority shall receive no compensation for their services but shall be reimbursed for all of their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of four members are present. No action shall be taken except by the favorable vote of at least four members. The officers of the authority shall consist of a chairman, a vice-chairman and a treasurer who shall be members of the authority, and a secretary who need not be a member of the authority. The officers of the authority shall be selected by the authority and shall serve in such capacities at the pleasure of the authority. In addition to the position of secretary, the authority may appoint and at pleasure remove an executive director, attorney and engineer, which positions shall be in the exempt class of the civil service, and such additional officers and employees as it may deem necessary, and may determine and fix their qualifications, duties

and compensation, subject to the provisions of the civil service law. The authority may delegate to one or more of its members, officers, agents or employees any such powers as it may deem proper. The authority may also contract for expert professional services. The treasurer shall execute a bond conditioned on the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the governing body and the premium for which shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality or any public benefit corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as a member, officer, agent or employee of the authority be deemed incompatible or in conflict with such office, membership or employment.

5. In addition to any powers granted to it by law, the county legislature may appropriate by resolution sums of money to defray project costs or any other costs and expenses of the authority to be incurred prior to the first issuance of bonds. Subject to the rights of bondholders, the county legislature may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such eventuality, the manner and schedule for such repayment.

6. (a) The county shall file on or before March thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate approved by the legislature and signed by the chairman of the county legislature setting forth: (1) the name of the agency; (2) the names of the members appointed by the county legislature and (3) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

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

§ 2051-d. Transfer of property to authority; acquisition of property by county for authority. 1. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree.

2. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

§ 2051-e. Powers of the authority. The authority shall have the power:

1. To sue and be sued;

2. To have a seal and alter the same;

3. To acquire in the name of the authority, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein, without limitation, for its corporate purposes;

4. To condemn, in the name of the authority pursuant to the eminent domain procedure law, any real property within the county and required by the authority to carry out the powers granted by this title.

5. To collect, receive, transport, process, dispose of, sell, store, convey, recycle and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any solid waste management facility. Any such disposal or sale may be effected on such terms and in such manner as the authority may deem proper;

6. To plan, develop and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with municipalities or persons within or without the county and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any person or public corporation, subject to such conditions and limitations as the authority may determine to be in the public interest;

7. To assist in the planning, development and construction of and the financing of the cost of any solid waste management facility to be located in the county whether or not such solid waste management facility is to be owned or operated by the authority, which assistance may include loans to any person or public corporation. Any such solid waste facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in subdivision two-a of section two of the public service law;

8. To collect, receive from the United States, the state, the county, any other municipality or public corporation or person solid waste for the purpose of treatment or disposal thereof, with the right of the

authority to sell and dispose of any products or by-products (including energy) of such process of treatment or disposal, as the authority may deem proper;

9. To contract with the county, other municipalities, state agencies, public corporations or persons within or without the county, for the purpose of receiving, treating and disposing of solid waste including without limitation to contract with municipalities, state agencies, public corporations or persons for the delivery of all solid waste generated within a stated area to a specific solid waste management facility;

10. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the authority, which by-laws and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the authority and in the office of the clerk of the county, and to provide for the enforcement of such by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the county legislature shall have power to prescribe that violations of specific by-laws of the authority shall constitute offenses or infractions and provide for the punishment of violations thereof by civil and criminal penalties;

11. With the consent of the chairman of the county legislature, to use officers or employees of the county and to pay a proper portion of the compensation or costs for the services for such officers or employees;

12. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

13. To enter on any lands, waterways or premises for the purpose of making surveys, soundings and examinations, any liability for which shall not exceed actual damages;

14. To borrow money and to issue bonds and to fund or refund the same,

and to provide for the rights of the holders thereof;

15. To fix and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the authority so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the authority, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the authority, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority;

16. To accept gifts, grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or from any person or public corporation, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the authority;

17. To act as an agency, as such term is used in section two hundred fifty-one of the county law; and

18. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 2051-f. Governmental capacity of the authority and municipalities. The county, other municipalities within the county and the authority in carrying out the respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the authority shall be deemed to be the performance of an essential governmental function by the authority acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or other public corporation.

§ 2051-g. Transfer of officers and employees. Any officer or employee of the county under civil service, selected by the authority may, with the consent of the chairman of the county legislature, be transferred to the authority and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or system to be paid by the employer on account of such officers or employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the personnel officer of the county shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 2051-h. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution shall provide, except that notes and any renewals thereof shall mature within five years from the date of the original issuance and bonds and any renewals thereof shall mature within thirty years from the date of the original issuance of any such bonds or notes. The bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine. Bonds of the authority shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the state comptroller where such sale is not to be to such comptroller, or by the state director of the budget where such sale is to said comptroller.

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

(a) pledging all or any part of the revenues, other moneys or property of the authority to secure the payment of the bonds, including but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source;

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

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

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to section two thousand fifty-one-i of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of the trustee;

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

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

7. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority, subject to such agreements with bondholders as then may exist shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2051-i. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision three of section two thousand fifty-one-h of this title:

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

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

(a) by action or proceeding in accordance with the civil practice law

and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates and charges adequate to carry out any agreement as to, or pledge of, such rents, rates and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

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

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the agency.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any

property, real or personal, in connection therewith that the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

7. The county is authorized to pledge to and agree with the holders of the bonds that the county will not limit or impair the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

§ 2051-j. State, county and municipalities not liable on bonds. Neither the state, county nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, county or any other municipality or public corporation, and such bonds shall contain, on the face thereof, a statement to such effect.

§ 2051-k. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in interest bearing accounts in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States, the state or the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2051-l. Bonds and notes as legal investment. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or notes, or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or notes or other obligations of this state is now or hereafter may be authorized.

§ 2051-m. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way to impair the rights and remedies of bondholders until the bonds, together with the interest thereon, including interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged, provided, however, that this section shall not be construed to limit in any manner the ability of the state to alter, amend or enforce laws or regulations to protect public health and the environment. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2051-n. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. Mortgages made or financed, directly or indirectly, by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law. The authority shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of any payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2051-o. Actions against the authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law, or (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter. Actions to recover damages for personal injury or injury to property caused by the latent effects of exposure to any substance or combination of substances, in any form, upon or within the body or upon or within property shall be governed by section two hundred fourteen-c of the civil practice law and rules.

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

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2051-p. Contracts. 1. All contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the authority.

2. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the authority and the sufficiency of such security shall, in addition to the justification and acknowledgement, be approved by the authority. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal or if he accepts but does not execute the contract and give proper security, the authority shall have the right to declare his deposit forfeited. In case any work shall be abandoned by any contractor, the authority may, if it determines that the public interest is thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from or any contract awarded to any person or corporation who is in arrears to the authority or the county upon any obligation of the authority or of the county. Every contract shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices

heretofore or hereafter published by the county with respect to any proposed project. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, or any other general, special or local law, or the charter of the county. The authority shall be deemed an authority for the purpose of section twenty-eight hundred seventy-eight of this chapter.

§ 2051-q. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2051-r. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the chairman of the Franklin county legislature. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two, and two thousand eight hundred three of title one of article nine of this chapter.

§ 2051-s. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2051-t. Contracts with municipalities; powers of municipalities. 1. The county and one or more municipalities within the county, or the authority and the county, shall have power to contract from time to time between or among themselves, or among themselves and with the authority, in relation to the receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any solid waste management facility. Any such contract to which the authority and any municipality within the county are parties may include provisions stipulating the maximum rates, rentals, fees and other charges to be collected for the use of facilities. Any contract to which the authority and the county are parties may include provisions (i) requiring the periodic delivery to the particular facilities of minimum amounts of solid waste and providing for specified minimum period payments whether or not such delivery is made, or (ii) requiring the county to pay, within appropriations available therefor, such amounts as shall be necessary to assure the continued operation and solvency of the agency, such payments to be determined and paid in such manner and at such times as may be provided in such contract.

2. In recognition of existing state policy, as declared in title one of article twenty-seven of the environmental conservation law, the legislature hereby affirms the primacy of the local and regional role in resource recovery procedures. To further the governmental and public purposes of the authority, including the implementation of any contract or proposed contract contemplated by this title, the county and all other municipalities within the county shall have power to adopt and amend local laws, ordinances and regulations imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste or the recovery by any means of any material or energy product or resource therefrom, and shall further have the power to adopt and amend local law requiring that all solid waste generated, originated or brought within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be

delivered to a specified facility or facilities; provided however, that any such local law enacted by the county shall take precedence over and shall supersede any inconsistent provisions of any such local law enacted by a municipality with the county. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum. For the purposes of this section, solid waste shall have the same meaning as defined in section two thousand fifty-one-b of this title, but shall not include any scrap or other material of value separated from the waste stream and held for purposes of materials recycling. Upon the adoption of any local law, ordinance or regulation pursuant to this section, the participating county or municipality shall file with the commissioner of the department of environmental conservation a verified copy of such local law, ordinance or regulation.

3. The county is hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased from the authority pursuant to subdivision one of this section. Any resale or other disposition may be made in such manner as the county may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

4. The county and all other municipalities within the county shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the authority.

5. Except as otherwise provided by section one hundred twenty-w of the general municipal law, any contract entered into by a municipality pursuant to this section may be for such term or duration, not to exceed twenty-five years, as may be agreed upon by the parties thereto.

6. Any contract entered into pursuant to this section to which the

authority shall be a party may be pledged by the authority as security for any issue of bonds, and may be assigned, in whole or in part, by the authority to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management facility, or part thereof, financed in whole or in part by the authority.

§ 2051-u. Solid waste reserve fund. The county legislature may establish a special fund, to be known as the solid waste reserve fund of the county. There shall be credited to such reserve fund all amounts paid to the county and specifically designated by the payor for deposit in such reserve fund, together with such county moneys as may be appropriated thereto from time to time. Moneys in such reserve fund may be appropriated only for the purpose of paying amounts due from the county under the terms of any contract entered into pursuant to this title, for which an insufficient or no provision has otherwise been made, except that upon the adoption of a resolution by at least a two-thirds vote of the voting strength of the county legislature, all or any portion of the moneys in such reserve fund may be transferred to any other reserve fund established by the county pursuant to the general municipal law. To the extent not inconsistent with the provisions of this section, the management of such reserve fund and the investment of moneys therein shall be subject to the provisions of section six-h of the general municipal law.

§ 2051-v. Environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title, or any proceeding commenced, by the county with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county to the authority unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

§ 2051-w. Separability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2051-x. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter or any local law, ordinance or resolution of the county or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 13-L

ONEIDA COUNTY SPORTS FACILITY AUTHORITY ACT

§ 2052-a. Short title. This title shall be known and may be cited as the "Oneida county sports facility authority act."

§ 2052-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section two thousand fifty-two-c of this title.

2. "Board" means the members of the authority constituting and acting as the governing body of the authority.

3. "Comptroller" means the comptroller of the state.

4. "Construct", "construction" or "constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of the sports facility, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedure and other actions preliminary or incidental thereto.

5. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real, personal and mixed and improved and unimproved, the cost of the demolishing, removing or relocating of any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of the sports facility, machinery, apparatus and equipment, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of other expenses necessary or incidental to the construction of any project and the financing of the construction thereof and the financing of the placing of any project in operation, including reimbursement to the county or any municipality, state agency, the state, the United States government or any other person for expenditures that would be costs of a project hereunder had they been made directly by the authority.

6. "County" means the county of Oneida.

7. "County executive" means the county executive of the county, being the chief executive officer of the county.

8. "County board of legislators" means the board of legislators of the county.

9. "Municipality" means any county, city, town, village, or city

school district, union free school district, central school district or common school district, any other such instrumentality, including any agency or public corporation of the state, or any of the foregoing or any combination thereof.

10. "Murnane Field" means the stadium commonly known by that name, located in the city of Utica, as well as the surrounding lands, including all structures appurtenant thereto, located in the vicinity of Sunset Avenue and Burrstone Road in the city of Utica, which shall include all of the property deeded to the city of Utica by deed dated February third, nineteen hundred eight and thereafter conveyed to the Utica city school district by deed dated March fourteenth, nineteen hundred seventy-seven, except for any portions of the said property which have been appropriated by the state of New York or otherwise conveyed.

11. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

12. "Project" means the sports facility, including the structures or parts thereof and appurtenances thereto, real property or any other property incidental to and included in such facility or part thereof, and any improvements, extensions and betterments.

13. "Real property" means lands, structures, franchises, rights and interests in land and air rights, and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise and also claims for damage to real estate.

14. "Sports facility" means Murnane Field in the city of Utica.

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

16. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau, division or other agency or instrumentality of the state.

§ 2052-c. Oneida county sports facility authority. 1. A public corporation, to be known as the "Oneida county sports facility authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. The board of the authority shall consist of a total of seven members, three of whom shall be appointed by the county executive, without confirmation of the county board of legislators, and four of whom shall be appointed by the county board of legislators, without county executive right to veto. The first members appointed by the county executive shall be appointed for the following terms of office: one for a term ending on December thirty-first of the first year following the year in which this title shall have become law, one for a term ending on December thirty-first of the third year following the year in which this title shall have become law and one for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. The first members appointed by the county board of legislators shall have the following terms of office: one for a term ending on December thirty-first of the first year following the year in which this title shall have become law, one for a term ending on December thirty-first of the third year following the year in which this title shall have become law, and two for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. Subsequent appointments of members shall be made for a term of five years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the board at a meeting duly called and held where a quorum of four members are present. No action shall be taken except pursuant to the favorable vote of at least four voting members. The board may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the authority shall consist of a chairman, who shall be a member of the authority, and a vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. Such officers shall be appointed by the board and shall serve in such capacities at the pleasure of the board. In addition to the secretary, the board may appoint and at pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and county civil service rules, and such employees shall be entitled to membership in the county pension and retirement system, and shall be entitled to the same rights and obligations thereunder as the employees of the county. The board may also from time to time contract for expert professional services, and may retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board and the premium therefor which shall be paid by the authority.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or

employee of the state, any municipality or any public benefit corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment and any such officer, member or employee may accept such appointment and serve as a member, officer, agent or employee of the authority without forfeiture of any other office or position of public employment by reason thereof.

4. (a) The county executive shall file on or before December thirty-first of the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the authority; (2) the names of the members initially appointed and their terms of office; and (3) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law. Upon termination of the existence of the authority, all of the rights and each project of the authority then remaining shall pass to and vest in the county.

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

§ 2052-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;

4. To acquire, lease as lessee, hold and use by purchase, gift, grant, transfer, contract or lease any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title. In connection with the acquisition of any such property, the authority may assume any obligations of the owner of such property and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any property which the authority is authorized to acquire is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such property with which such owner was charged and such owner shall become discharged from the performance thereof;

5. To develop, construct, operate, maintain, manage or contract for the operation, maintenance or management of Murnane Field; to allow the use of Murnane Field by professional athletic teams for the conduct of professional and amateur athletic events and activities related thereto and, in its discretion, other organized public use and to allow the use of Murnane Field by the Utica city school district for the organized use of its students, subject only to general rules for the use of such sports facility and reasonable scheduling requirements; to contract for the operation and maintenance of the sports facility under its jurisdiction or for services to be performed in connection therewith; to rent parts thereof and to grant concessions, all on such terms and conditions as it may determine;

6. To lease the project of the authority to the county or any other municipality in the county, or any instrumentality thereof, upon such terms and conditions as shall be determined by the authority, the county, the municipality or such instrumentality, as the case may be;

7. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

8. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

9. To enter upon such lands or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

10. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

11. To enter into cooperative agreements with other authorities, municipalities, district corporations, individuals or corporations, within or without the county, for any lawful purposes necessary or desirable to effect the purposes of this title upon such terms and conditions as shall be determined to be reasonable;

12. To make bylaws and rules for the management and regulation of its affairs and for the regulation of any project. A copy of such bylaws and

rules, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county and shall be published thereafter once in each of two newspapers having a general circulation in the county. Violations of such rules shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

13. To fix rates and collect charges for the use of the project so as to provide revenues sufficient at all times to pay, as the same shall become due, the expense of operating and maintaining the project of the authority together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority;

14. With the consent of the county board of legislators, to use officers and employees of the county, including the county attorney's office, and to pay a proper portion of compensation or costs for the services of such officers or employees; and

15. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 2052-e. Appropriations for purposes of the authority; transfer of property to authority; acquisition of property by county or other municipality for authority; contracts with county or other municipality; use of Murnane Field by Utica city school district. 1. In addition to any powers granted to it by law, the county board of legislators, or the finance board, as such term is defined in the local finance law, of any other municipality in the county may, from time to time, appropriate by resolution sums of money for purposes of the authority to defray project costs or any other costs and expenses of the authority or to pay amounts payable or anticipated to be payable to the authority pursuant to any contract or lease authorized by this title. Such county board of legislators or finance board may determine if the moneys so appropriated shall be subject to repayment by the authority to the appropriate municipality and, in such event, the manner and time or times for such repayment. In the event there shall remain at the end of any fiscal year of the county or any such municipality an unexpended balance of any such appropriation, such unexpended balance shall remain on deposit in the fund or account and such appropriation shall not lapse.

2. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority, the county or any other municipality from the state may be used for any corporate purpose of the authority.

3. The county, one or more municipalities and the authority shall have the power to contract, from time to time, between or among themselves, in relation to the use of the project of the authority, which contracts may include any or all of the following provisions: (a) requiring the use of such project by the county or such municipality for a specified period of time; (b) limiting the right, including a prohibition, of the county or any such municipality to construct a sports facility which will serve the same, or substantially the same, function as the project owned, leased or to be constructed or leased by the authority; (c) providing for specified minimum periodic payments whether or not a project is actually used, subject to such limitations, exceptions and provisions therein; and (d) requiring the county or any such municipality to pay to the authority such amounts as shall be necessary to assure the continued operation of the authority. All such payments shall be determined and paid in such manner and at such times as may be provided in such contracts.

4. Any gift, grant, sale, conveyance, loan, contract or lease authorized by this section may be made or entered into by the county, any other such municipality and/or the authority and no such gift, grant, sale, conveyance, loan, contract or lease shall be subject to referendum, permissive or otherwise.

5. Notwithstanding the provisions of any other law, general, special or local to the contrary, the authority shall allow the Utica city school district to use Murnane Field, and the Utica city school district shall be authorized to use Murnane Field, for the use of its students, subject only to general rules for the use of such sports facility and

reasonable scheduling requirements, without charge to said school district, except for reimbursement of actual expenses occasioned by its use.

§ 2052-f. Governmental capacity of the authority and municipalities. The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

§ 2052-g. Transfer of officers and employees. Any public officer or employee under civil service who is selected by the authority may, with the consent of the commission, board or chief executive officer of the municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but, during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 2052-h. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority, or to the county commissioner of finance as agent of the authority if the board shall so determine, and shall be deposited forthwith in a bank or banks in the state designated by the board. The moneys in such accounts shall be paid out on check of the treasurer or county commissioner of finance, as the case may be, upon requisition by the board or of such other person or persons as the board may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county or of any other municipality within the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. With the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2052-i. Exemption from taxes, assessments and certain fees. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

§ 2052-j. Actions against authority. 1. No action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority, to be sworn before a member, counsel, officer or employee of the authority designated for such purpose concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable shall be the rate prescribed by section three-a of the general municipal law.

§ 2052-k. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law. Nothing in this section shall be construed to limit the powers of the authority to do any construction directly by the officers, agents and employees of the authority.

§ 2052-l. Interest in contracts prohibited. It shall be a misdemeanor for any member of the board or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor or in any contract therefor which the authority is empowered by this title to make.

§ 2052-m. Authority shall be deemed state agency. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 2052-n. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the county executive and with the county board of legislators. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of title one of article nine of this chapter.

§ 2052-o. Books and records. The county comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

§ 2052-p. Limited liability. Neither the members of the board, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the projects of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2052-q. Environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, or any determination or decision heretofore made by the county or any municipality and sent to or filed with the state department of environmental conservation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any such municipality to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any project financed in whole or in part by the authority.

§ 2052-r. Separability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2052-s. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of the county, or other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 13-M

ROCKLAND COUNTY SOLID WASTE MANAGEMENT AUTHORITY

§ 2053-a. Short title. This title shall be known and may be cited as the "Rockland County Solid Waste Management Authority Act."

§ 2053-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Animal shelter" shall mean any facility, building, or structure, where temporary or permanent housing and care is provided to stray, abandoned, abused, seized, impounded, owner-surrendered or otherwise unwanted animals.

2. "Animal management services" shall mean any and all services provided to promote animal care and to protect public health and safety, including, but not limited to the following services: providing housing and care for stray, abandoned, abused, seized, impounded, owner-surrendered or otherwise unwanted animals in an animal shelter; the processing and disposal of animal waste; the disposal of dead wildlife removed from roadways following wildlife-vehicle collisions; providing animal control; and any other similar service related thereto.

3. "Authority" shall mean the public benefit corporation created by section two thousand fifty-three-c of this title, known as the Rockland county solid waste management authority and shall also hereby be known as Rockland Green and/or RG Cares.

4. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the

provisions of this title relating to bonds and bondholders and shall apply with equal force and effect to notes and obligations and noteholders and obligation holders, respectively, unless the context otherwise clearly requires.

5. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management facility or animal shelter; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto subject to the provisions of section two thousand fifty-three-f of this title.

6. "Cost," as applied to any project, shall mean and include the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, subject to the provisions of section two thousand fifty-three-f of this title, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant, legal and other professional services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds, the financing of the placing of any project in operation and reimbursement to the county, any municipality, any state agency, the state, the United States government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

7. "County" shall mean the county of Rockland.

8. "Governing body" shall mean the members of the authority constituting and acting as the governing body of the authority.

9. "Municipality" shall mean any county, city, town, village, district or any combination thereof.

10. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

11. "Project" shall mean any solid waste management facility or animal shelter, the planning, development, financing, construction, operation or maintenance of which is authorized to be undertaken in whole or in part by the authority pursuant to this title.

12. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

13. "Resource recovery" shall mean the separation, extraction and recovery of usable materials, energy or heat from solid waste through source separation, recycling centers, composting, combustion or other programs, projects or facilities.

14. "Revenues" shall mean all rates, fees, rents, charges, receipts and other income derived by the authority from its operations.

15. "Solid waste" shall mean all putrescible and non-putrescible solid wastes, including, but not limited to, materials or substances which are discarded or rejected as being spent, useless, worthless, or in excess

to the owners at the time of such discard or rejection, or which are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or which are manufacturing by-products, including, but not limited to, garbage, refuse, industrial, commercial and agricultural waste sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law or any scrap or other material of value held for purposes of materials recycling other than materials designated as recyclables, pursuant to section one hundred twenty-aa of the general municipal law.

16. "Solid waste management facility" or "facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed beyond the initial solid waste collection process for the receiving, transporting, storage, processing, treatment, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to recycling centers, material recovery facilities, mixed waste processing facilities, household hazardous waste facilities, transfer stations, shredding facilities, baling facilities, rail haul or maritime facilities, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolization of solid wastes or manufacturing or enhancing the value of materials or commodities recovered from solid waste, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery

equipment, source separation equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law.

17. "Solid waste management plan" shall mean the Rockland county integrated solid waste management plan as it may be adopted, amended and supplemented from time to time in accordance with section 27-0107 of the environmental conservation law.

18. "Source separation" shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

19. "State" shall mean the state of New York.

§ 2053-c. Rockland county solid waste management authority. 1. Upon compliance with the requirements of subdivision seven of this section, a corporation known as the Rockland county solid waste management authority shall be deemed to have been created hereby for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. In order to be more consistent with the authority's goals, mission and objectives, the authority shall also be known as Rockland Green and/or RG Cares.

2. The authority shall consist of seventeen members. Eight members shall be members of the county legislature. Five of the eight legislative members shall be appointed by the chairman of the county legislature and three shall be appointed by the minority leader of the county legislature, subject in each case to confirmation by a majority of the county legislature. No such appointment shall be effective unless there shall be, among the legislative members of the authority, a resident of each of the five towns in the county. Residency shall be determined as of the effective date of appointment, and subsequent changes in residency shall not effect the validity of the appointment or the authority of the legislative member to serve in the authority. Each

of the legislative members of the authority initially appointed and certified to the secretary of state shall serve for a term ending on January fifteen, nineteen hundred ninety-four. Subsequent appointments of legislative members of the authority shall be made in the same manner and for terms of two years. All legislative members shall continue to hold office until their successors are appointed and qualify. Vacancies occurring otherwise than by expiration of term shall be filled in the same manner, respectively, for the unexpired term. Members may be removed from office for the same reasons and in the same manner as provided by law for the removal of officers of the county. Appointments to fill expired and unexpired terms shall be made within sixty days upon receipt of notification by the chairman of the board of supervisors that a vacancy exists.

3. Five members of the authority shall consist, ex officio, of the supervisors of the five towns in the county. The term of each town supervisor serving ex officio as a member of the authority shall coincide with such member's term of elective office. No person shall be both an appointed member from the county legislature and a town supervisor serving ex officio as a member of the authority. Two members of the authority shall be appointed by and shall serve at the pleasure of the county executive of the county. Two members shall be mayors of villages contained within the county of Rockland and shall be appointed by the county legislature upon the recommendation of the Rockland county conference of mayors. The term of each mayor serving as a member of the authority shall coincide with such member's term of elective office, not to exceed two years. No such mayor shall be selected from a village that has failed to sign the intermunicipal recyclables management agreement. Such mayors are to be selected from different towns within Rockland county, and for the purposes of determining which town a mayor is determined to be from, if the jurisdiction of the municipality in which a mayor presides spans more than one town, that mayor shall not be restricted from appointment because one portion of his jurisdiction is coterminous with that of another mayor chosen as a member of the authority. Any member of the authority, whether appointed or serving ex officio, may be removed from office by a vote of ten members of the authority for gross neglect of duty, misconduct, maladministration or

malfeasance in office, including the unexcused failure to attend three consecutive regular meetings of the authority.

4. The members of the authority shall receive no compensation for their services but shall be reimbursed for all of their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of eight members is present. No action shall be taken except by the favorable vote of at least eight members. The officers of the authority shall consist of a chairman, a vice-chairman and a treasurer who shall be members of the authority, and a secretary who need not be a member of the authority. The officers of the authority shall be selected by the authority and shall serve in such capacities at the pleasure of the authority. In addition to such officers, the authority may appoint and at its pleasure remove an executive director, attorney and engineer, which positions shall be in the exempt class of the civil service, and such additional officers and employees as it may deem necessary, and may determine and fix their qualifications, duties and compensation, subject to the provisions of the civil service law. The authority may delegate to one or more of its members, officers, agents or employees any such powers as it may deem proper. The authority may also contract for expert professional services. The treasurer shall execute a bond conditioned on the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the governing body and the premium for which shall be paid by the authority.

5. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality or any public benefit corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as a member, officer, agent or employee of the authority be deemed incompatible or in conflict with such office, membership or employment. The members and employees of the authority shall be subject to all requirements of state and county law

pertaining to ethics and financial disclosure to which members of the county legislature and employees of the county, respectively, are subject.

6. In addition to any powers granted to it by law, the county legislature may appropriate by resolution with the concurrence of the county executive sums of money to defray project costs or any other costs and expenses of the authority to be incurred prior to the first issuance of bonds. Subject to rights of bondholders, the county legislature with the concurrence of the county executive may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such eventuality, the manner and schedule for such repayment.

7. (a) The county shall file on or before the twelve month anniversary of the date on which this title shall have become a law, in the office of the secretary of state, a resolution of the county legislature adopted following a public hearing approving the creation of the authority, together with a certificate approved by the county legislature and signed by the county executive setting forth: (1) the name of the authority; (2) the names of the initial members; and (3) the effective date of this title. The authority shall be perpetual in duration, except that if such resolution and certificate are not filed with the secretary of state on or before such date, then the power of the legislature of the county to approve the creation of the authority shall thereupon lapse, the authority shall not be deemed to have been created hereby and shall not exist or be deemed to have existed, and the provisions of this title shall no longer have any force or effect.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

8. It is hereby determined that the authority and the carrying out of its powers and duties are in all respects for the benefit of the people of the county and the state for the improvement of their health, welfare and prosperity and that such purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

9. In exercising the powers conferred upon it by this title, the authority shall at all times act in accordance with, and be in compliance with, the provisions of the solid waste management plan.

§ 2053-d. Transfer of property to authority; acquisition of property by county for authority. 1. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers and duties under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of the holders of any bonds, subject to the provisions of section two thousand fifty-three-f of this title, as the authority and the county or other municipality may agree.

2. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority, subject to the provisions of section two thousand fifty-three-f of this title, or the county from the state may be used for any corporate purpose of the authority.

§ 2053-e. Powers of the authority. The authority shall have the power:

1. To sue and be sued.

2. To have a seal and alter the same.

3. To acquire in the name of the authority, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or

any interest therein, without limitation, for its corporate purposes. In selecting the location for any real property to be acquired or leased, the authority shall give consideration to the present and any proposed land use character of the area in which such site is to be located and shall be subject to and exempt from the zoning laws or regulations, if any, otherwise generally applicable to such area to the same extent that the county is subject to and exempt from the zoning laws or regulations otherwise generally applicable to such area. The authority shall not acquire or lease any interest in real property except upon compliance with the procedure set forth in section two thousand fifty-three-f of this title.

4. To condemn in the name of the authority pursuant to the eminent domain procedure law, any real property within the county and required by the authority to carry out the powers granted by this title, subject to the provisions of section two thousand fifty-three-f of this title.

5. To collect, receive, transfer, transport, process, dispose of, sell, store, convey, recycle, compost, combust and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any recovered materials, compost or energy produced or generated by the operation of any solid waste management facility. Any such disposal or sale may be effected on such terms and in such manner as the authority may deem proper.

6. To plan, develop and construct projects and to pay the cost thereof and to contract in relation thereto with municipalities or persons within or without the county and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to sell, lease, mortgage, grant a security interest in, pledge, encumber, or otherwise dispose of any project or part thereof to any person, municipality or public corporation, subject to such conditions and limitations as the authority may determine to be in the public interest, and to apply for, hold and perform its obligations under any permit, license, approval, or other legal entitlement which

may be required for its projects, services or exercise of powers.

7. To assist in the planning, development, construction and operation of and the financing of the cost of any solid waste management facility to be located in the county whether or not such solid waste management facility is to be owned by the authority, which assistance may include loans to any person or public corporation.

8. To collect or receive from the United States, the state, the county, any other municipality or public corporation or person, subject to the limitations of section two thousand fifty-three-f of this title, solid waste for the purpose of treatment or disposal thereof, with the right of the authority to sell and dispose of any products or by-products (including recovered materials, compost or energy) of such process of treatment or disposal, as the authority may deem proper.

9. To contract with the county, other municipalities, state agencies, public corporations or persons within or without the county, for the purpose of receiving, treating and disposing of solid waste or for any other purpose authorized hereunder, including, without limitation, the power to contract with municipalities, state agencies, public corporations or persons for the delivery of all solid waste generated within a stated area to a specific solid waste management facility.

10. To make rules, regulations and by-laws pertaining to and governing the management and regulation of its affairs and, subject to agreements with bondholders, the use of any project or other property of the authority and the provision of any service by the authority, which rules, regulations and by-laws and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the authority and in the office of the clerk of the county, and to provide for the enforcement of such rules, regulations and by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the county legislature shall have power to prescribe that violations of specific rules, regulations and by-laws of the authority shall constitute violations and provide for the enforcement of violations thereof by civil penalties, including any such

rules, regulations and by-laws requiring the payment of generator, user or hauler fees by any person in connection with the service or availability or service by any facility owned or under contract to the authority.

11. With the consent of the county executive, to use officers or employees of the county and to pay a proper portion of the compensation or costs for the services for such officers or employees.

12. To make contracts and to execute all necessary or convenient agreements, documents and instruments, including evidences of indebtedness, negotiable or non-negotiable.

13. To enter on any lands, waterways or premises for the purpose of making surveys, soundings and examinations, any liability for which shall not exceed actual damages.

14. To borrow money and to issue bonds and to fund or refund the same, and to provide for the right of the holders thereof.

15. To procure insurance, letters of credit, lines of credit, or other credit enhancement with respect to its bonds or notes issued pursuant to this title, or facilities for the payment of tenders of such bonds or notes or facilities for the payment upon maturity of short-term notes not renewed.

16. To enter into interest rate exchange or similar arrangements with any person under such terms and conditions as the authority may determine including, without limitation, provisions as to default or early termination and indemnification by the authority or any other party thereto for loss of benefits as a result thereof.

17. To fix and collect, as more fully set forth in section two thousand fifty-three-g of this title, rates, rentals, fees and other charges for the use of the facilities of, or services provided by, or any commodities furnished by, the authority, and to contract with any municipality in respect thereto, so as to provide revenues sufficient at

all times to pay, as the same shall become due, the principal and interest on the bonds of the authority, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties and business of the authority and meeting all of its contractual and other obligations, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority.

18. To enter into agreements, in its direction, to pay annual sums in lieu of taxes to any municipality in respect to any real property which is owned by the authority and located in such municipality, political subdivision or taxing district.

19. To accept gifts, grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or from any person or public corporation, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the authority.

20. To covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includible, under the United States Internal Revenue Code of 1986, as amended, or any subsequent corresponding internal revenue law of the United States, in gross income of the holder of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law.

21. To act as an agency, as such term is used in section two hundred fifty-one of the county law.

22. The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities for the purposes of operating an animal shelter and providing animal management services on behalf of one or more

municipalities located in the county of Rockland pursuant to the agriculture and markets law and will be subject to regulation by the department of agriculture and markets for the purposes of registration, inspection, and any oversight or regulation.

23. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 2053-f. Certain county rights. The authority shall not (1) acquire or lease any interest in real property, or (2) accept or permit the acceptance at facilities owned or under contract with the authority of solid waste originating outside the county, unless (i) at least forty-five days prior notice of the acquisition or lease of any interest in real property by the authority or any such acceptance of solid waste originating outside the county shall have been given to the county legislature, and (ii) no objection, by resolution of the county legislature, shall have been made and delivered to the agency within such forty-five days.

§ 2053-g. Charges by the authority; method of collection. 1. The authority may fix and collect, on any equitable basis, rates, rentals, fees and other charges for the use of facilities of or services or commodities provided by the authority, including the availability of any of the foregoing from the authority. Such rates, rentals, fees and other charges may be fixed and collected from any person to whom such facilities, services or commodities are provided by or made available from the authority, including generators of solid waste and owners of real property upon which solid waste is generated. Such rates, rentals, fees and other charges may be the same or different for each classification of user or service recipient and may, by way of example, reflect the source and composition of solid waste and may provide for fee reductions to the users or service recipients in proportion to waste generated or to reflect participation in source separation programs. In any instance where the county is or would be required by law, with respect to solid waste management, to conduct a public hearing in connection with a user or rate, rental, fee or other charge, the authority shall not establish, fix, or revise any classification of user or service recipient, rate, rental, fee or other charge unless and until the authority has held a public hearing at which interested persons have had an opportunity to be heard concerning the same; provided however, that if the county has conducted a public hearing in connection with such rate, rental, fee or other charge, the authority shall not be required to hold a public hearing. Notice of any such public hearing shall be published at least ten days before the date set therefor, in at least one newspaper of general circulation in the county. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such meeting. A copy of the notice shall be available for inspection by the public. At any such hearing, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision by the authority at such public hearing shall be in writing and be made available in the office of the authority for public inspection during regular office hours.

2. All rates, rentals, fees and other charges for the use of the facilities of, or services provided or made available by, the authority and billed directly by the authority to the user or service recipient pursuant to a classification of users or service recipients adopted by the authority as herein provided shall be a lien upon the real property upon which, or in connection with which, services are provided or made available, as and from the first date fixed for payment of such rates, rentals, fees and other charges. Any such lien shall take precedence over all other liens or encumbrances, except taxes or assessments. The treasurer of the authority shall prepare and transmit to the respective legislative body of each municipality, on or before the first day of December in each year, a list of those properties within each respective municipality using such facilities or for which such services were provided or made available and from which the payment of rates, rentals, fees and other charges are in arrears for a period of thirty days or more after the last day fixed for payment of such rates, rentals, fees and other charges without penalty. The list shall contain a brief description of such properties, the names of the persons or corporations

liable to pay for the same, and the amount chargeable to each, including penalties and interest computed to December thirty-first of that year. Each governing body shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the various municipalities under the headings "solid waste disposal charge" and "animal management charge", as appropriate. Such amounts, when collected by the several municipal collectors or receivers of taxes, shall be paid over to the treasurer of the authority. Alternatively, the legislative body of any municipality which provides solid waste collection service to all or a portion of the properties within its boundaries using municipally owned and operated collection vehicles may execute an agreement with the authority to collect and be responsible for the collection of, on behalf of the authority, any overdue or delinquent rates, rentals, fees or other charges and such municipality shall have the power to pay directly to the authority such overdue or delinquent rates, rentals, fees and other charges whether or not they are actually collected from the users or service recipients of such municipality. All of the provisions of the tax law of the state governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

§ 2053-h. Governmental capacity of the authority and municipalities. The county, other municipalities within the county and the authority in carrying out the respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the authority shall be deemed to be the performance of an essential governmental function by the authority acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or other public corporation.

§ 2053-i. Transfer of officers and employees. Any officer or employee of the county under civil service or otherwise, selected by the authority, may, with the consent of the county executive, be transferred to the authority and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or system to be paid by the employer on account of such officers or employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the personnel officer of the county shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 2053-j. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds or notes in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

2. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution shall provide, except that notes and any renewals thereof shall mature within five years from the date of the original issuance and bonds and any renewals thereof shall mature within thirty years from the date of the original issuance of any such bonds or notes. The bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine. Bonds of the authority shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the state comptroller where such sale is not to be to such comptroller, or by the state director of the budget where such sale is to said comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

3. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or any part of the revenues, other moneys or property of the authority to secure the payment of the bonds, including but not limited to, any assets, contracts, investment securities, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of

bonds may be applied;
(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;
(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;
(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;
(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
(h) the creation of special funds into which any revenues or moneys may be deposited;
(i) the terms and provisions of any trust, deed or indenture securing the bonds under which the bonds may be issued;
(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to section two thousand fifty-three-i of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of the trustee;
(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;
(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;
(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

4. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, consistent or desirable concerning the use of disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act (including refraining from doing any act) which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security is created nor any financing statement need be recorded or filed.

6. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code,

the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

7. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2053-k. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to subdivision three of section two thousand fifty-three-j of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may and, upon written request of the holders of

twenty-five per centum in principal amount of such bonds outstanding, shall in his or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds

of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

7. The county is authorized to pledge to and agree with the holders of the bonds that the county will not limit or impair the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds or notes of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or notes or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

§ 2053-l. State, county and municipalities not liable on bonds. Neither the state, county nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, county or any other municipality or public corporation, and such bonds shall contain, on the face thereof, a statement to such effect.

§ 2053-m. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in interest bearing accounts in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer, upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States, the state or the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds, as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds, or in any ways to secure bonds, and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law, as amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2053-n. Bonds and notes as legal investment. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or notes, or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or notes or other obligations of this state is now or hereafter may be authorized.

§ 2053-o. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds or notes issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or notes or with any public corporation or person with reference to such project or part thereof, or in any way to impair the rights and remedies of bondholders until the bonds or notes, together with the interest thereon, including interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged, provided, however, that this section shall not be construed to limit in any manner the ability of the state to alter, amend or enforce laws or regulations to protect public health and the environment. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2053-p. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. Mortgages made or financed, directly or indirectly, by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law. The authority shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for transfer and estate taxes. The revenues, moneys and all other property and all transactions and activities of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of any payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation except for transfer and estate taxes.

§ 2053-q. Actions against the authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law, or (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter. Actions to recover damages for personal injury or injury to property caused by the latent effects of exposure to any substance or combination of substances, in any form, upon or within the body or upon or within property shall be governed by section two hundred fourteen-c of the civil practice law and rules.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person, presenting for settlement an account or claim for any cause whatever against the authority, to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment

for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section three-a of the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

5. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all civil business pending therein, except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county in which the principal office of the authority is located.

§ 2053-r. Contracts. 1. All contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of subdivision four and subdivision seven of section one hundred twenty-w of the general municipal law. In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of subdivision six of section one hundred twenty-w of the general municipal law and the term "municipality" as used in such subdivision six shall mean the authority.

2. The person whose bid or proposal is accepted shall give security for the faithful performance of the contract, and such other security as

the authority may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the authority and the sufficiency of such security shall, in addition to the justification and acknowledgement, be approved by the authority. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the person whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal or if he accepts but does not execute the contract and give proper security, the authority shall have the right to declare his deposit forfeited. In case any work shall be abandoned by any contractor, the authority may, if it determines that the public interest is thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from or any contract awarded to any person or corporation who is in arrears to the authority or the county upon any obligation of the authority or of the county. Every contract shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the county with respect to any proposed project. The provisions of this section shall supersede any inconsistent provisions of the general municipal law, or any other general, special or local law, or the charter of the county. The authority shall be deemed an authority for the purpose of section twenty-eight hundred seventy-eight of this chapter.

3. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 2053-s. Interest in contracts prohibited. It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2053-t. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the county executive and the chairman of the county legislature. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of this chapter.

§ 2053-u. Limited liability. Neither the members of the governing body, nor any municipality, officer or employee acting on its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2053-v. Contracts with municipalities; powers of municipalities. 1. The county and one or more municipalities within the county, or the authority and the county, shall have power to contract from time to time between or among themselves, or among themselves and with the authority, in relation to the receiving, transporting, storage, processing, treatment or disposal of solid waste or for the purchase or use of any materials, energy, byproducts or residue generated by or resulting from the operation of any solid waste management facility. Any such contract to which the authority, the county and any municipality within the county are parties may include provisions stipulating the maximum rates, rentals, fees and other charges to be collected for the use or availability of facilities. Any contract to which the authority, the county and any municipality within the county are parties may include provisions (i) requiring the periodic delivery to the particular facilities of minimum amounts of solid waste and providing for specified minimum period payments whether or not such delivery is made, or (ii) requiring the county and any municipality within the county to pay, within appropriations available therefor, such amounts as shall be necessary to assure the continued operation and solvency of the authority, such payments to be determined and paid in such manner and at such times as may be provided in such contract or contracts.

2. In recognition of existing state policy, as declared in title one of article twenty-seven of the environmental conservation law, the legislature hereby affirms that the basic responsibility for the planning and operation of solid waste management facilities remains with local governments; and further recognizes the county's role as planning unit under section 27-0107 of the environmental conservation law. To further the governmental and public purposes of the authority, including the implementation of any contract or proposed contract contemplated by this title, and in recognition of the public policy of the state in the area of the control and management of solid waste and solid waste disposal activities to displace competition with regulation or monopoly public control, the county and all other municipalities within the county shall have the power to adopt and amend local laws, ordinances and regulations imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing, treating and disposing of solid waste or the recovery by any means of any material or energy product or resource therefrom, and shall further have the power to adopt and amend local laws requiring that all solid waste generated, originated or brought within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to

a specified facility or facilities; provided however, that any such local law enacted by the county shall take precedence over and shall supersede any inconsistent provisions of any such local law enacted by a municipality with the county. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum. Any such local law may include provisions for the enforcement thereof and penalties for the violation thereof, which may provide, but shall not be limited to providing, that any violation of a local law may be punished by civil penalty, fine or other monetary charge, and/or, the suspension or revocation of permits or licenses granted by any other jurisdiction with respect to the collecting, receiving, transporting, delivery or storing of solid waste. For the purposes of this section, solid waste shall have the same meaning as defined in section two thousand fifty-three-b of this title. Upon the adoption of any local law, ordinance or regulation pursuant to this section, the county or municipality shall file with the commissioner of the department of environmental conservation a verified copy of such local law, ordinance or regulation; provided, however, that failure to so file such a local law, ordinance or regulation shall not invalidate such local law, ordinance or regulation. The foregoing provisions of this subdivision shall not be construed to limit, alter or abridge the powers granted to the county under the provisions of chapter five hundred sixty-nine of the laws of nineteen hundred ninety-one, as amended.

3. The county is hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased from the authority pursuant to subdivision one of this section. Any resale or other disposition may be made in such manner as the county may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

4. The county and all other municipalities within the county shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be

determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the authority.

5. Except as otherwise provided by section one hundred twenty-w of the general municipal law, any contract entered into by a municipality pursuant to this section may be for such term or duration, not to exceed thirty years, as may be agreed upon by the parties thereto.

6. Any contract entered into pursuant to this section to which the authority shall be a party may be pledged by the authority as security for any issue of bonds, and may be assigned, in whole or in part, by the authority to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management facility, or part thereof, financed in whole or in part by the authority.

§ 2053-w. Solid waste reserve fund. The county legislature may establish a special fund, to be known as the solid waste reserve fund of the county. There shall be credited to such reserve fund all amounts paid to the county and specifically designated by the payor for deposit in such reserve fund, together with such county moneys as may be appropriated thereto from time to time. Moneys in such reserve fund may be appropriated only for the purpose of paying amounts due from the county under the terms of any contract entered into pursuant to this title, for which an insufficient or no provision has otherwise been made, except that upon the adoption of a resolution by at least a two-thirds vote of the voting strength of the county legislature, all or any portion of the moneys in such reserve fund may be transferred to any other reserve fund established by the county pursuant to the general municipal law. To the extent not inconsistent with the provisions of this section, the management of such reserve fund and the investment of moneys therein shall be subject to the provisions of section six-h of the general municipal law.

§ 2053-x. Environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title, or any proceeding commenced in relation thereto, by the county with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county to the authority unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and be for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

§ 2053-y. Separability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2053-z. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter or any local law, ordinance or resolution of the county or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

TITLE 14

*** BROOME COUNTY SPORTS CENTER AUTHORITY**

* NB Authority dissolved September 1, 1977

*** § 2050. Short title.** This title may be cited as the "Broome County Sports Center Authority Act".

* NB Authority dissolved September 1, 1977

*** § 2051. Legislative findings.** It is hereby found, determined and declared that the construction and operation of a sports center at a suitable location within the county of Broome, to be determined by the local legislative body of Broome county, which sports center shall provide adequate facilities for such amateur, professional and scholastic sports events as the authority shall deem advisable; for the conduct of meetings, exhibitions and other events of civic, community and general public interest essential to the health, welfare and prosperity of the people of the county of Broome; that the erection and maintenance of a sports center is essential to maintain the competitive position of the county of Broome in the field of sports and exhibition in relation to other counties within the state of New York and other municipalities outside the state of New York; that the location of such a sports center within the county of Broome, to be determined by the local legislative body of such county and the creation and maintenance of adequate traffic, parking, transportation and other facilities incidental and useful in the operation of a sports center is part of an overall community rehabilitation and improvement project and are in all respects beneficial to the people of the state of New York, and more particularly for the people of the county of Broome, for the improvement of their health, welfare, recreation and prosperity, for the promotion of competitive sports for youth and the prevention of juvenile delinquency; and that such purposes are public purposes which cannot be adequately attained except by the exercise of the powers of government, and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

* NB Authority dissolved September 1, 1977

*** § 2052. Definitions.** As used to refer to in this title, unless a different meaning clearly appears in the context:

(a) The term "authority" shall mean a corporation created by section four of this title;

(b) The term "county" shall mean the county of Broome;

(c) The term "bonds" shall mean the bonds authorized in this title;

(d) The term "board" shall mean the members of the authority;

(e) The term "real property" shall mean lands, structures, franchises and interest in lands, and any and all things usually included within the said term, and includes not only fees, simple or absolute, but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments in every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate;

(f) The term "project" shall mean the sports center and shall include all real and personal property, driveways, roads, approaches, structures, parking lots, mechanical equipment and all appurtenances and facilities either on, above, or under the ground which are used or useable in connection with such Sports Center.

* NB Authority dissolved September 1, 1977

*** § 2053. Broome county sports center authority.** A board to be known as "Broome county sports center authority" is hereby created. The board shall be a body corporate and politic constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, all of whom shall be appointed by the local legislative body of Broome county. The appointment of a chairman shall be for a term of six years, and of the other four members, two for a term of two years, and two for a term of four years, respectively, from the first day of September, nineteen hundred sixty-eight. At the expiration of such terms the terms of office of their successors shall be six years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice chairman. The local legislative body of Broome county may remove any member of the board for inefficiency, neglect of duty, or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. Members of the board shall be entitled to no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. The board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper. The board, and its corporate existence, shall continue only for a period of nine years, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged, except that no additional liabilities may be incurred after the termination of its corporate existence. Upon its ceasing to exist, all its rights and property shall pass to the County.

* NB Authority dissolved September 1, 1977

*** § 2054. Purposes and powers of the authority.** The purposes of the authority shall be to construct, operate and maintain the project consisting of the Broome county sports center and facilities in connection therewith. To carry out the purposes the authority shall have power:

(a) To sue and be sued;

(b) To acquire, hold and dispose of personal property for its corporate purposes;

(c) To have a seal and alter the same at pleasure;

(d) To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the project;

(e) With the consent of the local legislative body of Broome county to use agents, employees and facilities of the county, including the county attorney's office, paying to the county its agreed portion of the compensation or costs;

(f) To appoint officers, agents and employees; and to describe their qualifications and fix their compensation; subject, however, to the provisions of the civil service law as hereinafter provided.

(g) To make contracts and leases, and to execute all instruments necessary or convenient;

(h) To construct such buildings, structures, parking and other facilities as may be necessary or convenient;

(i) To reconstruct, improve, maintain and operate the project;
(j) To collect rentals, fees and other charges for the use of the project subject to and in accordance with such agreements with bondholders as may be hereinafter provided;
(k) To contract for the services of architects, engineers, lawyers, financial and other professional advisers and to fix their compensation;
(l) To construct, operate and maintain the project; to contract for the construction, operation and maintenance of any part thereof, or for services to be performed in connection therewith; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that the location of the site of the project and the plans thereof shall be subject to the prior approval of the local legislative body of Broome county.
* NB Authority dissolved September 1, 1977

*** § 2055. Acquisition of land for the project.** The authority may acquire lands for the project. It shall have the power to sell, lease or otherwise dispose of said real property and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its purposes.

Notwithstanding any law to the contrary, the county may, by legal instrument authorized by a resolution, lease real property, owned by the county, to the authority, with or without consideration, for so long as the authority's existence shall continue.
* NB Authority dissolved September 1, 1977

*** § 2056. Civil service status of employees.** The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the Broome county civil service commission, and such employees shall be entitled to membership in the county pension and retirement system, and shall be entitled to the same rights and obligations thereunder as the employees of the county.
* NB Authority dissolved September 1, 1977

*** § 2057. Contracts.** The authority shall let contracts for construction and materials in the manner provided by law for contracts of the county, except that where the estimated expense of a contract does not exceed two thousand five hundred dollars such contract may be entered into without public letting provided, however, that where the board determines that it would be detrimental to the authority to comply with this section, it may enter into a contract without complying herewith.

* NB Authority dissolved September 1, 1977

*** § 2058. Moneys of the authority.** All moneys of the authority shall be paid to the county treasurer as agent of the authority, who shall designate depositories and who shall not commingle such moneys with any other moneys. The moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on checks of the treasurer on requisition of the chairman of the authority or of such other person or persons as the authority may authorize upon proper audit of the county of Broome.

All deposits of such moneys shall, if required by the treasurer, be secured by obligations of the United States or of the state of New York, of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for the deposits.

The Broome county auditor and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds and the deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

* NB Authority dissolved September 1, 1977

*** § 2059. Bonds of the authority.** a. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for its corporate purposes in the aggregate principal amount of not exceeding one million dollars. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

b. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding five per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption prior to maturity, at par or a price not exceeding one hundred five per centum of the face value, as such resolution or resolutions may provide. The bonds of the authority may be sold at public or private sale. The bonds shall be sold for a price not less than ninety-eight per centum of the par value thereof, plus accrued interest, provided always that the interest cost on such bonds shall not exceed five per centum per annum.

c. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to

(1) pledging all or any part of the revenues of the project to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(2) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(3) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(4) limitations on the right of the authority to restrict and regulate the use of the project;

(5) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(6) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured: the refunding of outstanding or other bonds;

(7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(8) limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority;

(9) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section seventeen hereof and limiting or

abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee;

(10) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

d. It is the intention hereof that any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

e. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

f. The authority shall have power out of any funds available therefor to purchase bonds. The authority shall cancel such bonds.

* NB Authority dissolved September 1, 1977

*** § 2060. Notes of the authority.** The authority shall have power from time to time to issue negotiable notes in conformity with applicable provisions of the uniform commercial code and from time to time to issue renewal notes, herein referred to as notes, maturing not later than five years from their respective dates in an amount which, together with bonds then outstanding, shall not at any one time exceed the amount stated in subdivision a. of section nineteen hundred eighty-four of this title excluding bonds issued to fund said notes. Subject to any agreements with bondholders thereof the authority may pledge such moneys or revenues for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

* NB Authority dissolved September 1, 1977

*** § 2061. Agreements of the state.** The state of New York does pledge to and agree with the holders of the bonds that the state will not limit or impair the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate the project, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any paid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

* NB Authority dissolved September 1, 1977

*** § 2062. New York state and Broome county not liable on bonds.** The bonds and other obligations of the authority shall not be a debt of the state of New York or of the county of Broome, and neither the state nor the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB Authority dissolved September 1, 1977

*** § 2063. Bonds legal investments for public officers and fiduciaries.** The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such shall not be eligible for the investment of funds, including capital, trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB Authority dissolved September 1, 1977

*** § 2064. Exemptions from taxation.** It is hereby found, determined and declared that the creation of the authority and the carrying out of its corporate purposes will alleviate juvenile delinquency, will improve the general health and welfare, will in all respects benefit the people of the state of New York, and constitutes a public purpose, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state of New York covenants with the holders of the bonds that the authority shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of the project or any tolls, revenues or other income received by the authority and that the bonds of the authority and the income therefrom shall at all times be exempt from taxation, except for transfer and estate taxes.

* NB Authority dissolved September 1, 1977

*** § 2065. Tax contract by the state.** The state of New York covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds, shall at all times be free from taxation except for transfer and estate taxes.

* NB Authority dissolved September 1, 1977

*** § 2066. Remedies of bondholders.** a. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Broome and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

b. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

(1) by suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(2) bring suit upon such bonds;

(3) by action in suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(4) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;

(5) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

c. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Broome.

d. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

e. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and the receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with any construction thereon which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements, and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

f. The trustee shall, in addition to the foregoing, have and possess

all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

* NB Authority dissolved September 1, 1977

*** § 2067. Actions against the authority.** a. In every action against the authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the Authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

b. An action against the authority founded in tort shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited, and in compliance with all the requirements of section fifty-e of the general municipal law.

c. All actions against the authority of whatsoever nature shall be brought in the county of Broome.

* NB Authority dissolved September 1, 1977

*** § 2068. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

* NB Authority dissolved September 1, 1977

*** § 2069. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the county, the provisions of this title shall be controlling.

* NB Authority dissolved September 1, 1977

TITLE 15

AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY

§ 2300. Short title. This title may be cited as the "Auburn Industrial Development Act."

§ 2302. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the Auburn Industrial Development Authority, the corporation created by section twenty-three hundred four of this title;

2. The term "board" shall mean the members of the authority;

3. The term "city" shall mean the city of Auburn;

4. The term "bonds" shall mean the bonds, notes, and other obligations issued by the authority pursuant to this title;

5. The term "project" shall mean any land in one or more areas of the city and within or outside or partially within and partially outside the city and any building, structure, facility or other improvement thereon, including, but not limited to machinery and equipment and all real and personal properties deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be necessary or suitable for industrial, warehousing, research or commercial purposes, or for use by a federal agency or a medical facility and which may include or mean an industrial pollution control facility or a civic facility, provided, however, the authority shall not provide financial

assistance in respect of any project wholly or partially outside the city provided, however, that the authority may provide financial assistance for such a project where a portion of the project outside the city is contiguous to a portion of the project located within the city if the authority obtains the prior consent thereto by the governing body or bodies of all the other cities, towns or villages in which a part or parts of the project is, or is to be, located.

6. The term "project occupant" shall mean the industrial, manufacturing or commercial enterprise, medical facility, or federal agency which proposes to use a project, as defined in subdivision five of this section, undertaken by the authority.

7. The term "revenues" shall mean any revenues, rents, fees or other charges derived by or on behalf of the authority from any project.

8. The term "state" shall mean the state of New York.

9. The term "federal agency" shall mean and include the United States of America and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America, and any independent establishment of the executive branch of the government of the United States of America, including the United States postal service.

10. The term "medical facility" shall mean a hospital or other facilities, whether or not operated for profit, for the prevention, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition.

11. The term "industrial pollution control facility" shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property deemed necessary therewith, which are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water,

air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial, medical and research facilities and facilities for use by a federal agency, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site.

12. The term "financial assistance" shall mean the proceeds of bonds issued by the authority, straight-leases or exemptions from taxation claimed by a project occupant as a result of the authority taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of the authority.

13. The term "straight-lease transaction" shall mean a transaction in which the authority takes title, possession or control (by lease, license or otherwise) to the property or equipment of a lessee, entitling such property or equipment to be exempt from taxation according to the provisions of section twenty-three hundred twenty-six of this title, and no financial assistance in the form of the proceeds of bonds issued by the authority is provided to the project occupant.

14. The term "affected tax jurisdiction" shall mean any municipality or school district, in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of the authority involved in a project.

15. The term "payments in lieu of taxes" shall mean any payment made to an agency, or affected tax jurisdiction equal to the amount, or a portion, of real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not tax exempt by reason of authority involvement.

16. "Highly distressed area" means (a) a census tract or tracts or block numbering areas or areas or such census tract or block numbering

area contiguous thereto which, according to the most recent census data available, has:

(i) A poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and

(ii) An unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or

(b) A city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or

(c) An area which was designated an empire zone pursuant to article eighteen-B of the general municipal law.

§ 2304. Auburn industrial development authority. A public benefit corporation to be known as the "Auburn industrial development authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation and its existence shall commence upon the appointment of the members as herein provided. Its members shall consist of a chairman and eight other members all of whom shall be appointed by the mayor of the city for a term of three years, and shall include two members of the common council of the city, one representative of the city school board and one representative from each of the fields of business, industry and labor. Every appointment to the board shall be subject to confirmation by the common council of the city. The chairman and each member shall continue to serve until the appointment and confirmation of his successor. Vacancies in such board occurring otherwise than by expiration of term shall be filled by the mayor by appointment for the unexpired term subject to confirmation of the common council of the city. The mayor may remove the chairman or any member of the board for inefficiency, neglect of duty or misconduct in office, after giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. Such removal must be approved by the common council of the city. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the city shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership of the authority created by this article, provided, however, that a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services. The power of the authority shall be vested in and exercised by a majority of the members of the authority. The authority may delegate to one or more of its members, or to its officers, agents and employees, such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of ten years and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all rights and properties shall pass to and be vested in the city.

§ 2305. Video recordings of open meetings and public hearings. The authority shall, to the extent practicable, stream all open meetings and public hearings on its website in real-time. The authority shall post video recordings of all open meetings and public hearings on its website within five business days of the meeting or hearing and shall maintain such recordings for a period of not less than five years.

§ 2306. Purpose and powers of the authority. The purposes of the authority shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehouse, commercial and research facilities and facilities for use by a federal agency or a medical facility including industrial pollution control facilities, which may include transportation facilities including but not limited to those relating to water, highway, rail and air, in one or more areas of the city, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of said city and to improve their medical care and standard of living; provided, however, that the authority shall not undertake any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in abandonment of one or more plants or facilities of the project applicant located within the state, provided, however, that neither restriction shall apply if the authority shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry. Except as otherwise provided for in this section, no financial assistance of the authority shall be provided in respect of any project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost. For the purposes of this article, "retail sales" shall mean: (i) sales by a registered vendor under article twenty-eight of the tax law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers. Except, however, that tourism destination projects shall not be prohibited by this paragraph. For the purpose of this paragraph, "tourism destination" shall mean a location or facility which is likely to attract a significant number of visitors from outside the economic development region as established by section two hundred thirty of the economic development law, in which the project is located.

Notwithstanding the provisions of this section to the contrary, such financial assistance may, however, be provided to a project where facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services constitute more than one-third of the total project cost, where: (i) the predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city of Auburn because of a lack of reasonably accessible retail trade facilities offering such goods or services; or (ii) the project is located in a highly distressed area. With respect to projects authorized pursuant to this paragraph no project shall be approved unless the authority shall find after the public hearing required by section twenty-three hundred seven of this title that undertaking the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state. Where the authority makes such a finding, prior to providing financial assistance to the project by the authority, the chief executive officer of the city of Auburn shall confirm the proposed action of the authority. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To acquire, hold and dispose of personal property for its corporate purpose;

4. To acquire by purchase, grant, lease, gift, condemnation, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine. With respect to real property conveyed to it by the city, however, such power of disposition shall be limited as hereinafter provided in section twenty-three hundred ten of this title;

5. To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of

the use of the project.

6. With the consent of the city, to use agents, employees and facilities of the city, paying the city its agreed proportion of the compensation or costs.

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the authority, subject, however, to the provisions of the civil service law hereinafter provided in section twenty-three hundred eight of this title;

8. To retain and employ financial advisors, engineers, architects, attorneys and other consultants for professional and technical assistance and advice; that an attorney acting as bond counsel for a project must file with the authority a written statement in which the attorney identifies each party to the transaction which such attorney represents. If bond counsel provides any legal services to the parties other than the authority, the written statement must describe the nature of legal services provided by such bond counsel to all parties to the transaction, including the nature of the services provided to the authority;

9. To make contracts and leases upon such terms as the authority shall deem appropriate, including without limitation leases which grant the tenant of a project an option to renew or an option to purchase the project, or both, at a fixed or otherwise predetermined price, and to execute all instruments necessary or convenient;

10. To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

11. To accept gifts, grants, loans or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

12. To borrow money and to issue bonds and to provide for the rights of the holders thereof;

13. To designate the depositories of its money in the city of Auburn.

14. To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which the payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be delivered to each tax affected jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the authority's activities render a project non-taxable by affected tax jurisdictions. A notification of the expiration of such agreement shall be delivered to the affected tax jurisdiction two years prior to the expiration of such agreement and immediately upon early termination of an agreement;

15. To establish and reestablish its fiscal year; and

16. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

§ 2307. Additional prerequisites to the provision of financial assistance. Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the authority must comply with the following prerequisites:

1. The authority must adopt a resolution describing the project and the financial assistance that the authority is contemplating with respect to such project. Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivision one of section twenty-three hundred fifteen of this chapter, unless the agency has followed procedures for deviation from such policy specified in subdivision two of such section.

1-a. The authority shall deliver a copy of the resolution adopted pursuant to subdivision one of this section by certified mail, return receipt requested or an electronic correspondence with a read-receipt, to the chief executive officer of each affected tax jurisdiction. When the affected tax jurisdiction is a school district, the authority shall deliver a copy of such resolution by certified mail, return receipt requested or an electronic correspondence with a read-receipt, to the district clerk and district superintendent of each affected school district.

2. The authority must hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the authority. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.

3. The authority must give at least ten days published notice of said public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisidiction within which the project is located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project and generally describe the financial assistance contemplated by the authority with respect to the project.

4. The authority shall establish a procedure for compliance with the notification requirements, including identification of the notification method, of subdivision one-a of this section and subdivision two of section twenty-three hundred fifteen of this title.

§ 2308. Civil service status of officers and employees. Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

§ 2309. Conflicts of interest. All members, officers, and employees of the authority shall be subject to the provisions of article eighteen of the general municipal law.

§ 2310. Conveyance of property by the city to the authority and conveyance and leasing of said property by the authority. 1. The city may, by duly adopted resolution of the common council or by instruments authorized by such resolution, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use thereof for so long as its corporate existence shall continue and said real property shall be under its jurisdiction, control and supervision within the ambit of section twenty-three hundred twenty-six of this title and exempt from all taxes and assessments except such payments in lieu thereof as may be contained in such resolution or instrument of conveyance. However, such property may be sold, or optioned for sale, by the authority (1) under the payment or agreement to pay reasonable consideration to the city or to the authority according to their respective interest, and (2) upon approval of the terms of such sale, or option for sale, by duly adopted resolution of the common council.

2. To the end that the city or any school district wherein a project or projects or a part thereof of the authority are located may not suffer undue loss of taxes and local improvement assessments the authority in connection with property owned or held by it within the city and such district, is hereby authorized to pay annually in lieu of taxes and local improvement assessments to the city or such school district such sum as may be mutually agreed between the authority and the city or such school district as the case may be. The city and any such school district wherein a project or part thereof of the authority is located is hereby authorized and empowered to enter into an agreement or agreements with the authority to accept the payment or payments which the authority is hereby authorized and empowered to make. The sum so received by the city or any such school district shall be devoted to purposes to which taxes may be applied.

3. The city is authorized to install streets and utilities in the area of the project and to contract with the authority with respect to payments in lieu of local improvement assessments therefor and the authority is authorized so to contract and to make appropriate payments in accordance therewith.

4. The authority is authorized in the event it leases any of the real property conveyed to it by the city, to provide that a portion of the rental derived therefrom shall be allocated to the aforesaid payments in lieu of taxes and assessments and to pay over said portion to the city or school district, as the case may be. The consent of the city or

school district as to the method and amount of such allocation shall be appended to any such lease.

§ 2311. Compensation, procurement and investment. 1. The compensation of an officer or full-time employee of the authority (but not including part-time employees or consultants, including accountants, attorneys and bond counsel to the authority) shall not be contingent on the granting of financial assistance by the authority.

2. The provisions of section one hundred four-b of the general municipal law shall be applicable to the procurement of goods and services paid for by the authority for its own use and account.

3. The provisions of sections ten and eleven of the general municipal law shall be applicable to deposits and investments of funds for an agency's own use and account.

§ 2312. Construction and purchase contracts. The provisions of section eight hundred eighty-four of the general municipal law relating to public bidding with respect to the construction of public facilities or projects shall be applicable to the acquisition, construction, reconstruction, or improvement of projects authorized by this title.

§ 2314. Moneys of the authority. All moneys of the authority, from whatever source derived, shall be paid to the treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such person as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or the state of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller and he or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings to the city council at its first meeting in February of each and every year.

§ 2315. Uniform tax exemption policy. 1. The authority shall establish a uniform tax exemption policy, with input from affected local taxing jurisdictions, which shall be applicable to provisions of financial assistance pursuant to section twenty-three hundred seven of this title and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; percentage of exemption; types of projects for which exemptions may be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, the authority in adopting such policy shall consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemption to be provided; whether affected tax jurisdictions should be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures; the extent to which the project will provide onsite child care services or otherwise facilitate new child care services; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

2. The authority shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this section. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested or an electronic correspondence with a read-receipt, the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor. When the affected tax jurisdiction is a school district, the authority shall notify by certified mail, return receipt requested or an electronic correspondence with a read-receipt, the district clerk and district superintendent of each affected school district.

§ 2316. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any of its corporate purposes in an aggregate principal amount not exceeding five hundred million dollars, including interest during construction and a reasonable period thereafter and such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange of new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times not exceeding thirty years from their respective dates, bear interest at such rates, not exceeding fifteen per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than fifteen per centum per annum.

3. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders or the city as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section twenty-three hundred thirty hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

§ 2318. Notes of the authority. The authority shall have power from time to time to issue notes and from time to time issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of section twenty-three hundred sixteen of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may among other things, be issued to provide funds to pay preliminary costs of studies, surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

§ 2320. Agreements of the city and state. The city is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds that neither the city nor the state, respectively, will limit or alter the rights, hereby vested in the authority to acquire, construct, reconstruct, improve, maintain, equip and finish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, nor in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

§ 2322. State and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

§ 2324. Bonds as legal investments. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them: provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 2326. Tax exemptions. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. Provided, however, if the authority is located within a transportation district referenced in paragraph (a) of subdivision two of section two hundred fifty-three of the tax law, it shall not be exempt from the additional tax on each mortgage of real property situated within the state imposed by such paragraph.

2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.

3. Agents of the authority and project operators shall annually file a statement with the department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators, under the authority granted pursuant to this section. The penalty for failure to file such statement shall be the removal of the authority to act as an agent of the authority or as a project operator.

4. (a) Within thirty days of the date that the authority designates a project operator or other person to act as agent of the authority for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the authority, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the authority's rough estimate of the value of the

property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

(b) Within thirty days of the date that the authority's designation described in paragraph (a) of this subdivision has been amended, terminated, been revoked, or become invalid or ineffective for any reason, the authority shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the authority in the original designation and setting forth the taxpayer identification number and other identifying information of each such agent, the date as of which the original designation was amended, terminated, revoked, or became invalid or ineffective and the reason therefor, together with a copy of the original designation.

§ 2326-a. Special provisions applicable to state sales and compensating use taxes and certain types of facilities. The provisions of section eight hundred seventy-five of the general municipal law shall apply to the provisions of this title and to the authority created by this title with the same force and effect as if the provisions of such section eight hundred seventy-five had been incorporated in full into this title and had expressly referred to the provisions of this title and to such authority, with such changes to such section as are necessary to refer to the provisions of this title and to the authority created by this title.

§ 2327. Financial records. 1. The authority shall maintain books and records in such form as may be prescribed by the state comptroller.

2. Annually within ninety days following the close of its fiscal year, the authority shall prepare and file a financial report for that fiscal year complying with the requirements of section eight hundred fifty-nine of the general municipal law.

3. If the authority fails to file or substantially complete, as determined by the state comptroller, the financial statement required by section eight hundred fifty-nine of the general municipal law, the penalties set forth in section eight hundred fifty-nine of the general municipal law shall apply to the authority.

4. The authority shall mail or deliver to the chief executive officer and the governing body of the city of Auburn and make available for public inspection and comment, its proposed budget for the forthcoming fiscal year, no later than twenty business days before adoption. At such time the authority shall file its proposed budget with the clerk of the city of Auburn. Such proposed budget shall contain detailed estimates in writing of the amount of revenues to be received and expenditures to be made during the forthcoming fiscal year. Following its consideration of the comments received, the agency may revise its budget accordingly and shall file the revised budget with the clerk of the city of Auburn.

5. Payments in lieu of taxes received by the authority shall be paid over to each affected tax jurisdiction within thirty days of receipt.

6. Payments in lieu of taxes which are delinquent under the agreement or which the authority fails to remit pursuant to subdivision five of this section shall be subject to a late payment penalty of five percent of the amount due which shall be paid by the project occupant (where taxes are delinquent because of the occupant's failure to make the required payment) or the agency (because of the agency's failure to remit pursuant to subdivision five of this section) to the affected tax jurisdiction at the time the payment in lieu of taxes is paid. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue to and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent per month until the payment is made.

7. An affected tax jurisdiction which has not received a payment in lieu of taxes due to it under an agreement may commence legal action in any court of competent jurisdiction directly against any person, firm,

corporation, organization or agency which is obligated to make payments in lieu of taxes under an agreement and has failed to do so. In such an action, the affected tax jurisdiction shall be entitled to recover the amount due, the late payment penalty, interest, expenses, costs and disbursements together with the reasonable attorneys' fees necessary to prosecute such action. Nothing herein shall be construed as providing an affected tax jurisdiction with the right to sue and recover from an agency which has not received payments in lieu of taxes from a project occupant.

8. Any refinancing of a project shall be subject to the provisions of section twenty-three hundred seven of this chapter, except where such refinancing was previously approved pursuant to such section.

9. Agents of the authority and project operators shall annually file a statement with the state department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators under the authority granted pursuant to this section. The penalty for failure to file such statements shall be removal of authority to act as agent of the authority or project operator.

§ 2328. Tax contract by the state. The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

§ 2329. Equal opportunity. 1. The authority shall ensure that all employees and applicants for employment are afforded equal employment opportunity without discrimination.

2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York state department of labor community services division, and with the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall agree, where practicable, to first consider persons eligible to participate in federal job training partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the community services division of the department of labor for such new employment opportunities.

§ 2330. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Cayuga and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name.

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or special proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or special proceeding enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bond-holders. The venue of any such suit, action or proceeding shall be laid in the county of Cayuga.

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter

arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 2332. Actions against the authority. 1. In an action against the authority founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the authority and to its secretary or to its chief executive officer, and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

2. In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or an officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. No action shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

§ 2333. Limitation of liability. Except for acts of omission or commission, with a specific intent to defraud, neither the members of the authority, nor any person or persons acting in its behalf, and within the scope of their authority, shall be subject to any personal liability resulting from the issuance of any notes or bonds of the authority; from the erection, construction, reconstruction, maintenance or operation of any project; or from carrying out any of the powers expressly given in this title.

§ 2334. Termination of the authority. Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, and all straight-lease transactions have been terminated, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Auburn.

§ 2336. Title not affected if in part unconstitutional or ineffective. If any section, clause or provisions of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2338. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

TITLE 17

STATE OF NEW YORK MORTGAGE AGENCY ACT

PART I

§ 2400. Short title. This title shall be known and may be cited as the "state of New York mortgage agency act".

§ 2401. Legislative findings. * It is hereby found and declared that there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations, including accommodations for persons and families of low income, and a seriously inadequate supply of credit available for new residential improvement loans at carrying charges within the financial means of persons and families of low or moderate income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state. It is found and declared that one major cause of this condition has been recurrent, cyclical shortages of funds in private banking channels available for residential mortgages. Such shortages have contributed to drastic reductions in construction starts of new residential units. In addition, they have made the sale and purchase of existing residential units a virtual impossibility in many parts of the state. The ordinary operations of private enterprise have not in the past corrected these conditions.

* NB Effective until July 23, 2027

* It is hereby found and declared that there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations, including accommodations for persons and families of low income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state. It is found and declared that one major cause of this condition has been recurrent, cyclical shortages of funds in private banking channels available for residential mortgages. Such shortages have contributed to drastic reductions in construction starts of new residential units. In addition, they have made the sale and purchase of existing residential units a virtual impossibility in many parts of the state. The ordinary operations of private enterprise have not in the past corrected these conditions.

* NB Effective July 23, 2027

It is further found and declared that the drastic reduction in residential construction starts associated with such shortages have caused a condition of substantial unemployment and underemployment in the construction industry which results in hardships to many individuals and families, wastes vital human resources, increases the public assistance burdens of the state and municipalities, impairs the security of family life, impedes the economic and physical development of municipalities and adversely affects the welfare and prosperity of all the people of the state. A stable supply of adequate funds for residential mortgages is required to spur new housing starts in an orderly and sustained manner and thereby to reduce the hazards of unemployment and underemployment in the construction industry. The unaided operations of private enterprise have not met and cannot meet the need for a stable supply of adequate funds for residential mortgage financing.

It is further found and declared that these conditions associated with such recurrent shortages of residential mortgage funds contribute to the persistence of slums and blight and to the deterioration of the quality of the environment and living conditions of a large number of persons residing in the state of New York, have adversely affected the economy of the state as a whole and are contrary to the declared policy of the state to promote a vigorous and growing economy, to prevent economic stagnation, to increase revenues to the state and to its municipalities and to achieve stable local economies.

* Based upon the experience of the past, most recently during the periods of illiquidity which occurred in nineteen hundred sixty-six and again in nineteen hundred sixty-nine, shortages of funds for residential mortgages in the private banking system can be expected to recur from time to time in varying degrees of severity with the adverse consequences described above. To avoid or minimize such consequences, to bring greater stability to the residential construction industry and related industries, and thus to assure a steady flow of production of new housing units, there should be created a corporate governmental agency to be known as the "state of New York mortgage agency" which, through issuance of bonds and notes to the private investing public during periods when there is an inadequate supply of credit available for new loans for residential housing and housing improvement purposes, may (i) purchase existing mortgages from banks and direct an amount

equal to the proceeds from the liquidated mortgage investments into new mortgages on residential family dwelling units, (ii) purchase new mortgages on residential family dwelling units, (iii) purchase new housing loans for the rehabilitation or improvement of residential family dwelling units, and (iv) purchase lease-to-own mortgage loans.

* NB Effective until July 23, 2027

* Based upon the experience of the past, most recently during the periods of illiquidity which occurred in nineteen hundred sixty-six and again in nineteen hundred sixty-nine, shortages of funds for residential mortgages in the private banking system can be expected to recur from time to time in varying degrees of severity with the adverse consequences described above. To avoid or minimize such consequences, to bring greater stability to the residential construction industry and related industries, and thus to assure a steady flow of production of new housing units, there should be created a corporate governmental agency to be known as the "state of New York mortgage agency" which, through issuance of bonds and notes to the private investing public, may purchase existing mortgages from banks within the state during periods when there is an inadequate supply of credit available for new residential mortgage loans and direct an amount equal to the proceeds from the liquidated mortgage investments into new mortgages on residential real property for family units.

* NB Effective July 23, 2027

It is further found and declared that in addition to issuance of bonds and notes for such purposes, the accessibility of credit available for new loans for residential housing and housing improvement purposes will also be increased by making available to the people of the state to the fullest extent possible the benefit of federal programs providing credits against income tax for a portion of interest paid on residential mortgage and housing loans.

The secondary mortgage market provided by the corporate governmental agency created by this title is hereby found and determined to be an appropriate and effective means of making residential mortgages a more attractive investment for the private banking system, of reducing the volatility of mortgage flows over the business cycle, and of providing greater stability for the economies of the state and its municipalities.

It is further found and determined that it has long been the public policy of the state to encourage every student who has the desire and capacity to pursue a post-secondary education. To this end, the state has developed one of the foremost systems of public higher education in the nation, as well as a substantial program of grants and loans to help finance the education of students attending both public and private post-secondary educational institutions.

Nevertheless, the rising costs to students of post-secondary education are placing the goal of such study beyond the financial reach of a growing proportion of our potential student population, particularly those young men and women coming from families of low- and middle-income. To effectively meet this fiscal crisis in post-secondary education, which is contrary to the general welfare of our citizens, it is hereby found and determined that the student loan programs in the state should be restructured to make available to every student financial assistance in the attainment of his college or career education and that the state of New York mortgage agency should be authorized to issue its bonds and notes for the purpose of making available funds with which to make available such student loans.

It is further found and determined that there is a need to establish a program to assist homeowners in the state of New York who have been affected by the national mortgage crisis who are either delinquent on their mortgage payments or are in danger of going into default because of economic hardship, as such term is defined under the agency's guidelines, in consultation with the advisory council established in subdivision three of section twenty-four hundred five-f of this part, who may lose their homes to foreclosure, or who may have abandoned their homes due to economic hardship and who may benefit from assistance. In addition, the existence of vacant, abandoned, distressed, dilapidated or reasonably beyond repair properties may contribute to the persistence of conditions that increase blight and add to the deterioration of the quality of the environment and living conditions of a large number of persons residing in the state. To address these conditions, it is hereby found and determined that the state of New York mortgage agency shall be authorized to create and manage a fund to acquire residences and to purchase mortgages and mortgage notes, or to provide monies to eligible institutions to acquire residences and to purchase mortgages and mortgage notes and to carry out such other functions in connection with such acquisitions as are necessary to accomplish the purposes of this paragraph. In connection therewith, the state of New York mortgage agency shall be authorized to create a subsidiary corporation to carry out the program authorized under this paragraph.

It is further found and determined that there is a shortage of adequate funds to assist in the new construction of modular and manufactured housing, and to assist in the purchase of existing modular and manufactured housing.

§ 2402. Definitions. As used in this title, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(1) "Agency". The state of New York mortgage agency, the corporate governmental agency created by section two thousand four hundred three of this title.

* (2) "Bank". Any bank or trust company, savings bank, savings and loan association, industrial bank, credit union, national banking association, federal savings and loan association, federal savings bank or federal credit union which is located in the state. The term "bank" shall also include a New York state licensed mortgage banker, or a domestic not-for-profit corporation whose public purposes include combatting community deterioration and which is an exempt organization as defined in paragraph (e) of subdivision one of section five hundred ninety of the banking law, or an entity exempt from licensing provisions in accordance with paragraph (a) of subdivision two of such section, which in any such case is approved as a mortgage lender by the Federal National Mortgage Association or by the Federal Home Loan Mortgage Corporation, or domestic not-for-profit corporations that are certified by the United States department of treasury as community development financial institutions or licensed by the New York state department of

financial services.

* NB Effective until July 23, 2027

* (2) "Bank". Any bank or trust company, savings bank, savings and loan association, industrial bank, credit union, national banking association, federal savings and loan association or federal credit union which is located in the state.

* NB Effective July 23, 2027

(3) "Bonds" and "Notes". The bonds and notes respectively issued by the agency pursuant to this title.

(4) "Comptroller". The comptroller of the state.

* (5) "Mortgage". A loan owed to a bank secured by a first lien on (i) a fee simple or leasehold estate in real property, or (ii) any other instrument which shall constitute or create a security interest in tangible personal property constituting modular or manufactured housing, located in the state and improved by a residential structure or, on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of such loan, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on (i) a fee simple or leasehold estate in real property, or (ii) any other instrument which shall constitute or create a security interest in tangible personal property constituting modular or manufactured housing, located in the state and improved by a residential structure or on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of the related loan described in paragraph (a) or (b) of this subdivision, whether or not insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or by a government sponsored enterprise or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part. The term "mortgage" shall also include loans made by the agency and secured by a second lien on (i) a fee simple or leasehold estate in real property, or (ii) any other instrument which shall constitute or create a security

interest in tangible personal property constituting modular or manufactured housing, located in the state and improved by a residential structure or on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of such loan, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage loan purchased by the agency pursuant to its programs or by a government sponsored enterprise. In the case of any second lien purchased or made hereunder, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

For the purposes of this title and subdivision ten of section two hundred ten-B of the tax law, "mortgage" shall include housing loans as defined below. Except for the purposes of subdivision seven of section twenty-four hundred five and subdivision eight of section twenty-four hundred five-b of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

* NB Effective until July 23, 2027

* (5) "Mortgage". A loan owed to a bank secured by a first lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency

thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or by a government sponsored enterprise or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part. The term "mortgage" shall also include loans made by the agency and secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage loan purchased by the agency pursuant to its programs or by a government sponsored enterprise. In the case of any second lien purchased or made hereunder, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

Except for the purposes of subdivision seven of section two thousand four hundred five of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

* NB Effective July 23, 2027 until July 23, 2027

* (5) "Mortgage". A loan owed to a bank secured by a first lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not

insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part. The term "mortgage" shall also include loans made by the agency and secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage loan purchased by the agency pursuant to its programs or by a government sponsored enterprise. In the case of any second lien, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

Except for the purposes of subdivision seven of section two thousand four hundred five of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

* NB Effective July 23, 2027

(6) "State". The state of New York.

(7) "State agency". Any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

(8) "College". Any institution of higher education recognized and approved as such by the regents of the university of the state which provides a course of study leading to the granting of a post-secondary degree or diploma.

(9) "Career institution". A business, trade, technical or other occupational school approved as such by the regents of the university of the state or accredited by a nationally recognized accrediting agency or association accepted as such by the regents of the university of the state.

(10) "Loan". A loan which the New York higher education assistance corporation has guaranteed or agreed to guarantee pursuant to article fourteen of the education law to a person who is attending or plans to attend, on a full-time or part-time basis, a college or career institution, for the purpose of assisting such person to meet his expenses of higher or career education; provided, however, in no event shall the amount of any such loan for any school year exceed the total amount of (i) the borrower's tuition and educational fees payable to the college or career institution he is attending or is planning to attend, and (ii) sums actually expended or incurred for room and board during such period, reduced by the total amount of (i) all General and Special Purpose Awards (as provided in article thirteen of the education law), and (ii) all other forms of direct financial aid received by the borrower during such period, however denominated and from whatever source (other than the borrower's family), which by its terms is not repayable by the borrower.

* (11) "Existing mortgage". A mortgage for which funds were advanced prior to the date of the most recent invitation of the agency to banks to sell mortgages to the agency.

* NB Repealed July 23, 2027

* (12) "Forward commitment mortgage". A mortgage, which includes construction loans for single-family modular or manufactured housing purchased and sited on land, for which a commitment to advance funds is made not earlier than the date the agency issues an invitation to purchase mortgages or such later date as specified in the invitation. A mortgage made in satisfaction of the obligation of a bank under section twenty-four hundred five of this part is not a forward commitment mortgage.

* NB Repealed July 23, 2027

* (13) "Housing loan". A loan owed to a bank, secured in a manner satisfactory to the agency, to improve, rehabilitate, reconstruct or redevelop one to four unit residences located in the state. The loan

shall be insured or guaranteed by the United States of America or any agency thereof, or by a firm which is authorized by the superintendent of financial services of the state of New York to issue such policies in the state.

* NB Repealed July 23, 2027

* (14) "Persons and families of low or moderate income". Persons and families within the state who are determined by the agency to lack sufficient income to pay enough to cause an adequate supply of credit to be made available for new residential improvement loans at carrying charges within the financial means of such persons and families and whose incomes are below the income levels determined by the agency to be in need of the assistance made available by this title, taking into consideration, without limitation, such factors as the following: (i) the amount of the total income of such persons and families, (ii) the size of the family unit, (iii) the cost to improve, rehabilitate, reconstruct or redevelop residential family dwelling units, (iv) the ability of such persons and families to pay the amounts charged in regular banking channels for credit for such improvement, rehabilitation, reconstruction, or redevelopment work, and (v) standards established by various programs of the federal government for determining eligibility based on income of such persons and families.

* NB Repealed July 23, 2027

(15) "Blending". The financing of a single mortgage loan partly with the proceeds of bonds issued pursuant to subdivision one of section twenty-four hundred seven of this title and partly with the proceeds of bonds issued pursuant to subdivision two of such section.

(16) "Employer". Any corporation, partnership, or sole proprietorship which maintains an office in the state.

* (17) "Government sponsored enterprises". Privately owned, publicly chartered entities, and wholly-owned corporate instrumentalities of the United States within the department of housing and urban development, created pursuant to 12 USC 1717(a)(2)(A), all created by Congress to encourage lending and reduce costs primarily in the housing sector of the economy, and any successor entity or entities created by Congress to continue to serve said purposes.

* NB Repealed July 23, 2027

§ 2403. State of New York mortgage agency. (1) There is hereby created the state of New York mortgage agency. The agency shall be a corporate governmental agency of the state, constituting a political subdivision and public benefit corporation. Its membership shall consist of nine directors as follows: the comptroller or a member appointed by the comptroller who shall serve until his or her successor is appointed, the director of the budget of the state of New York, the commissioner of housing and community renewal, one director appointed by the temporary president of the senate, one director appointed by the speaker of the assembly, and four directors to be appointed by the governor with the advice and consent of the senate. The director first appointed by the governor pursuant to chapter three hundred fifty-six of the laws of two thousand four, which amended this subdivision, shall serve for a term ending four years from January first next succeeding his or her appointment. The other directors first appointed by the governor shall be appointed within ten days of the effective date of this title and shall serve for terms ending two, three and four years, respectively, from January first next succeeding their appointment. Their successors shall serve for terms of four years each. The directors appointed by the governor shall continue in office until their successors have been appointed and qualified. The directors appointed by the temporary president of the senate and the speaker of the assembly shall serve at the pleasure of the temporary president of the senate and the speaker of the assembly respectively. In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, such vacancy shall be filled, for the unexpired term, if applicable, in the same manner as the original appointment. From the four directors appointed by him or her, the governor shall designate the chair of the agency. The governor shall designate the first chair within ten days of the effective date of this title.

(2) The directors, including the chairman, shall serve without salary or other compensation, but each director shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

(3) Such directors other than the comptroller, the budget director, and the commissioner of housing and community renewal may engage in

private employment, or in a profession or business. The agency, its directors, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law.

(4) Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the agency created by this section; provided, however, a director who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

(5) The governor may remove any director appointed by him for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days' notice. If any such director shall be removed, the governor shall file in the office of the department of state a complete statement of charges made against such director and his findings thereon, together with a complete record of the proceeding.

(6) The agency and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the agency shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the agency, all its rights and properties shall pass to and be vested in the state.

(7) A majority of the directors of the agency then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the agency. The agency may delegate to one or more of its directors, or its officers, agents or employees, such powers and duties as it may deem proper. The executive director appointed by the agency shall be the chief executive officer of the agency.

(8) The commissioner of housing and community renewal and the director of the budget each may appoint a person from their respective division to represent such member, respectively, at all meetings of the agency from which such member may be absent. Any such representative so

designated shall have the power to attend and to vote at any meeting of the agency from which the member so designating him as a representative is absent with the same force and effect as if the member designating him were present and voting. Such designation shall be by written notice filed with the chairman of the agency by each of the said members. The designation of such persons shall continue until revoked at any time by written notice to the chairman by the respective member making the designation. Such designation shall not be deemed to limit the power of the appointing member to attend and vote at any meeting of the agency.

§ 2404. Powers of the agency. Except as otherwise limited by this title, the agency shall have power:

(1) To sue and be sued;

(2) To have a seal and alter the same at pleasure;

(3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this title;

(4) To make and alter by-laws for its organization and internal management;

(5) To acquire, hold and dispose of real and personal property for its corporate purposes;

(6) To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;

* (7) To (a) acquire, and contract to acquire, existing mortgages owned by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section twenty-four hundred five of this part, (b) acquire, and contract to acquire, forward commitment mortgages made by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section twenty-four hundred five-b of this part, (c) acquire, and contract to acquire, new housing loans made by banks and to enter into advance commitments to banks for the purchase of said housing loans, all subject to the provisions of section twenty-four hundred five-c of this part, (d) to acquire and contract to acquire mortgages pursuant to section twenty-four hundred five-d of this title, and (e) acquire, and contract to acquire, new construction mortgage

loans for single-family modular or manufactured housing purchased and sited on land owned by banks and to enter into advance commitments to banks for the purchase of such mortgages, all subject to the provisions of section twenty-four hundred five-b of this part;

* NB Effective until July 23, 2027

* (7) To acquire, and contract to acquire, mortgages owned by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section two thousand four hundred five of this title;

* NB Effective July 23, 2027

(8) Subject to any agreement with bondholders or noteholders, to invest moneys of the agency not required for immediate use, including proceeds from the sale of any bonds or notes, in obligations of the state or the United States of America or obligations the principal and interest of which are guaranteed by the state or the United States of America or in certificates of deposit or time deposits secured in such manner as the agency shall determine, or in obligations of any agency of the state or the United States of America which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control, or in obligations of the Federal National Mortgage Association.

(9) Subject to any agreement with bondholders or noteholders, to sell any mortgages or other personal property acquired by the agency at public or private sale and at such price or prices as it shall determine, provided, however, that a private sale shall be limited to an agency of the federal government, the federal national mortgage association, or a sale of a mortgage to a bank from which it was originally purchased. If the agency determines to sell mortgages at public sale, a notice of such sale shall be published at least once at least five days prior to the date of such sale in a financial newspaper or journal published in the city of New York;

(10) Subject to any agreement with bondholders or noteholders, to purchase bonds or notes of the agency, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the bonds or notes are not then redeemable, the redemption price applicable on the first

date after such purchase upon which the notes or bonds become subject to redemption at the option of the agency plus accrued interest to said date;

(11) To borrow money and to issue negotiable bonds and notes and to provide for the rights of the holders thereof;

(12) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

(13) To make and execute contracts for the servicing of mortgages acquired by the agency pursuant to this title, and to pay the reasonable value of services rendered to the agency pursuant to those contracts;

(14) To renegotiate, refinance or foreclose, or contract for the foreclosure of, any mortgage in default; to waive any default or consent to the modification of the terms of any mortgage; to commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; to operate, manage, lease, dispose of, and otherwise deal with such property, in such manner as would further the purposes of the agency, subject to any agreement with its bondholders or noteholders;

(15) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source and to comply, subject to the provisions of this title, with the terms and conditions thereof;

(16) To enter into agreements, in its discretion, to pay annual sums in lieu of taxes to any municipality or taxing district of the state in respect of any real property which is owned by the agency and located in such municipality or taxing district, provided, however, that the amount so paid for any year upon such property shall not exceed the sum last paid as taxes on such property to such municipality or taxing district prior to the time of its acquisition by the agency;

(17) Make and contract to make loans and purchase and contract to purchase loans made by banks, pension funds, credit unions, colleges or vocational institutions, all subject to the provisions of section twenty-four hundred five-a of this title;

(18) Procure or require the procurement of a policy or policies of group life insurance to insure repayment of loans made or acquired by the agency in event of the death of the borrower;

(19) Subject to provisions of section two thousand four hundred five-a and any agreement with bondholders or noteholders, renegotiate or refinance any loan in default; waive any default or consent to the modification of the terms of any loan; forgive all or part of any indebtedness; and commence any action or proceeding to protect or enforce any right conferred upon it by law, loan agreement, contract or other agreement;

(20) Prescribe standards and criteria for the granting of applications for loans and loan purchases, insofar as such standards and criteria are not inconsistent with this title;

(21) Make and execute contracts for the administration or servicing of any loan made or acquired by the agency and pay the reasonable value of services rendered to the agency pursuant to such contracts;

(22) Subject to any agreement with bondholders or noteholders, sell any loans made or acquired by the agency at public or private sale and at such price or prices and on such terms as the agency shall determine;

(23) Establish, revise from time to time, charge and collect such premiums or fees in connection with loans and purchases, as the agency shall determine.

(23-a) To and shall develop, promote and ensure that, where possible, minority groups which traditionally have been disadvantaged, and women are afforded equal opportunity for contracts in connection with development and construction contracts for developments, facilities and projects financed by the issuance of bonds, notes and other obligations of the agency.

(24) To establish and administer a mortgage credit certificate program, as defined in the internal revenue code of the United States, in conformity with that and other applicable provisions of such code and any regulations issued thereunder by the United States department of the treasury, to issue mortgage credit certificates pursuant to such program, and to make all elections and determinations relating to such program, including without limitation, an election not to issue all or any portion of the private activity bond volume allocated to the agency.

(25) In connection with the issuance of bonds for the purpose of

furthering forward commitment mortgage programs described in section twenty-four hundred five-b of this title, where the mortgagor is to receive mortgage credit certificates issued by the agency, to covenant and consent that the interest on any of its bonds shall be includible, under the United States Internal Revenue Code of nineteen hundred eighty-six, as amended or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law.

(26) Participation in housing programs. Subject to any agreement with bondholders and noteholders, the agency is hereby authorized, at the direction of the director of the budget, to transfer to the state comptroller for deposit in the New York state infrastructure trust fund to the credit of the housing reserve account established by section eighty-eight of the state finance law, as an expense of the agency, any payment, less applicable expenses, received on account of interest and principal on any mortgages owned by the agency pursuant to the agency additional mortgage loan fund established pursuant to the homeowner mortgage revenue bonds general resolution and not pledged (i) to pay principal of and interest on bonds and notes pursuant to any resolution or trust indenture under which bonds or notes of the agency are authorized to be issued, (ii) to the payment of losses upon the foreclosure, default or delinquency of mortgage loans pledged under any resolution or trust indenture under which bonds or notes of the agency are authorized to be issued and (iii) to pay the reimbursement obligation of the agency to any providers of credit enhancement with respect to (i) or (ii) above in connection with any resolution. Such transfer shall be made in such amounts and at such times as specified in an agreement executed between the agency and the director of the budget, provided, however, that no further transfers for deposit shall be made to such housing reserve account from the agency after the sum of (i) the cumulative total of such deposits and (ii) the payments of the aggregate reserve amount of the agency made pursuant to section seven of the chapter of the laws of nineteen hundred eighty-eight adding this subdivision, equals eighty million dollars.

(27) Additional participation in housing or other state programs. (a) Subject to any agreement with bondholders and noteholders, the agency is hereby authorized, at the direction of the director of the budget, to transfer to the state comptroller for deposit in such fund or account as provided in such direction as an expense of the agency, an amount not to exceed twenty-two million dollars, provided that such amount is made available to the agency directly or indirectly pursuant to (i) the agency's defeasance of its home mortgage revenue bonds, series one through four and/or (ii) the issuance of bonds or notes, proceeds of which will be transferred to the state and used for the purpose of state programs, which bonds or notes shall be payable in whole or in part from assets made available to the agency pursuant to such defeasance. Such transfer shall be made in such amounts and at such times as specified in an agreement or agreements executed between the agency and the director of the budget, with copies to be provided to the chairman of the assembly ways and means committee and the chairman of the senate finance committee.

(b) The provisions of section seventeen of the public officers law shall apply to members of the board of directors, officers, employees and agents of the agency in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any undertakings under or pursuant to the terms of this subdivision. The provisions of this paragraph shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon members of the board of directors, officers, employees and agents of the agency, by action of such agency or otherwise.

(c) The state shall and hereby agrees to and does indemnify and save harmless the agency from and against any and all liability, loss, damage, interest, judgments and liens growing out of, and any and all costs and expenses (including, but not limited to, counsel fees and disbursements) arising out of or incurred in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against it arising out of any determinations made or actions taken or omitted to be taken or compliance with any obligations under or pursuant to the terms of this subdivision; except for fraudulent acts, actions taken in bad faith, gross negligence or willful misconduct.

(28) To establish and administer a lease-purchase program or programs in accordance with section twenty-four hundred five-d of this title.

(29) To pay or reimburse any federal recapture income tax payable by a borrower in connection with a mortgage loan;

(30) To make loans secured by mortgages secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage loan purchased by the agency pursuant to its programs or by a government sponsored enterprise.

(31) To administer the fund and operate the program set forth in section twenty-four hundred five-f of this part.

(32) To form a subsidiary to be known as "the state of New York mortgage agency community restoration fund" for the purpose of using funds available to the agency under the program set forth in section twenty-four hundred five-f of this part and of owning and holding any residences, mortgages and mortgage notes acquired by the agency, and to otherwise carry out the purposes of section twenty-four hundred five-f of this part. Such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the agency, other than the issuance of indebtedness, in connection with real and personal property with respect to which the agency holds or held a mortgage, security interest or other collateral. Such subsidiary shall have the power to own, acquire and dispose of real property, and to acquire, own and hold, service and dispose of mortgages and mortgage notes. It shall have the right to foreclose or contract to foreclose on any mortgage acquired by such subsidiary, under the laws of the state, to commence any action to protect or to enforce the rights conveyed to it by law, contract or any agreement and to dispose of any such property and to otherwise proceed with any action as may be necessary to protect the interests of said subsidiary. Notwithstanding any other provision of law to the contrary, the transfer of title to such subsidiary or any other actions taken by the agency or such subsidiary to enforce the agency's rights under the

mortgage, security interest or other collateral interest or to protect, acquire, own, manage or dispose of the property shall be deemed to be a corporate purpose of the agency granted to it to carry out the purposes of section twenty-four hundred five-f of this part. Such subsidiary shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the agency as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto with the secretary of state, provided that the subsidiary created hereunder shall cease to exist at such time as the program authorized under section twenty-four hundred five-f of this part is no longer in existence. Such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the agency. The members of such subsidiary shall be the same as the members of the agency.

(33) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this title.

*** § 2405. Purchase of existing mortgages.** (1) A purpose of the agency shall be to purchase existing mortgages from banks within the state during periods when there is an inadequate supply of credit available for new residential mortgages and to require such banks to invest an amount equal to the proceeds thereof as rapidly as possible in new mortgages on residential real property for family units within the state.

It is hereby found and declared that such activities by the agency will alleviate a condition of affairs in this state which is contrary to the public health, safety and general welfare and which has constituted in the past and from time to time in the future can be expected to constitute a public emergency. It is further found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the agency shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

(2) The agency shall purchase existing mortgages from banks at such prices and upon such terms and conditions as it shall determine; provided, however, that the total purchase price for all existing mortgages which the agency commits to purchase from a bank at any one time shall in no event be more than the total of the unpaid principal balances thereof, plus accrued interest thereon.

(3) (a) The agency shall require as a condition of purchase of existing mortgages from banks that such banks shall, within such period as may be approved by the agency not in excess of ninety days of receipt of the purchase price, enter into written commitments to loan and shall, within such period as may be approved by the agency, loan an amount equal to the entire purchase price of such existing mortgages on new mortgages within the state having such terms as the agency may prescribe.

(b) (i) The proportionate dollar amount of commitments from each agency issue of bonds or notes used to purchase mortgages from banks in each region of the state, as such regions are set forth in subdivision nine of section twenty-four hundred twenty-six of this title shall, subject to subparagraph (ii) hereof, reflect the proportion that the number of families in each region bears to the number of families in the state as a whole.

(ii) To the extent that the reasonable demand by banks in any region is insufficient to accommodate the proportion of an agency issue of bonds or notes determined pursuant to subparagraph (i) hereof for such region, the agency shall use reasonable efforts to purchase mortgages such that the excess funds from such region are distributed among the other regions in proportion to the relative reasonable demand. In determining reasonable demand, the agency shall consider, among other things, historical demand for mortgages in such regions, the dollar amount of offers by banks to sell mortgages to the agency and the reasonableness of such offers, considering the size, mortgage history, total assets, liquidity and financial ability of the bank to conform to the contract of sale and the bank's record of compliance with agency requirements.

(iii) The agency shall use its best efforts to the end that not less than one-sixth in dollar amount of new mortgages resulting from its program of purchasing mortgages shall be on newly constructed residences. A newly constructed residence is defined as a one to four family dwelling not previously occupied.

(iv) During the time that the agency is accepting offers to sell mortgages from banks, the agency shall advertise, in newspapers of general circulation within the state, the fact that it is accepting offers from banks, and such other information as the agency determines to be helpful in generating maximum participation by banks and potential mortgagors. All banks within each such region shall be invited by the agency to participate in the agency's purchase of mortgages from the proceeds of the sale of each issue by the agency of its bonds and notes. The allocation of the proceeds of each such agency issue among the banks requesting participation within each region shall, to the extent practicable, maximize the number of banks which participate. Any commitment between the agency and a bank shall require that the bank provide the agency with such information, as may be deemed necessary by the agency, for the agency to assure that the requirements of this title or any other requirements imposed by the agency with respect to the purchase of mortgages with the proceeds of any agency issue of bonds or notes has been fulfilled.

(c) No commitment to loan or loan on a mortgage secured or to be secured by a multiple dwelling shall satisfy the requirement of paragraph (a) of this subdivision unless the prior written approval of such commitment shall have been obtained from the agency. The agency may refuse to approve any commitment to lend on such a multiple dwelling mortgage if so required by the terms of any bonding resolution and shall not approve any commitment to lend on such a multiple dwelling mortgage if the approval thereof would increase the total dollar amount of such commitments on multiple dwelling mortgages approved by the agency to an amount in excess of forty percent of the total purchase price of all mortgages theretofor purchased by the agency pursuant to this section.

(4) In the case of individual borrowers, new mortgages made by banks that sell existing mortgages to the agency shall bear interest computed in accordance with section 5-501 of the general obligations law (whether or not insured or guaranteed by the United States of America or any

agency thereof) at a rate which does not exceed the maximum interest rate, if any, set by the agency for such mortgages. The agency may set such a maximum interest rate chargeable to individual borrowers on such new mortgages, notwithstanding the maximum interest rate, if any, fixed by section 5-501 of the general obligations law or any other law not specifically amending or applicable to this section, at the rate that the existing mortgages purchased by the agency were discounted to yield plus an interest differential, not in excess of one percent per annum, which the agency from time to time shall determine to be adequate consideration to induce such banks to sell existing mortgages to the agency and to loan an amount equal to the proceeds on new mortgages in furtherance of the purposes of and subject to the conditions of this title. In the case of corporate borrowers, such new mortgages shall bear interest at a rate not substantially lower than the rate of interest that banks are charging at the time of commitment on comparable new mortgages. Each such bank that sells existing mortgages to the agency shall annually account and pay over to the agency or to the New York state housing finance agency for deposit in and for the purposes of the low rent lease account as set forth in paragraphs (a) and (b) of subdivision four of section forty-four-a of the private housing finance law or any successor entity as the agency may direct, or to both the agency and the New York state housing finance agency for such deposit and purposes in such proportions as the agency may direct, an amount equal to the difference between (a) the total amount of interest (which shall include all charges to individual and corporate borrowers that would be treated as interest under section 5-501 of the general obligations law and any regulations of the superintendent of financial services pursuant to section fourteen-a of the banking law) received by it during the preceding year on all such new mortgages and (b) the total amount of interest which such new mortgages would have yielded if the interest thereon had been at the maximum rate chargeable to individual borrowers on such new mortgages plus an additional interest differential, not in excess of one percent per annum, determined by the agency to be adequate consideration to induce participating banks to make new loans on multiple dwellings.

(5) The agency shall require the submission to it by each bank from which the agency has purchased existing mortgages evidence satisfactory

to the agency of the making of new mortgage loans and of paying over to the low rent lease account as required by this section and in connection therewith may, through its employees or agents or those of the department of financial services, inspect the books and records of any such bank.

(6) Compliance by any bank with the terms of its agreement with or undertaking to the agency with respect to the making of any new mortgages in connection with the sale of existing mortgages and of paying over to the low rent lease account may be enforced by decree of the supreme court. The agency may require as a condition of purchase of existing mortgages from any national banking association the consent of such association to the jurisdiction of the supreme court over any such proceeding. The agency may also require agreement by any bank, as a condition of the agency's purchase of existing mortgages from such bank, to the payment of penalties to the agency for violation by the bank of its undertakings to the agency, and such penalties shall be recoverable at the suit of the agency.

(7) The agency shall require as a condition of purchase of any existing mortgage from a bank that the bank represent and warrant to the agency that

(a) the unpaid principal balance of the mortgage and the interest rate thereon have been accurately stated to the agency;

(b) the amount of the unpaid principal balance is justly due and owing;

(c) the bank has no notice of the existence of any counterclaim, offset or defense asserted by the mortgagor or any successor in interest;

(d) the mortgage is evidenced by a bond or promissory note and a mortgage document which has been properly recorded with the appropriate public official;

(e) the mortgage constitutes a valid first lien or second lien on the real property described to the agency in accordance with subdivision five of section twenty-four hundred two of this part subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements thereon;

(f) the mortgage when made was lawful under the banking law or federal law, whichever governs the affairs of the bank, and would be lawful on the date of purchase by the agency if made by the bank on that date in the amount of the then unpaid principal balance;

(g) the mortgagor is not now in default in the payment of any installment of principal or interest, escrow funds, real property taxes or otherwise in the performance of his obligations under the mortgage documents and has not to the knowledge of the bank been in default in the performance of any such obligation for a period of longer than sixty days during the life of the mortgage; and

(h) the improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance issued by a company authorized by the superintendent of financial services to issue such policies in the state of New York and providing fire and extended coverage to an amount not less than eighty percent of the insurable value of the improvements to the mortgaged real property.

(8) Each bank shall be liable to the agency for any damages suffered by the agency by reason of the untruth of any representation or the breach of any warranty and, in the event that any representation shall prove to be untrue when made or in the event of any breach of warranty, the bank shall, at the option of the agency, repurchase the existing mortgage for the original purchase price adjusted for amounts subsequently paid thereon, as the agency may determine.

(9) The agency need not require the recording of an assignment of any existing mortgage purchased by it from a bank pursuant to this section and shall not be required to notify the mortgagor of its purchase of the mortgage. The agency shall not be required to inspect or take possession of the mortgage documents if the bank from which the existing mortgage is purchased by the agency shall enter a contract to service such mortgage and account to the agency therefor.

(10) Notwithstanding any other provision of law, the agency is authorized to require, as a condition to the purchase from banks of existing mortgages, such restrictions upon assumability of each new mortgage as the agency may determine to be necessary or desirable to assure the exemption from federal income taxes of the interest payable on its bonds and notes. Such restrictions shall be enforceable by the originating bank, the agency, and any successor holder of the mortgage

unless expressly waived in writing by or on behalf of the agency.

(11) The agency shall maintain a continuous review of the availability of funds in regular banking channels for mortgages. Except as stated herein with respect to forward commitment mortgages and housing loans, in the event that the agency shall determine that an adequate supply of funds exists in regular banking channels for mortgages the agency shall not authorize the issuance of bonds for the purchase of mortgages except refunding bonds, until such time as the agency shall determine that the supply of funds available for mortgages is again inadequate. The agency shall notify the governor, the temporary president of the senate, and the speaker of the assembly of any determination that there is an inadequate supply of funds available for mortgages made by it under this subdivision. Discontinuance by the agency of the purchase of mortgages pursuant to a determination that an adequate supply of funds exists in regular banking channels shall not constitute, or in any way effect, termination of the agency as provided in subdivision six of section two thousand four hundred three of this title. Notwithstanding the foregoing, the agency may issue bonds or notes for the purpose of furthering forward commitment mortgage programs described in section twenty-four hundred five-b of this title and housing loan programs described in section twenty-four hundred five-c of this title if the agency shall determine that such programs will increase the supply of credit available for new residential mortgages and new residential improvement loans at carrying charges within the financial means of persons and families of low or moderate income.

* NB Effective until July 23, 2027

* § 2405. Purchase of mortgages. (1) The purpose of the agency shall be to purchase mortgages from banks within the state during periods when there is an inadequate supply of credit available for new residential mortgage loans and to require such banks to invest an amount equal to the proceeds thereof as rapidly as possible in new mortgages on residential real property for family units within the state.

It is hereby found and declared that such activities by the agency will alleviate a condition of affairs in this state which is contrary to the public health, safety and general welfare and which has constituted in the past and from time to time in the future can be expected to constitute a public emergency. It is further found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the agency shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

(2) The agency shall purchase mortgages from banks at such prices and upon such terms and conditions as it shall determine; provided, however, that the total purchase price for all mortgages which the agency commits to purchase from a bank at any one time shall in no event be more than the total of the unpaid principal balances thereof.

(3) (a) The agency shall require as a condition of purchase of mortgages from banks that such banks shall, within such period as may be approved by the agency not in excess of ninety days of receipt of the purchase price, enter into written commitments to loan and shall, within such period as may be approved by the agency, loan an amount equal to the entire purchase price of such mortgages on new mortgages within the state having such terms as the agency may prescribe.

(b) (i) The proportionate dollar amount of commitments from each agency issue of bonds or notes used to purchase mortgages from banks in each region of the state, as such regions are set forth in subdivision nine of section twenty-four hundred twenty-six of this title shall, subject to subparagraph (ii) hereof, reflect the proportion that the number of families in each region bears to the number of families in the state as a whole.

(ii) To the extent that the reasonable demand by banks in any region is insufficient to accommodate the proportion of an agency issue of bonds or notes determined pursuant to subparagraph (i) hereof for such region, the agency shall use reasonable efforts to purchase mortgages such that the excess funds from such region are distributed among the other regions in proportion to the relative reasonable demand. In determining reasonable demand, the agency shall consider, among other things, historical demand for mortgages in such regions, the dollar amount of offers by banks to sell mortgages to the agency and the reasonableness of such offers, considering the size, mortgage history, total assets, liquidity and financial ability of the bank to conform to the contract of sale and the bank's record of compliance with agency requirements.

(iii) The agency shall use its best efforts to the end that not less than one-sixth in dollar amount of new mortgages resulting from its program of purchasing mortgages shall be on newly constructed residences. A newly constructed residence is defined as a one to four family dwelling not previously occupied.

(iv) During the time that the agency is accepting offers to sell mortgages from banks, the agency shall advertise, in newspapers of general circulation within the state, the fact that it is accepting offers from banks, and such other information as the agency determines to be helpful in generating maximum participation by banks and potential mortgagors. All banks within each such region shall be invited by the agency to participate in the agency's purchase of mortgages from the proceeds of the sale of each issue by the agency of its bonds and notes. The allocation of the proceeds of each such agency issue among the banks requesting participation within each region shall, to the extent practicable, maximize the number of banks which participate. Any commitment between the agency and a bank shall require that the bank provide the agency with such information, as may be deemed necessary by the agency, for the agency to assure that the requirements of this title or any other requirements imposed by the agency with respect to the purchase of mortgages with the proceeds of any agency issue of bonds or notes has been fulfilled.

(c) No commitment to loan or loan on a mortgage secured or to be secured by a multiple dwelling shall satisfy the requirement of paragraph (a) of this subdivision unless the prior written approval of such commitment shall have been obtained from the agency. The agency may refuse to approve any commitment to lend on such a multiple dwelling mortgage if so required by the terms of any bonding resolution and shall not approve any commitment to lend on such a multiple dwelling mortgage if the approval thereof would increase the total dollar amount of such commitments on multiple dwelling mortgages approved by the agency to an amount in excess of forty percent of the total purchase price of all mortgages theretofor purchased by the agency pursuant to this section.

(4) In the case of individual borrowers, such new mortgages shall bear interest computed in accordance with section 5-501 of the general obligations law (whether or not insured or guaranteed by the United States of America or any agency thereof) at a rate which does not exceed

the maximum interest rate, if any, set by the agency for such mortgages. The agency may set such a maximum interest rate chargeable individual borrowers on such new loans, notwithstanding the maximum interest rate fixed by section 5-501 of the general obligations law, at the rate that the mortgages purchased by the agency were discounted to yield plus an interest differential, not in excess of one percent per annum, which the agency from time to time shall determine to be adequate consideration to induce such banks to sell existing mortgages to the agency and to loan an amount equal to the proceeds on new mortgages in furtherance of the purposes of and subject to the conditions of this title. In the case of corporate borrowers, such new mortgages shall bear interest at a rate not substantially lower than the rate of interest that banks are charging at the time of commitment on comparable new mortgage loans. Each such bank shall annually account and pay over to the agency or to the New York state housing finance agency for deposit in and for the purposes of the low rent lease account as set forth in paragraphs (a) and (b) of subdivision four of section forty-four-a of the private housing finance law or any successor entity as the agency may direct, or to both the agency and the New York state housing finance agency for such deposit and purposes in such proportions as the agency may direct, an amount equal to the difference between (a) the total amount of interest (which shall include all charges to individual and corporate borrowers that would be treated as interest under section 5-501 of the general obligations law and any regulations of the superintendent of financial services pursuant to section fourteen-a of the banking law) received by it during the preceding year on all such new mortgages and (b) the total amount of interest which such mortgages would have yielded if the interest thereon had been at the maximum rate chargeable individual borrowers on such new loans plus an additional interest differential, not in excess of one percent per annum, determined by the agency to be adequate consideration to induce participating banks to make new loans on multiple dwellings.

(5) The agency shall require the submission to it by each bank from which the agency has purchased mortgages evidence satisfactory to the agency of the making of new mortgage loans and of paying over to the low rent lease account as required by this section and in connection therewith may, through its employees or agents or those of the

department of financial services, inspect the books and records of any such bank.

(6) Compliance by any bank with the terms of its agreement with or undertaking to the agency with respect to the making of any mortgage loans and of paying over to the low rent lease account may be enforced by decree of the supreme court. The agency may require as a condition of purchase of mortgages from any national banking association the consent of such association to the jurisdiction of the supreme court over any such proceeding. The agency may also require agreement by any bank, as a condition of the agency's purchase of mortgages from such bank, to the payment of penalties to the agency for violation by the bank of its undertakings to the agency, and such penalties shall be recoverable at the suit of the agency.

(7) The agency shall require as a condition of purchase of any mortgage from a bank that the bank represent and warrant to the agency that

(a) the unpaid principal balance of the mortgage and the interest rate thereon have been accurately stated to the agency;

(b) the amount of the unpaid principal balance is justly due and owing;

(c) the bank has no notice of the existence of any counterclaim, offset or defense asserted by the mortgagor or his successor in interest;

(d) the mortgage is evidenced by a bond or promissory note and a mortgage document which has been properly recorded with the appropriate public official;

(e) the mortgage constitutes a valid first lien or second lien on the real property described to the agency in accordance with subdivision five of section twenty-four hundred two of this part subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements thereon;

(f) the mortgage loan when made was lawful under the banking law or federal law, whichever governs the affairs of the bank, and would be lawful on the date of purchase by the agency if made by the bank on that date in the amount of the then unpaid principal balance;

(g) the mortgagor is not now in default in the payment of any installment of principal or interest, escrow funds, real property taxes or otherwise in the performance of his obligations under the mortgage documents and has not to the knowledge of the bank been in default in the performance of any such obligation for a period of longer than sixty days during the life of the mortgage, and

(h) the improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance issued by a company authorized by the superintendent of financial services to issue such policies in the state of New York and providing fire and extended coverage to an amount not less than eighty percent of the insurable value of the improvements to the mortgaged real property.

(8) Each bank shall be liable to the agency for any damages suffered by the agency by reason of the untruth of any representation or the breach of any warranty and, in the event that any representation shall prove to be untrue when made or in the event of any breach of warranty, the bank shall, at the option of the agency, repurchase the mortgage for the original purchase price adjusted for amounts subsequently paid thereon, as the agency may determine.

(9) The agency need not require the recording of an assignment of any mortgage purchased by it from a bank pursuant to this section and shall not be required to notify the mortgagor of its purchase of the mortgage. The agency shall not be required to inspect or take possession of the mortgage documents if the bank from which the mortgage is purchased by the agency shall enter a contract to service such mortgage and account to the agency therefor.

(10) The agency shall maintain a continuous review of the availability of funds in regular banking channels for new mortgage loans. In the event that the agency shall determine that an adequate supply of funds exists in regular banking channels for new mortgage loans the agency shall not authorize the issuance of bonds for the purchase of mortgages except refunding bonds, until such time as the agency shall determine that the supply of funds available for mortgages is again inadequate. The agency shall notify the governor, the temporary president of the senate, and the speaker of the assembly of any determination that there is an inadequate supply of funds available for mortgages made by it under this subdivision. Discontinuance by the agency of the purchase of

mortgages pursuant to a determination that an adequate supply of funds exists in regular banking channels shall not constitute, or in any way effect, termination of the agency as provided in subdivision six of section two thousand four hundred three of this title.

* NB Effective July 23, 2027

§ 2405-a. Education loans. (1) For purposes of this section, the following words and terms shall have the following meaning unless the context shall indicate another or different meaning or intent:

(a) "Corporation" shall mean the New York state higher education services corporation.

(b) "Education Loan" shall mean: (i) a New York higher education loan program loan made pursuant to part v of article fourteen of the education law; or (ii) a loan under Part B of Title IV of the Higher Education Act of nineteen hundred sixty-five, as amended, including but not limited to a loan described in subdivision ten of section twenty-four hundred two of this part; provided, that the borrower shall be required to apply the net proceeds of such loans to pay the student's costs of post-secondary education or to repay one or more such loans incurred for such purpose.

(2) In addition to the powers of the agency pursuant to the other sections of this title, the agency shall have power:

(a) To enter into one or more agreements with the corporation and to perform or contract for the performance of its obligations under any such agreement;

(b) To make and contract to make and to acquire and contract to acquire education loans and to enter into advance commitments for the purchase of said education loans;

(c) Subject to any agreement with bondholders or noteholders, to invest moneys of the agency not required for immediate use, including proceeds from the sale of any bonds or notes, in education loans;

(d) To make and execute contracts for the marketing, origination, servicing, collection, administration, guarantee, securing, and financing of education loans originated or acquired by the agency pursuant to this title, and to pay the reasonable value of services rendered to the agency pursuant to those contracts;

(e) Subject to any agreement with bondholders or noteholders, to renegotiate or refinance any education loan that has been acquired by the agency or which the agency has committed to purchase that is in default; to waive any default or consent to the modification of the terms or any such education loan; to forgive all or part of any indebtedness; and to commence any action or proceeding to protect or enforce any right conferred upon it with respect to any such education loan by law, loan agreement, contract or other agreement;

(f) To prescribe standards and criteria for the origination of education loans to be eligible for acquisition by the agency and for education loans purchased by the agency;

(g) Subject to any agreement with bondholders or noteholders, to sell any education loans made or acquired by the agency at public or private sale and at such price or prices and on such terms as the agency shall determine;

(h) To establish, revise from time to time, charge and collect such premiums or fees in connection with education loans and its participation in the New York higher education loan program as the agency shall determine; and

(i) Subject to any agreement with bondholders or noteholders, to invest moneys pledged to secure bonds issued for the corporate purposes authorized by this section not required for immediate use in investments authorized for investment of state funds under section ninety-eight or ninety-eight-a of the state finance law.

(3) The agency shall have the power and is hereby authorized from time to time to issue its bonds and notes pursuant to section two thousand four hundred six of this title for the corporate purposes authorized by this section, including without limitation for the purposes of financing and refinancing education loans and of refunding any bonds or notes issued for such purpose.

(4) Each lender or service provider who makes a representation or warranty to the agency with respect to an education loan shall be liable to the agency for any damages suffered by the agency by reason of the untruth of such representation or the breach of such warranty and, in the event that any representation shall prove to be untrue when made or in the event of any breach of warranty, such person shall, at the option of the agency, repurchase the education loan for the price provided in

the applicable financing agreement, as the agency may determine.

(5) It is the intent of the legislature that any pledge by the agency of education loans or of earnings, revenues or other moneys receivable from any source, including without limitation default payments by the New York higher education loan program variable rate default reserve fund, the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as applicable, with respect to education loans financed by the agency, shall be valid and binding from the time when the pledge is made. The education loans, earnings, revenues or other moneys so pledged and thereafter received by the agency or its agent, including without limitation the higher education services corporation or any education loan servicer, shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency or its agent, including without limitation the higher education services corporation or any education loan servicer, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(6) The state of New York mortgage agency New York higher education loan program default reserve fund. (a) There is hereby created and established in the sole custody of the state of New York mortgage agency a special fund to be known as the state of New York mortgage agency New York higher education loan program default reserve fund which shall be for the exclusive benefit of the holders of education loans that the agency has acquired, or agreed to acquire, under the New York higher education loan program, codified in part V of article fourteen of the education law.

(b) Amounts held in this fund shall not be, or be deemed, funds of the state or funds under the management of the state, the agency, or the corporation. The obligations of such fund shall not be, or be deemed, the debts or obligations of the state and the state shall not be, or be deemed, in any way obligated to: any holder of any such education loan; any holder of bonds issued pursuant to section two thousand four hundred six of this part for the corporate purposes authorized in section two thousand five-a of this article; any fiduciary or provider of any credit facility, liquidity facility or interest rate exchange agreement with respect to such bonds; or any other creditor of this fund.

(c) Such fund shall consist of: (i) all moneys received by the higher education services corporation pursuant to paragraph (b) of subdivision seven of section six hundred ninety-two of the education law, in connection with education loans that the agency has acquired or agreed to acquire under the New York higher education loan program education loans; (ii) any transfers from the New York higher education loan program variable rate default reserve fund created by section seventy-eight-a of the state finance law or from the New York higher education loan program fixed rate default reserve fund created by section seventy-eight-b of the state finance law; and (iii) any appropriation payment or transfer to the agency for such purpose.

(d) The agency shall establish accounts within the fund and priorities of payment from such accounts and shall invest the fund in investments authorized for investment of state funds under section ninety-eight or ninety-eight-a of the state finance law.

(e) This fund, including all sub-accounts thereof, shall be segregated from all other funds kept by the agency and shall not be used for any other purpose beyond those set forth in part V of article fourteen of the education law or in this section. The agency shall utilize monies in the fund solely to pay the outstanding principal, capitalized and unpaid accrued interest on defaulted education loans described in paragraph a of this subdivision.

(f) Nothing contained in this section shall prevent the agency, or the corporation, from receiving grants, gifts or bequests for the purposes of this fund and depositing them into the fund according to law, rules, or regulations.

(g) The agency shall make payments from the monies in this fund in amounts and at times required pursuant to part V of article fourteen of the education law.

*** § 2405-b. Purchase of forward commitment mortgages.** (1) A purpose of the agency shall be to purchase forward commitment mortgages from banks within the state during periods when there is an inadequate supply of credit available for new residential mortgages or available for such loans at carrying charges within the financial means of persons and families of low and moderate income.

It is hereby found and declared that such activities by the agency will alleviate a condition in this state which is contrary to the public health, safety and general welfare and which has constituted in the past and from time to time in the future can be expected to constitute a public emergency. It is further found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the agency shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

(2) The agency shall purchase forward commitment mortgages from banks at such prices and upon such terms and conditions as it shall determine; provided, however, that the total purchase price, exclusive of any amounts representing a refund of commitment or other fees paid by a bank to the agency, for all mortgages which the agency commits to purchase from a bank at any one time shall in no event be more than the total of the unpaid principal balances thereof, plus accrued interest thereon.

(3) In conducting its program of purchasing forward commitment mortgages, the agency shall be governed by the provisions of paragraph (b) of subdivision three of section twenty-four hundred five of this part; however, with respect to new construction loans for single-family modular or manufactured housing purchased and sited on land, the agency shall be governed by the provisions of only subparagraph (iii) of paragraph (b) of subdivision three of section twenty-four hundred five of this part.

(4) The agency shall require as a condition of purchase of forward commitment mortgages from banks that each such bank certify that each such forward commitment mortgage is to an individual borrower and is in addition to the mortgages such certifying bank otherwise would have made.

(5) Notwithstanding the maximum interest rate, if any, fixed by section 5-501 of the general obligations law or any other law not specifically amending or applicable to this section, the agency may set the interest rate to be borne by forward commitment mortgages purchased

by the agency from banks at a rate or rates which the agency from time to time shall determine, provided however, that if such mortgages are financed through the issuance of the agency's bonds or notes, the interest rate shall be at least sufficient, together with any other available monies, to provide for the payment of its bonds and notes, and forward commitment mortgages bearing such interest rate shall not be deemed to violate any such law or to be unenforceable if originated by a bank in good faith pursuant to an undertaking with the agency with respect to the sale thereof notwithstanding any subsequent failure of the agency to purchase the mortgage or any subsequent sale or disposition of the mortgage by the agency to such bank or any other person.

(6) The agency shall require the submission to it by each bank from which the agency has purchased forward commitment mortgages evidence satisfactory to the agency of the making, and if applicable, the servicing, of such forward commitment mortgages in conformity with such bank's undertaking with the agency and in connection therewith may, through its employees or agents or those of the department of financial services, inspect the books and records of any such bank.

(7) Compliance by any bank with the terms of its agreement with or undertaking to the agency with respect to the sale, and if applicable, the servicing, of forward commitment mortgages may be enforced by decree of the supreme court. The agency may require as a condition of purchase of forward commitment mortgages from any bank the consent of such bank to the jurisdiction of the supreme court over any such proceeding. The agency may also require agreement by any bank, as a condition of the agency's purchase of forward commitment mortgages from such bank, to the payment of penalties to the agency for violation by the bank of its undertakings to the agency, and such penalties shall be recoverable at the suit of the agency.

(8) The agency shall require as a condition of purchase of any forward commitment mortgage from a bank that the bank represent and warrant to the agency that:

(a) other than with respect to new construction loans for single-family modular or manufactured housing purchased and sited on land, the mortgage was not made in satisfaction of an obligation of the bank under section twenty-four hundred five of this part;

(b) the unpaid principal balance of the mortgage and the interest rate thereon have been accurately stated to the agency;

(c) the amount of the unpaid principal balance is justly due and owing;

(d) the bank has no notice of the existence of any counterclaim, offset or defense asserted by the mortgagor or any successor in interest;

(e) the mortgage is evidenced by a bond or promissory note and a mortgage document which has been properly recorded with the appropriate public official or by an instrument which shall constitute or create a security interest in tangible personal property constituting modular or manufactured housing purchased by the agency;

(f) the mortgage constitutes a valid first lien, or second lien on the real property or tangible personal property constituting modular or manufactured housing, described to the agency in accordance with subdivision five of section twenty-four hundred two of this part subject only to real property taxes or other taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property, tangible personal property constituting modular or manufactured housing or improvements thereon;

(g) the mortgagor is not now in default in the payment of any installment of principal or interest, escrow funds, real property taxes or otherwise in the performance of his obligations under the mortgage documents and has not to the knowledge of the bank been in default in the performance of any such obligation for a period of longer than sixty days during the life of the mortgage; and

(h) the improvements to, or new construction of single-family modular or manufactured housing purchased and sited on land, the mortgaged real property or tangible personal property constituting modular or manufactured housing, are covered by a valid and subsisting policy of insurance issued by a company authorized by the superintendent of financial services to issue such policies in the state of New York and providing fire and extended coverage to an amount not less than eighty percent of the insurable value of the improvements to, or new construction of, the mortgaged real property or tangible personal property constituting modular or manufactured housing.

(9) Each bank shall be liable to the agency for any damages suffered by the agency by reason of the untruth of any representation or the breach of any warranty and, in the event that any representation shall prove to be untrue when made or in the event of any breach of warranty, the bank shall, at the option of the agency, repurchase the mortgage for the original purchase price adjusted for amounts subsequently paid thereon, as the agency shall determine.

(10) The agency need not require the recording of an assignment of any forward commitment mortgage purchased by it from a bank pursuant to this section and shall not be required to notify the mortgagor of its purchase of the mortgage. The agency shall not be required to inspect or take possession of the mortgage documents if the bank from which the forward commitment mortgage is purchased by the agency shall enter a contract to service such mortgage and account to the agency therefor.

(11) Notwithstanding any other provision of law, the agency is authorized to require, as a condition to the purchase from banks of any forward commitment mortgage, such restrictions upon assumability of the mortgage, default provisions, rights to accelerate, and other terms applicable to such forward commitment mortgages made by the bank pursuant to undertakings with the agency with respect to the sale thereof as the agency may determine to be necessary or desirable to assure the repayment of its bonds and notes and the exemption from federal income taxes of the interest payable on its bonds and notes. All such terms shall be enforceable by the originating bank, the agency, and any successor holder of the mortgage unless expressly waived in writing by or on behalf of the agency.

* NB Repealed July 23, 2027

*** § 2405-c. Purchase of new housing loans.** (1) The agency is hereby directed, to the extent it finds it practicable, to establish a program whereby it purchases new housing loans from banks within the state during periods when there is an inadequate supply of credit available for new residential improvement loans or available for such loans at carrying charges within the financial means of persons and families of low or moderate income.

It is hereby found and declared that such activities by the agency will alleviate a condition in this state which is contrary to the public health, safety and general welfare and which has constituted in the past and from time to time in the future can be expected to constitute a public emergency. It is further found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the agency shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

(2) The agency shall purchase new housing loans from banks at such prices and upon such terms and conditions as it shall determine; provided, however, that each borrower receiving a housing loan purchased by the agency shall be a person of low or moderate income and provided further that the total purchase price, exclusive of any amounts representing a refund of commitment or other fees paid by a bank to the agency, for all housing loans which the agency commits to purchase from a bank at any one time shall in no event be more than the total of the unpaid principal balances thereof, plus accrued interest thereon.

(3) In conducting its program of purchasing new housing loans, the agency shall not be governed or limited by the provisions of clause (i), (ii) or (iii) of paragraph (b) of subdivision three of section twenty-four hundred five of this title.

(4) The agency shall require as a condition of purchase of new housing loans from banks that each such bank certify that each such new housing loan is to an individual borrower and is in addition to the housing loans such certifying bank otherwise would have made.

(5) Notwithstanding the maximum interest rate, if any, fixed by section 5-501 of the general obligations law or any other law not specifically amending or applicable to this section, the agency may set the interest rate to be borne by new housing loans purchased by the agency from banks at a rate or rates which the agency from time to time shall determine to be at least sufficient, together with any other available monies, to provide for the payment of its bonds and notes, and new housing loans bearing such interest rate shall not be deemed to violate any such law or to be unenforceable if originated by a bank in good faith pursuant to an undertaking with the agency with respect to the sale thereof notwithstanding any subsequent failure of the agency to

purchase the housing loan or any subsequent sale or disposition of the housing loan by the agency to such bank or any other person.

(6) The agency shall require the submission to it by each bank from which the agency has purchased new housing loans evidence satisfactory to the agency of the making, and if applicable, the servicing, of such new housing loans in conformity with such bank's undertaking with the agency and in connection therewith may, through its employees or agents or those of the department of financial services, inspect the books and records of any such bank.

(7) Compliance by any bank with the terms of its agreement with or undertaking to the agency with respect to the sale, and if applicable, the servicing, of new housing loans may be enforced by decree of the supreme court. The agency may require as a condition of purchase of new housing loans from any national bank the consent of such bank to the jurisdiction of the supreme court over any such proceeding. The agency may also require agreement by any bank, as a condition of the agency's purchase of new housing loans from such bank, to the payment of penalties to the agency for violation by the bank of its undertakings to the agency, and such penalties shall be recoverable at the suit of the agency.

(8) The agency shall require as a condition of purchase of any new housing loan from a bank that the bank represent and warrant to the agency that:

(a) the unpaid principal balance of the housing loan and the interest rate thereon have been accurately stated to the agency;

(b) the amount of the unpaid principal balance is justly due and owing;

(c) the bank has no notice of the existence of any counterclaim, offset or defense asserted by the mortgagor or any successor in interest;

(d) the housing loan is evidenced and secured in the manner specified in the bank's undertaking to the agency and all required loan documents have been properly recorded with any appropriate public official;

(e) the housing loan is secured by the security described to the agency subject only to liens, security interests and encumbrances described to the agency;

(f) the borrower is not now in default in the payment of any installment of principal or interest, escrow funds, real property taxes or otherwise in the performance of his obligations under the loan documents and has not to the knowledge of the bank been in default in the performance of any such obligation for a period of longer than sixty days during the life of the housing loan;

(g) the residential family dwelling unit improved, rehabilitated, reconstructed or redeveloped with the proceeds of the housing loan is covered by a valid and subsisting policy of insurance issued by a company authorized by the superintendent of financial services to issue such policies in the state of New York and providing fire and extended coverage to the extent specified in the bank's undertaking to the agency; and

(h) the housing loan is insured or guaranteed by the United States of America or any agency thereof, or by a firm which is authorized by the superintendent of financial services of the state of New York to issue such policies in the state.

(9) Each bank shall be liable to the agency for any damages suffered by the agency by reason of the untruth of any representation or the breach of any warranty and, in the event that any representation shall prove to be untrue when made or in the event of any breach of warranty, the bank shall, at the option of the agency, repurchase the housing loan for the original purchase price adjusted for amounts subsequently paid thereon, as the agency shall determine.

(10) The agency need not require the recording or filing of an assignment of any new housing loan purchased by it from a bank pursuant to this section and shall not be required to notify the borrower of its purchase of the housing loan. The agency shall not be required to inspect or take possession of the loan documents if the bank from which the new housing loan is purchased by the agency shall enter a contract to service such housing loan and account to the agency therefor.

(11) Notwithstanding any other provision of law, the agency is authorized to require, as a condition to the purchase from banks of new housing loans, such restrictions upon assumability of the loan, default provisions, rights to accelerate, and other terms applicable to new housing loans made by banks pursuant to undertakings with the agency with respect to the sale thereof as the agency may determine to be necessary or desirable to assure the repayment of its bonds and notes

and the exemption from federal income taxes of the interest payable on its bonds and notes. All such terms shall be enforceable by the originating bank, the agency, and any successor holder of the housing loan unless expressly waived in writing by or on behalf of the agency.

(12) In conducting its program of purchasing new housing loans, the agency shall use its best efforts to work in conjunction with and maximize the participation of programs operated by not-for-profit corporations or charitable organizations for the improvement, rehabilitation, reconstruction or redevelopment of one to four unit residences.

* NB Repealed July 23, 2027

*** § 2405-d. Lease-to-own program.** (1) The agency is authorized to participate in lease-to-own programs as described in this section. The purpose of a lease-to-own program is to provide mortgage financing for a residence occupied as a primary residence by a prospective mortgagor pursuant to a lease-to-own contract with the owner of such property. The lease-to-own contract shall provide for the eventual purchase by the resident of the residence and an interim lease of the residence prior to the closing of the purchase thereof. The party to the lease-to-own contract who is the seller of the residence is referred to in this section as the "seller". The prospective purchaser who is a party to the lease-to-own contract is referred to in this section as the "tenant-purchaser". A "residence" for the purpose of this section is a single-family home, a condominium housing unit or a housing unit owned by a cooperative housing corporation.

(2) The agency may contract to acquire and may acquire a mortgage loan or loans made by a bank to a seller who has entered a lease-to-own contract with an eligible tenant-purchaser for the property which is the subject of and security for such mortgage loan.

(3) (a) The lease-to-own contract shall contain:

(i) a lease of the residence, or in the case of cooperative housing units a sublease, for a term not to exceed five years.

(ii) provision for a rental payment not less than the sum of (A) an amount sufficient to pay the estimated real property taxes and insurance on the residence, or in the case of a cooperative unit, the maintenance charges; (B) the cost of routine maintenance of the residence unless the lease-to-own contract requires the tenant-purchaser to perform such maintenance at his own expense; (C) an amount sufficient to pay the interest on the mortgage loan held by the agency on the residence less the estimated earnings on the escrow fund provided for in subdivision four of this section which is allocable to such mortgage held by the agency; (D) an amount to be held in escrow, referred to as the "tenant-purchaser escrow", which, when accumulated over the period of the lease-to-own contract, will amount to a sum sufficient to pay the tenant-purchaser's required down payment under the lease-to-own contract plus the estimated closing costs of purchase which will be allocable to the tenant-purchaser, including the seller's closing costs at the initial closing of the mortgage to the seller; and (E) in the case of a condominium unit, common charges.

(iii) provisions obligating the tenant-purchaser to buy and the seller to sell the residence at the end of the lease term.

(iv) a provision under which the seller waives specific performance with respect to the tenant-purchaser's obligation to purchase.

(v) a provision that default by the tenant-purchaser under the provisions of the lease-to-own contract shall result in the forfeiture to the seller of all amounts in the tenant-purchaser escrow.

(vi) a provision that the tenant-purchaser shall have the option upon reasonable notice to the seller and the agency to elect to close the purchase of the residence at an earlier date than that specified in the lease-to-own contract.

(vii) a provision that the rent shall be adjusted under the lease-to-own contract periodically to take account of changes in taxes, insurance, escrow earnings and other variables intended to be covered by the tenant's rental payment.

(viii) a provision governing the consequences of default by each of the parties.

(b) The provisions of the emergency housing rent control law, the local emergency housing rent control act, the city rent and rehabilitation law, the emergency tenant protection act of nineteen seventy-four and the New York city rent stabilization law of nineteen hundred sixty-nine shall not apply to a residence subject to a lease-to-own mortgage, provided that the mortgage is purchased by the agency. Such exemption shall begin at the commencement of the lease term and shall endure for so long thereafter as the agency holds the mortgage loan. The agency shall not sell the mortgage loan prior to the closing of the transfer of title to the tenant-purchaser or default by the tenant-purchaser under the lease-to-own contract.

(c) The agency shall adopt procedures to ensure that the payments contemplated by subparagraph (ii) of paragraph (a) of this subdivision are in fact applied to those purposes.

(4) (a) The mortgage loan documents with respect to a mortgage loan acquired by the agency pursuant to this section shall provide that there shall be retained as additional security for the mortgage loan an amount not less than fifteen percent of the purchase price stated in the lease-to-own contract. The amount retained shall be disbursed in cash at the mortgage closing to an escrow fund held by the owner of the mortgage. When the agency becomes the owner of the mortgage loan, the agency shall receive the escrow amount to be held by the agency in escrow. The escrowed funds may be invested by the agency in securities in which the agency is authorized to invest its own funds. All banks and trust companies are authorized to give such security for deposits by the agency of escrowed funds as determined by the agency. The escrow amounts pertaining to various lease-to-own mortgage loans may be commingled for investment purposes, but the agency shall keep books of account showing the amount to the credit of each individual escrow account. The investment earnings on each individual escrow account shall be credited to the interest payment on the applicable mortgage loan.

(b) The agency shall advise the seller at periodic convenient intervals of the amount of such earnings with respect to each mortgage loan.

(5) With the agency's approval, the lease-to-own contract may provide that, so long as the seller is not in default, in lieu of the establishment of a tenant-purchaser escrow account, that the portion of the tenant-purchaser's rental payments allocable to such an account may be received by the seller first as reimbursement of the seller's costs of closing of the initial mortgage to the seller and, second, to be credited to the purchase price of the premises.

(6) (a) At the closing of the transfer of title to the residence to the tenant-purchaser pursuant to the lease-to-own contract, the agency

shall disburse the escrow amount to or for the account of the tenant-purchaser.

(b) At such closing, the agency shall require the tenant-purchaser to furnish private mortgage insurance if such insurance is required in the case of other mortgage loans under this title. If such insurance is not obtainable in the private market at the time of such closing, the agency is authorized to issue such insurance.

(7) The agency shall establish such requirements with regard to lease-to-own contracts, lease-to-own residences, the qualifications of tenant-purchasers, and the agency's participation in any lease-to-own program, as may be deemed appropriate by the agency to achieve the objectives of this section. The agency's requirements, including but not limited to income limits applicable to the tenant-purchaser and the purchase price of the residence, must be satisfied at or before the time the mortgage loan is purchased, and the tenant-purchaser must be deemed qualified by the agency at the time.

(8) Notwithstanding any other provision of law, the agency is authorized to require, as a condition to the financing of any mortgage with respect to a lease-purchase residence, such restrictions upon assumability of the mortgage, default provisions, rights to accelerate, and other terms as the agency may determine to be necessary or desirable. All such terms shall be enforceable by the originating bank, the agency, and any successor holder of the mortgage unless expressly waived in writing by or on behalf of the agency.

(9) The provisions of this section shall expire and be of no further force and effect on and after July first, nineteen hundred ninety-five.

* NB Expired July 1, 1995

§ 2405-e. Purchase of employer assisted forward commitment mortgages. (1) In accordance with the authority set forth in section twenty-four hundred five-b of this title, the agency may purchase employer assisted forward commitment mortgages from banks at such prices and upon such terms and conditions as it shall determine. In conducting its program of purchasing employer assisted forward commitment mortgages, the agency shall be governed by the provisions of section twenty-four hundred five-b of this title. The board of directors of the agency shall establish from time to time maximum income limits of persons eligible to receive such mortgages, which income limits shall not exceed the latest maximum income limits permitted under the Internal Revenue Code of 1986, as amended, for mortgages financed by mortgage revenue bonds. An employer may develop additional qualifications for eligible employees beyond those qualifications provided for in this section, provided that such qualifications are non-discriminatory and are pre-approved by the agency; the employer, however, shall remain solely responsible for determining and insuring the legality of such qualifications and may not rely on any agency reviews, approvals, legal opinions or statements.

(2) To participate in an employer assisted forward commitment mortgage program, an employer must be a corporation, partnership, or sole proprietorship which maintains an office in the state and must satisfy the requirements set forth in guidelines established by the agency.

(3) For any employer assisted forward commitment mortgage, the maximum loan-to-value ratio shall be established by the agency, provided that such loan shall not exceed one hundred percent of the appraised value of the mortgaged premises. Reasonable closing costs for the loan may be amortized over the life of the loan, provided that the final loan amount does not exceed one hundred percent of the appraised value of the mortgaged premises.

(4) The agency shall require any employer participating in the employer assisted forward commitment mortgage program to guarantee to pay up to twenty percent of the total outstanding mortgage indebtedness (as determined by the agency) for each employee who obtains a mortgage loan under the provisions of this section and who defaults on such mortgage loan during the first seven years of such loan, regardless of whether such borrower is an employee of such employer at the time of the default.

§ 2405-f. New York state community restoration fund. (1) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "fund" shall mean the New York state community restoration fund established pursuant to subdivision two of this section;

(b) "residential home loan" shall mean a first or subordinate lien loan, including mortgage loans purchased by the agency under section twenty-four hundred five-b of this part, that is secured by a borrower's interest in: (i) residential real property, including as defined in section thirteen hundred five of the real property actions and proceedings law, and any improvements or structures thereon; (ii) a share or shares of a cooperative corporation that entitles a borrower to a housing unit; or (iii) a residential structure that is part of a condominium development. Residential home loan shall also include interest, taxes, homeownership associations fees, carrying charges, and other liens encumbering the residence;

(c) "vacant and abandoned" residential real property shall mean (i) residential real property, as defined in section thirteen hundred five of the real property actions and proceedings law, where the property is not occupied by the tenant, as that term is defined in section thirteen hundred five of the real property actions and proceedings law, homeowner, or mortgagor and (ii) either:

(A) the property is a risk to the health, safety, or welfare of the public, or any adjoining or adjacent property owners, due to acts of vandalism, loitering, criminal conduct, or physical destruction or deterioration of the property; or

(B) the relevant governmental authority has declared the property unfit for occupancy and either ordered that the property remain vacant and unoccupied or ordered that the property be demolished; or

(C) each homeowner or mortgagor has separately informed the mortgagee, in writing, that they do not intend to occupy the property in the future, and

(iii) where indicia of lack of occupancy may include, but shall not be limited to: (A) overgrown or dead vegetation; (B) accumulation of newspapers, circulars, flyers, or mail; (C) past due utility notices, disconnected utilities or utilities not in use; (D) accumulation of trash, refuse or other debris; (E) absence of window coverings such as curtains, blinds, or shutters; (F) absence of furnishings or personal items consistent with residential habitation; (G) one or more boarded, missing or broken windows; (H) the property is open to casual entry or trespass; (I) the property has a building or structure that is or appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons, and

(iv) where such residential real property shall not be considered "vacant and abandoned" if, on the property: (A) there is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes; (B) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other similar ownership dispute; (C) there is a building damaged by natural disaster upon declaration of a state disaster emergency by the governor pursuant to section twenty-eight of the executive law relating to any claim arising from the cause of such declaration, while awaiting funds to repair; or (D) there is a building occupied on a seasonal basis, but otherwise secure;

(d) "homeowner" shall mean a natural person who has a legal interest in the property other than a tenant and is the occupant of a residence that secures such residential home loan;

(e) "eligible institution" shall mean a community development financial institution or a community development financial institution partnered with a not-for-profit, housing counseling agency, land bank, or other local government entity, or any of the aforementioned, either on their own or partnered with a community development financial institution. An eligible community development financial institution shall have a record of success in serving investment areas or targeted populations; and/or shall have agreed to expand its operations into a new investment area or to serve a new targeted population, offer more products or services, or increase the volume of its current business. Eligible not-for-profits shall, among other things, have the ability to: undertake repair or rehabilitation efforts; carry out property and asset management, including servicing, undertake demolition; and/or provide assistance in finding housing options, market properties for sale or rental; coordinate, provide, and/or connect homeowners to counseling, mediation, legal representation, and negotiate on behalf of homeowners seeking a residential home loan payment modification, provide training and support for counselors, mediators, and attorneys regarding such assistance to homeowners, as well as provide credit counseling;

(f) "community development financial institution" or "CDFI" shall mean an organization located in this state which has been certified as a community development financial institution by the federal community development financial institutions fund, as established pursuant to 12 U.S.C. 4701 et seq., as amended from time to time;

(g) "investment area" means a geographic area that is determined by the agency, from time to time, as meeting criteria indicative, as of such time, of economic distress, including unemployment rate; foreclosure rate; percentages and numbers of low-income residents; per capita income and per capita real property wealth; and such other indicators of distress as the agency shall determine. Economically distressed areas may include counties, cities, municipalities, block numbering areas, and census tracts. The program shall to the fullest extent possible strive for regional diversity in providing foreclosure relief and assistance consistent with the program goals to communities throughout New York state that are impacted by the foreclosure crises;

(h) "lender" means banks as defined in section twenty-four hundred two of this part, investors including institutional investors, the agency, any state agency authorized to acquire and hold residential home loans, mortgage servicers and other private, non-bank entities that may own and hold a mortgage and mortgage note, the federal housing administration, the U.S. department of agriculture rural development corporation, the U.S. department of housing and urban development, the federal housing finance agency, and any privately owned, publicly chartered entities and wholly-owned corporate instrumentalities of the United States within the U.S. department of housing and urban development created by congress to encourage lending and reduce costs primarily in the housing sector of the economy; and

(i) "residence" means residential real property as defined in section thirteen hundred five of the real property actions and proceedings law.

(2) The agency is hereby directed to establish and administer a fund to be known as the "New York state community restoration fund," which shall consist of monies deposited therein. Nothing contained in this section shall prevent the agency from receiving grants, gifts, or other monies from other sources, or bequests and depositing them into the fund. The agency shall not commingle the monies in such fund with any other monies of the agency.

(3) The monies in the fund shall be eligible to be used by the agency under program guidelines established by the board of directors of the agency, in consultation with an advisory council to be created by the

agency comprised of a minimum of seven members, where a majority of the membership of the council will be comprised of representatives from non-profit members of the community with knowledge of foreclosures, housing, or community development needs in communities hard hit by foreclosures. The guidelines shall include, among other things, requirements to ensure that fund monies are expended based upon demonstrable community needs, for the purposes set forth in this subdivision, and may also be awarded by the agency to eligible institutions following the process established pursuant to subdivision four of this section, to:

(a) acquire, purchase, or sell residences and/or mortgage notes on residential home loans and residences at or below market rates, or at par if so required to satisfy legal or programmatic restrictions applicable to the purchase of any mortgage loans expected to be acquired, from lenders, or from local, state, and/or the federal government at auction, short sale, or other private or public sale with the intent to:

(i) where possible, provided the homeowner can demonstrate an economic hardship, as such term is defined under the agency's guidelines, in consultation with the advisory council, modify the residential home loan to an affordable rate to keep the current homeowners in the property;

(ii) permit the homeowner, provided the homeowner can demonstrate an economic hardship, as such term is defined under the agency's guidelines, in consultation with the advisory council, to transfer his or her ownership interest in the home to the agency or to an eligible institution and to remain in the residence as a tenant on agreed-upon terms, or obtain assistance from the agency or an eligible institution to acquire a new affordable residence;

(iii) rehabilitate distressed properties; and/or

(iv) demolish homes that are dilapidated or reasonably beyond repair.

(b) make grants and loans to eligible homeowners or to potential buyers of residences in the investment areas; or

(c) fund not-for-profit developers, affordable housing developers, and not-for-profit agencies to acquire vacant and abandoned properties or other real property, mortgages, or mortgage notes acquired under this program, and develop such properties into affordable housing and to work with homeowners in the investment area eligible to be assisted under this section, through activities such as foreclosure prevention counseling, providing new homeowner training, home repair and rehabilitation, property and asset management, demolition, and marketing properties for sale and rental.

(4) (a) In awarding funding to eligible institutions, the agency shall select from eligible institutions pursuant to criteria established by the agency's board of directors, in consultation with the advisory council established in subdivision three of this section, which criteria shall include, but not be limited to:

(i) the experience and background of the eligible institution's board of directors or management team;

(ii) the extent of need within the investment areas or targeted populations;

(iii) the extent of economic distress within the investment areas or the extent of need within the targeted populations;

(iv) the extent of the eligible institution's current and planned community involvement;

(v) the extent to which the eligible institution will increase its resources through coordination with other eligible institutions or encourage collaborative applications by multiple eligible institutions;

(vi) in the case of an institution with a prior history of serving investment areas or targeted populations, the extent of success in serving such areas or populations;

(vii) the extent to which eligible institutions would use funds to restructure residential home loans to allow homeowners to continue to occupy their residences; and

(viii) other factors deemed to be appropriate by the agency.

(b) In allocating funding to eligible institutions, the agency shall be authorized to make funding available in any manner necessary for such eligible institution to participate in auctions disposing of mortgage notes or residences.

(5) The agency's board of directors shall establish, in consultation with the advisory council established in subdivision three of this section, guidelines to:

(a) develop application and reporting procedures for eligible institutions to use to apply for funds to carry out the provisions of this section and criteria for use by the eligible institutions that receive funds pursuant to this section to evaluate applications for assistance from homeowners;

(b) develop guidelines for funds issued to and loans issued by the agency and by eligible institutions, including guidelines for use by the agency for purchase and sales of residences and/or mortgages and notes;

(c) establish the procedure by which eligible institutions are selected and compensated, including establishing the relative importance and/or weight given to each criterion;

(d) establish terms by which eligible institutions shall maintain and utilize funds received pursuant to this section, provided however that eligible institutions shall keep such funds separate from all other of its business or fiduciary accounts; and

(e) establish terms by which the eligible institutions shall repay the fund for monies allocated to them pursuant to this section, if applicable.

(6) Nothing in this section shall preclude an eligible institution from working with or coordinating activities and/or services with any entity that handles and facilitates the transfers of mortgage notes and/or property to eligible entities under this section; provided, however, that any funds awarded to an eligible institution shall only be used to advance the purposes of this section.

(7) The agency shall submit a report to the governor, the speaker of the assembly, the minority leader of the assembly, the temporary president of the senate, and the minority leader of the senate on or before the first of February each year. Such report shall include, but not be limited to, a detailed description of the use of funds by the agency for programs under this section, and of the use of funds for each eligible institution receiving funds under this section.

§ 2406. Bonds and notes of the agency. (1) Subject to the approval of the New York public authorities control board in accordance with the provisions of chapter thirty-nine of the laws of nineteen hundred seventy-six, as amended and subject to the provisions of section two thousand four hundred seven of this title, the agency shall have the power and is hereby authorized from time to time to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts as, in the opinion of the agency, shall be necessary to provide sufficient funds for achieving the corporate purposes thereof, including the purchase of mortgages from banks, the payment of interest on bonds and notes of the agency, establishment of reserves to secure such bonds and notes, the transfer of money to the state as described in subdivision twenty-seven of section twenty-four hundred four of this chapter, and all other expenditures of the agency incident to and necessary or convenient to carry out its corporate purposes and powers, except the operating expenses of the agency.

(2) Except as may otherwise be expressly provided by the agency, all bonds and notes issued by the agency shall be general obligations of the agency, secured by the full faith and credit of the agency and payable out of any moneys, assets, or revenues of the agency, subject only to any agreement with bondholders or noteholders pledging any particular moneys, assets or revenues.

(3) Bonds and notes shall be authorized by a resolution or resolutions of the agency adopted as provided by this title; provided, however, that any such resolution authorizing the issuance of bonds or notes may delegate to an officer of the agency the power to issue such bonds or notes from time to time and to fix the details of any such issues of bonds or notes by an appropriate certificate of such authorized officer.

(4) Such bonds or notes shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, shall be of such denominations, shall be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places within or without the state, be subject to such terms of redemption prior to maturity as may be provided by such resolution or resolutions or such certificate with respect to such bonds or notes, as the case may be; provided, however, that the maximum maturity of bonds shall not exceed forty years from the date thereof and the maximum maturity of notes or any renewals thereof shall not exceed seven years from the date of the original issue of such notes.

(5) Any bonds or notes of the agency may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by the agency, and the agency may pay all expenses,

premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. No bonds or notes of the agency may be sold at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller if such sale is not to the comptroller and the comptroller is not then serving as a director of the agency, or (b) the state director of the budget, if such sale is to the comptroller or the comptroller is then serving as a director of the agency.

(6) The agency is authorized to provide for the issuance of its bonds or notes (including bonds, notes or other obligations the interest on which is includable under the United States Internal Revenue Code of nineteen hundred eighty-six, as amended, or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law) for the purpose of refunding any bonds or notes of the agency then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the redemption date next succeeding the date of delivery of such refunding bonds or notes. The proceeds of any such bonds or notes issued for the purpose of so refunding outstanding bonds or notes shall be forthwith applied to the purchase or retirement of such outstanding bonds or notes or the redemption of such outstanding bonds or notes on the redemption date next succeeding the date of delivery of such refunding bonds or notes and may, pending such application, be placed in escrow to be applied to such purchase or retirement or redemption on such date. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of or guaranteed by the state or the United States of America, or in certificates of deposit or time deposits secured in such manner as the agency shall determine, or in obligations of any agency of the state or the United States of America which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control, or in obligations of the Federal National Mortgage Association, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest

and redemption premium, if any, on the outstanding bonds or notes to be so refunded by purchase, retirement or redemption, as the case may be. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds or notes to be so refunded by purchase, retirement or redemption, as the case may be. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, if any, earned or realized on the investments thereof may be returned to the agency for use by it in any lawful manner. All such bonds or notes shall be issued and secured and shall be subject to the provisions of this title in the same manner and to the same extent as any other bonds or notes issued pursuant to this title.

(7) Whether or not the bonds and notes are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds and notes for registration.

(8) Subject only to the provisions of sections two thousand four hundred seven and two thousand four hundred eight of this title, any resolution or resolutions authorizing any bonds or notes of the agency may contain provisions which may be a part of the contract with the holders of such bonds or notes, as to: (a) pledging or creating a lien, to the extent provided by such resolution or resolutions, on all or any part of any monies or property of the agency or of any moneys held in trust or otherwise by others for the payment of such bonds or notes; (b) otherwise providing for the custody, collection, securing, investment and payment of any moneys of the agency; (c) the setting aside of reserves or sinking funds and the regulation or disposition thereof; (d) limitations on the purpose to which the proceeds of sale of any issue of such bonds or notes then or thereafter to be issued may be applied; (e) limitations on the issuance of additional bonds or notes, the terms upon which additional bonds or notes may be issued and secured, and upon the refunding of outstanding or other bonds or notes; (f) the procedure, if any, by which the terms of any contract with the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which such

consent may be given; (g) the creation of special funds into which any moneys of the agency may be deposited; (h) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine, which may include any or all of the rights, powers and duties of the trustee appointed pursuant to section two thousand four hundred nine of this title, and limiting or abrogating the right of the holders of bonds or notes to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; (i) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the agency and providing for the rights and remedies of the holders of bonds or notes in the event of such default, providing, however, that such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this title; and (j) any other matters of like or different character, which in any way affect the security and protection of the bonds or notes and the rights of the holders thereof.

(9) Any resolution or resolutions or trust indenture or indentures under which bonds or notes of the agency are authorized to be issued may contain provisions for vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of any issue of notes or bonds pursuant to section two thousand four hundred nine of this title, in which event the provisions of said section two thousand four hundred nine authorizing the appointment of a trustee by such holders of bonds or notes shall not apply.

(10) It is the intention of the legislature that any pledge of mortgages, housing loans, property, earnings, revenues or other moneys made by the agency shall be valid and binding from the time when the pledge is made; that the mortgages, housing loans, property, earnings, revenues or other moneys so pledged and thereafter received by the agency or its agent, including a servicing bank shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency or its agent, including a servicing bank irrespective of whether such parties have notice thereof.

Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(11) Neither the members of the agency nor any person executing the bonds or other obligations shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

§ 2407. Bond limits. (1) Except for notes issued in nineteen hundred seventy and nineteen hundred seventy-one, the agency shall not issue bonds and notes, the interest on which is not included in the gross income of the holders of the bonds and notes under the United States Internal Revenue Code of 1986, as amended, or any subsequent corresponding internal revenue law of the United States, in an aggregate principal amount exceeding ten billion nine hundred twenty million dollars, excluding from such limitation (a) an amount equal to any original issue discount from the principal amount of any bonds or notes issued, (b) bonds and notes issued to refund outstanding bonds and notes, and (c) bonds and notes not described in paragraph (b) of this subdivision issued to refund outstanding bonds and notes in accordance with the provisions of the Internal Revenue Code of 1986 or the Tax Reform Act of 1986, as amended, where such bonds or notes are not included in the statewide volume cap on private purpose bonds under section 146 of such code provided, however, that upon any refunding pursuant to this paragraph or paragraph (b) of this subdivision, such exclusion shall apply only to the extent that the amount of the refunding bonds or notes does not exceed (i) the outstanding amount of the refunded bonds or notes, plus (ii) to the extent permitted by applicable federal tax law, costs of issuance of the refunding bonds or notes to be financed from the proceeds of the refunding bonds or notes. No such bond or note shall be issued by the agency on or after July twenty-third, two thousand twenty-seven, excluding bonds and notes issued to refund outstanding bonds and notes. No more than two billion four hundred million dollars of proceeds of bonds or notes issued by the agency pursuant to this subdivision shall be used for mortgage purposes by blending with proceeds of bonds issued pursuant to subdivision two of this section.

(2) In connection with the issuance of bonds for the purpose of furthering programs described in this title, the agency is authorized to covenant and consent that the interest on any of its bonds, notes or other obligations shall be includable, under the United States Internal Revenue Code of 1986, as amended or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law. Pursuant to this subdivision, the agency shall not issue bonds, notes or other obligations in an aggregate principal amount exceeding one billion nine hundred fifty million dollars, excluding from such limitation bonds, notes or other obligations issued to refund outstanding bonds, notes or other obligations. No such bond, note or other obligation shall be issued by the agency on or after July twenty-third, two thousand twenty-seven, excluding bonds, notes or other obligations issued to refund outstanding bonds, notes or other obligations and no mortgages shall be purchased with the proceeds of such bonds, notes or other obligations after such date. The board of directors of the agency shall establish program guidelines for purposes of bonds, notes or other obligations issued pursuant to this subdivision. The board of directors shall establish from time to time maximum income limits of persons eligible to receive mortgages financed by bonds, notes or other obligations issued pursuant to this subdivision, which income limits with respect to one-third of the total principal amount of mortgages authorized to be so financed shall not exceed one hundred twenty-five percent of the latest maximum income limits permitted under the Internal Revenue Code of 1986, as amended, for mortgagors financed by mortgage revenue bonds, with respect to one-third of such principal amount authorized to be so financed, shall not exceed one hundred thirty-five percent of such income limits, and with respect to one-third of such principal amount authorized to be so financed, shall not exceed one hundred fifty percent of such limits, provided that notwithstanding the foregoing, the maximum income limits of persons eligible to receive mortgages financed by the agency under its neighborhood revitalization program (and any successor program) shall not exceed one hundred fifty

percent of the latest maximum income limits permitted under the Internal Revenue Code of 1986, as amended, for mortgagors financed by mortgage revenue bonds.

(3) The fixing of the statutory maximums in this section shall not be construed as constituting a contract between the agency and the holders of its bonds or notes that additional bonds and notes may not be issued subsequently by the agency in the event that such statutory maximums shall subsequently be increased by law.

§ 2408. Reserve funds and appropriations. (1) The agency may create and establish one or more reserve funds to be known as debt service reserve funds and pay into any such reserve fund (a) any moneys appropriated by the state for the purposes of such fund, (b) any proceeds of sale of bonds and notes to the extent provided in the resolution of the agency authorizing the issuance thereof, (c) any moneys directed to be transferred by the agency to such debt service reserve fund, and (d) any other moneys made available to the agency for the purposes of such fund from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the agency secured by such debt service reserve fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds of the agency, the payment of interest on such bonds of the agency or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity, provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of the principal and interest maturing and becoming due in any succeeding state fiscal year on the bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying the principal of and interest on such bonds of the agency secured by such reserve fund maturing and becoming due and sinking fund payments for the payment of which other moneys of the agency are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the agency to the extent it does not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding state fiscal year on all bonds of the agency then outstanding and secured by such reserve fund. Moneys in any debt service reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the United States of America or obligations the principal and interest of which are guaranteed by the state or the United States of America or in obligations of any agency of the state or the United States of America which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund are invested shall be valued at par or, if purchased at less than par, at their cost to the agency. If the agency shall create and establish one or more debt service reserve funds as herein provided, the agency shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding state fiscal year on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds to be issued, or otherwise an amount which together with the amount then in such reserve fund, will be not less than the amount of principal and interest maturing and becoming due in any succeeding state fiscal year on the bonds then to be issued and on all other bonds of the agency then outstanding and secured by such reserve fund.

(2) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this act, provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding state fiscal year on all bonds of the agency then outstanding and secured by such reserve fund. In order to further assure the continued operation and solvency of the agency for the fulfillment of its corporate

purposes, there shall be annually apportioned and paid to the agency for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget, as necessary to restore any such debt service reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding state fiscal year on the bonds of the agency then outstanding and secured by such reserve fund; in which case such sum so apportioned and paid shall be deposited by the agency in such debt service reserve fund. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed three hundred eighty-seven million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(3) The agency may create and establish such other reserve funds as it shall deem advisable and necessary.

(4) All amounts paid over to the agency by the state pursuant to the provisions of this section shall constitute and be accounted for as advances by the state to the agency and, subject only to the rights of the holders of any bonds or notes of the agency theretofore or thereafter issued, shall be repaid to the state from all available operating revenues of the agency in excess of amounts required for the debt service reserve funds and operating expenses.

(5) The chairman of the agency shall make and deliver to the governor and director of the budget on or before December first, nineteen hundred

seventy and on or before December first in each year thereafter, a certificate stating the amount estimated to be required for payment of or provision for expenses of the agency for the next ensuing state fiscal year. The amount so stated for any such ensuing state fiscal year shall be the sum of the amounts, if any, estimated for such fiscal year, by which anticipated operating expenses will exceed available operating revenues that the agency anticipates with reasonable certainty it will receive during such fiscal year. To assure the continued operation and solvency of the agency for the fulfillment of its corporate purposes, there shall be apportioned and paid to the agency after audit by and upon the warrant of the comptroller on vouchers certified or approved by the officer or officers authorized by the agency, not more than the amount so stated for expenses of the agency for such fiscal year.

(6) As used in this section, (a) the term "operating expenses" for the fiscal year shall mean ordinary expenditures for operation and administration of the agency; and (b) the term "available operating revenues" for the fiscal year shall mean all amounts received on account of mortgages acquired by the agency, fees charged by the agency, if any, and income or interest earned or added to funds of the agency due to the investment thereof, and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the agency to be applied to any purposes other than payment of expenses of the agency.

§ 2409. Remedies of bondholders and noteholders. (1) In the event that the agency shall default in the payment of principal or of interest on any issue of bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the agency is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes then outstanding shall, in his or its own name,

(a) enforce all rights of the bondholders or noteholders, including the right to require the agency to collect interest and amortization payments on the mortgages held by it adequate to carry out any agreement as to, or pledge of, such interest and amortization payments, and to require the agency to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or suit, require the agency to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

(3) Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

(4) Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the agency and to the attorney general of the state.

(5) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action, or proceeding shall be laid in the county in which the principal office of the agency is located.

§ 2410. State and municipalities not liable on bonds, notes or insurance commitments or contracts or development corporation credit support. The bonds, notes, insurance commitments or contracts or development corporation credit support and other obligations of the agency shall not be a debt of the state of New York or of any municipality, and neither the state nor any municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency.

§ 2411. Agreement of the state. The state of New York does hereby pledge to and agree with the holders of any bonds or notes or any mortgage insurance contract issued under this title that the state will not limit or alter the rights hereby vested in the agency to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bonds or notes together with the interest thereon, with interest on any unpaid installments of interest, or insurance contracts and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes or insurance contracts.

§ 2412. Property and income. 1. The property of the agency and its income and operations shall be exempt from taxation or assessments of every kind and nature, other than assessments for local improvements and the tax imposed by article eleven of the tax law; nor shall the agency be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

2. Notwithstanding the provisions of subdivision one of this section, all mortgages recorded prior to the effective date of this subdivision as to which an assignment to the agency has been recorded shall be recordable, enforceable, assignable and valid for all purposes as if the mortgage recording tax had been paid regardless of whether a mortgage recording tax was paid thereon.

§ 2413. Exemption from taxation of bonds and notes and insurance

commitments and loans. It is hereby determined that the creation of the agency is in all respects for the benefit of the people of the state, for the improvement of their health and welfare, and for the promotion of the economy, and that said purposes are public purposes and the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state covenants with the purchasers and all subsequent holders and transferees of bonds and notes issued by the agency, in consideration of the acceptance of and payment for the bonds and notes, that the bonds and notes of the agency, issued pursuant to this title and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation, except for estate or gift taxes and taxes on transfers and in addition all other property of the agency and its income and operations shall be exempt from taxation.

§ 2414. Bonds and notes as legal investments for public officers and fiduciaries. The bonds and notes of the agency are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 2415. Moneys of the agency. (1) All moneys of the agency from whatever source derived, except as otherwise authorized or provided in this title, shall be paid to the treasurer of the agency and shall be deposited forthwith in a bank or banks in the state designated by the agency. The moneys in such accounts shall be withdrawn on the order of such person or persons as the agency may authorize. All deposits of such moneys shall, if required by the agency, be secured in such manner as the agency may determine. The comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the agency, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. Such an examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the agency, in lieu of such an examination, an external examination of its books and accounts made at the request of the agency, within thirty days after receipt by the agency, the agency shall submit a copy of the report of every external examination of the books and accounts of the agency with respect to insurance contracts, other than copies of the reports of such examinations made by the comptroller.

(2) The agency shall have power to contract with holders of any of its bonds or notes, as to the custody, collection, securing, investment, and payment of any moneys of the agency, of any moneys held in trust or otherwise for the payment of bonds or notes, and to carry out such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits.

(3) Subject to the provisions of any contract with bondholders or noteholders and to the approval of the comptroller, the agency shall prescribe a system of accounts.

(4) The agency shall submit to the governor, chairman of the senate finance committee, chairman of the assembly ways and means committee and the comptroller, within thirty days of the receipt thereof by the agency, a copy of the report of every external examination of the books and accounts of the agency other than copies of the reports of such

examinations made by the comptroller.

§ 2416. Actions. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the agency or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice.

Except in an action for wrongful death, no action shall be commenced (a) prior to the expiration of thirty days from the date on which the demand, claim or claims upon which the action is founded were presented to a director of the agency or other officer thereof designated for such purpose nor (b) more than one year and ninety days after the cause of action therefor shall have accrued. An action against the agency for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 2417. Limitation of liability. Neither the members of the agency, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from carrying out any of the powers expressly given in this act.

§ 2418. Assistance by state officers, departments, boards and commissions; transfer of officers and employees.

(1) The department of audit and control, department of law, and all other state agencies may render such services to the agency within their respective functions as may be requested by the agency.

(2) Officers and employees of state departments and agencies may be transferred to the agency and officers and employees of the agency may be transferred to state departments and agencies without examination and without loss of any civil service status or rights. No such transfer may, however, be made except with the approval of the head of the state

department or division involved, the director of the budget and the chairman of the agency, and in compliance with the rules and regulations of the civil service commission of the state.

§ 2419. Annual report. The agency shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the comptroller and the director of the budget within six months after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the agency for its operating and capital outlay purposes, including a listing of all private consultants engaged by the agency on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including a schedule of its mortgages and the status of reserve, special or other funds; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year; (5) a schedule of mortgages which have been insured during such year and mortgages for which there exists an outstanding commitment to insure and the status of the mortgage insurance fund and other funds established by the corporation; and with respect to the agency's fiscal years ending after nineteen hundred eighty-five; (6) a breakdown by region (as defined in subdivision nine of section two thousand four hundred twenty-six of this title) of the average income of recipients of SONYMA mortgage loans for such fiscal year, stated separately for SONYMA's tax exempt and blended program and SONYMA's taxable program; (7) a breakdown by region of the income distribution of recipients of SONYMA mortgage loans for such fiscal year, stated separately for SONYMA's tax exempt and blended program and SONYMA's taxable program; and (8) a breakdown by region of the average purchase price of structures acquired with SONYMA mortgage loans for such fiscal year, stated separately for SONYMA's tax exempt and blended program and SONYMA's taxable program. With respect to the schedule mentioned in item five hereof, such schedule shall be submitted within ninety days after the end of its fiscal year and shall be submitted to the temporary president of the senate and speaker of the assembly in addition to the aforementioned officers.

§ 2419-a. Additional reports. 1. Within six months after the end of its fiscal year the agency shall submit to the governor, the majority leader of the senate, the speaker of the assembly, the comptroller and the director of the budget a complete and detailed report setting forth data establishing compliance with the provisions of subdivision three of section twenty-four hundred five of this article by the agency and each bank which participated in the agency's purchase of mortgages from the proceeds of the sale of each issue by the agency of its bonds and notes made on and after the effective date of this section.

2. The agency shall provide to the commissioner of housing and community renewal, on a timely basis, with the data and other information necessary to compile the report or reports required pursuant to section twenty of the public housing law.

§ 2420. Court proceedings; preferences; venue. Any action or proceeding to which the agency or the people of the state of New York may be parties, in which any question arises as to the validity of this act, shall be preferred over all other civil causes except election causes in all courts of the state of New York and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the agency in any action or proceeding questioning the validity of this title in which he may be allowed to intervene. The venue of any such action or proceeding shall be laid in the county in which the principal office of the agency is located.

§ 2420-a. Validity. Bonds, insurance commitments or contracts and development corporation credit support may contain a recital that they are issued or executed, respectively, pursuant to this section, which recital shall be conclusive evidence of their validity, respectively, and the regularity of the proceedings related thereto.

§ 2421. Inconsistent provisions of other laws superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling. It is the intent of the legislature that the provisions of this title relating to mortgage commitments and laws be construed liberally so as to effectuate the public and governmental purpose thereof.

§ 2422. Construction. This title, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes.

§ 2423. Separability. If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

PART II

§ 2425. Statement of legislative findings and purpose with respect to insurance commitments or contracts by the agency. It is hereby found that there exist in many cities, towns and villages of the state neighborhoods which are blighted, are becoming blighted or may become blighted because of substandard, insanitary, deteriorated or deteriorating conditions, including undermaintained and deteriorating housing accommodations and related retail and other community facilities.

It is further found that there exists throughout the state a seriously inadequate supply of safe, sanitary and affordable housing accommodations for persons of low income. As a result, a large portion of the state's population, including many persons of low income, must continue to reside in undermaintained and deteriorating housing accommodations. These conditions are contrary to the public interest and threaten the health, safety, welfare, comfort and security of the people of the state.

It is further found that a deficiency of mortgage financing is one of the causes of the above conditions. The unaided efforts of private enterprise have not been able to provide nor can they provide sufficient funds to refinance existing mortgage indebtedness and to undertake necessary preservation and rehabilitation of housing accommodations and related retail and other community facilities within neighborhoods which are blighted, are becoming blighted or may become blighted.

It is further found that the lack of mortgage insurance for loans to refinance existing indebtedness and to undertake necessary preservation and rehabilitation of housing accommodations and related retail and other community facilities within such neighborhoods is one reason that the available funds are not sufficient to satisfy the mortgage financing needs of such neighborhoods.

It is further found that the conditions set forth herein accelerate the deterioration of housing accommodations, related retail and other community facilities as well as the neighborhoods in which such real property is located. Uncorrected, such conditions will increase the rate of abandonment and destruction of housing accommodations and related retail and other community facilities. Abandonment and destruction, in turn, erode the local tax base, which deprives cities, towns and villages of revenues needed for essential services such as police, sanitation and fire fighting. Failure to fund essential services could require the state to provide costly financial assistance to ameliorate the emergency conditions thus created.

It is further found that if mortgage insurance were available for loans to refinance existing indebtedness and to undertake necessary preservation and rehabilitation of housing accommodations and related retail and other community facilities, the conditions of blight within such neighborhoods could be ameliorated or averted.

It is therefore declared to be a public purpose of the state, in order to promote the preservation of neighborhoods which are blighted, are becoming blighted or may become blighted, to provide safe, sanitary and affordable housing accommodations to persons, including those of low income, who reside in such neighborhoods, and to discourage disinvestment and encourage the investment of mortgage capital in the real estate situated in such neighborhoods by authorizing the agency to insure qualified mortgage loans in such neighborhoods subject to the terms and provisions hereinafter set forth.

The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

* Also, it is hereby found that it has become very expensive and programmatically restrictive for the agency and for other entities to

purchase mortgage pool insurance coverage. It is therefore declared to be in the public interest to authorize the agency to use the mortgage insurance fund to provide mortgage pool insurance for mortgages which the agency purchases pursuant to its programs, and to provide mortgage pool insurance for certain other entities in accordance with the provisions of this title.

* NB Repealed July 23, 2027

Also, it is hereby found and declared that it is in the public interest to facilitate the financial activities of the development corporation by providing a source or potential source of payment into funds established by such corporation for the payment of financial obligations or financial rights of such corporation under bonds or ancillary bond facilities.

§ 2426. Definitions. As used in sections twenty-four hundred twenty-five through twenty-four hundred twenty-nine inclusive.

1. "Financial institution". Any bank, trust company, national bank, savings bank, state or federal savings and loan association, or state or federal credit union, insurance company, pension fund or retirement system of any corporation, association, any other entity which is owned or controlled by any one or more of the above, provided the same is supervised by or responsible to any agency of the federal government, the state, any department thereof or the governing body of any city, town or village of the state or any other entity approved by the agency or any one or more of the above when lawfully acting as a trustee or otherwise in a fiduciary capacity. The term "financial institution" shall also include the New York state housing finance agency and the New York state urban development corporation, the New York city housing development corporation, the New York city department of housing preservation and development and any person who is approved as a mortgage lender by the federal housing administration for purposes of insurance issued by such administration or licensed by the state of New York as a mortgage banker.

2. "Housing accommodation". Any existing building, structure, unit thereof or unimproved real property, which is used or occupied, or is intended to be used or occupied, wholly or partly, as the home or residence of one or more persons.

3. "Other real property". Any existing building, structure or unimproved property which is used or occupied, or is intended to be used or occupied, primarily for the retail sale of goods or the rendering of services.

4. "Mortgage insurance fund". The mortgage insurance fund established pursuant to section twenty-four hundred twenty-nine-b of this article.

5. "Mortgage insurance fund requirement". For any category of loans or development corporation credit support as of any particular date of computation, an amount of money or cash equivalents equal to (a) the aggregate of (i) such insured amounts of each category of loans and such amount of development corporation credit support as the agency has determined to be due and payable as of such date pursuant to its contracts to insure mortgages or provide development corporation credit support plus (ii) an amount equal to twenty per centum of the amounts of each category of loans insured under the agency's insurance contracts plus twenty per centum of the amounts to be insured under the agency's commitments to insure less the amounts payable in each category of loans pursuant to subparagraph (i) of this paragraph, provided, however, that if the board of directors of the agency shall have established a per centum for a category of loans, or for one or more loans within such categories, pursuant to subdivision seven of section twenty-four hundred twenty-eight of this part, such per centum shall be substituted for twenty per centum in this paragraph for such category or loan, and provided further, that no such new per centum shall be lower than twenty per centum plus (iii) an amount equal to the respective amounts established by contract with respect to each reserve and financial support fund (which may be determined by reference to percentages of amounts required or permitted to be on deposit in said funds and may be different for each such fund) for which the agency has determined that the development corporation credit support account established under

section twenty-four hundred twenty-nine-b of this part is or will be a source or potential source of development corporation credit support, less the amounts payable with respect to development corporation credit support pursuant to subparagraph (i) of this paragraph less (b) the aggregate of the amount of each reinsurance contract procured in connection with agency obligations determined by the board of directors of the agency to be a reduction pursuant to this paragraph in calculating the mortgage insurance fund requirement. For purposes of pool insurance, in no event shall the reserve requirement be less than twenty percent of the amounts insured under the agency's insurance contracts.

6. "Mortgagee". The lender under a mortgage eligible for insurance pursuant to section twenty-four hundred twenty-eight of this chapter, and its successors and assigns approved by the agency.

7. "Mortgagor". The original borrower under a mortgage eligible for insurance pursuant to section twenty-four hundred twenty-eight of this chapter, and its successors and assigns approved by the agency.

8. "Operating expenses". All costs of administering the agency, including but not limited to salaries and wages, expenses of administering staff functions, fees of consultants, legal fees, charges incurred for servicing insured mortgage loans, money management, office rents, utility charges, cost of supplies, furnishings, equipment, machinery and apparatus, maintenance and repair of property and other expenses incurred in connection with the foregoing.

9. "Region". One or more of the following named areas comprised of the counties indicated:

(1) Buffalo: Cattaraugus, Chautauqua, Erie and Niagara counties;

(2) Rochester: Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates counties;

(3) Syracuse: Cayuga, Cortland, Madison, Onondaga and Oswego counties;

(4) Elmira-Binghamton: Allegany, Broome, Chemung, Chenango, Delaware, Otsego, Schuyler, Steuben, Tioga and Tompkins counties;

(5) Mid-Hudson: Columbia, Dutchess, Greene, Orange, Putnam, Sullivan

and Ulster counties;
(6) Capital: Albany, Montgomery, Rensselaer, Saratoga, Schenectady and Schoharie counties;
(7) Mohawk Valley-Northern: Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Oneida, St. Lawrence, Warren and Washington counties;
(8) Downstate: Rockland and Westchester counties;
(9) Long Island: Nassau and Suffolk counties;
(10) New York City: the five counties comprising the city of New York.

10. "Rehabilitation". Repairs, alterations or improvements of a housing accommodation designed to raise the housing standards therein or, in the case of other real property, designed to provide needed improvements therein.

11. "Preservation loan". A loan extended by a financial institution for the purposes of refinancing existing indebtedness secured by one or more mortgages on a housing accommodation or other real property and/or financing the acquisition of a housing accommodation or other real property and which otherwise complies with the conditions established pursuant to section twenty-four hundred twenty-eight of this chapter.
* 12. "Rehabilitation loan". A loan extended by a financial institution which may include the refinancing of existing indebtedness, if any, secured by one or more mortgages on the housing accommodation or other real property to be rehabilitated or financing the acquisition of the housing accommodation or other real property to be rehabilitated, and which otherwise complies with the conditions established pursuant to section twenty-four hundred twenty-eight of this part, provided however that a sum equal to at least twenty percent of the amount of the loan shall be used for the cost of rehabilitation of, or construction of improvements on a housing accommodation or other real property; provided further that such percentage shall not be required for a community residence as such term is defined in subdivision twenty-eight of section 1.03 of the mental hygiene law, or for any other residential facility funded by, under contract with, or subject to regulation by or under the jurisdiction of the department of mental hygiene, providing services to persons with mental disabilities as such term is defined in subdivision

three of such section.

* NB Effective until July 23, 2027

* 12. "Rehabilitation loan". A loan extended by a financial institution which may include the refinancing of existing indebtedness, if any, secured by one or more mortgages on the housing accommodation or other real property to be rehabilitated or financing the acquisition of the housing accommodation or other real property to be rehabilitated, and which otherwise complies with the conditions established pursuant to section twenty-four hundred twenty-eight of this chapter, provided however that a sum equal to at least twenty-five percent of the amount of the loan shall be used for the cost of rehabilitation of, or construction of improvements on a housing accommodation or other real property.

* NB Effective July 23, 2027

13. "Residential purposes". The use or intended use of any space as the home or residence of one or more persons, excluding use as a housing accommodation for transients, but including use or intended use for emergency, transitional or shelter housing.

14. "Cash equivalent". A letter of credit, insurance policy, surety, guarantee or other security arrangement.

15. "Pool insurance". Mortgage insurance provided by the agency to insure an aggregate of mortgage loans.

16. Reverse mortgage. A reverse mortgage loan pursuant to section two hundred eighty or two hundred eighty-a of the real property law shall mean a loan which is secured by a first mortgage on real property improved by a one to four-family residence or condominium that is the residence of the mortgagor, the proceeds of which are advanced to the mortgagor during the loan term in equal installments, in advances through a line of credit or otherwise, in lump sums, or through a combination thereof. A reverse mortgage may be structured to provide for the addition of accrued but unpaid interest to principal. Such reverse mortgage loan may provide for an initial lump-sum advance wherein the mortgagor may receive an amount necessary to pay closing costs,

including but not limited to loan or commitment fees, if any, insurance premiums, the cost of house repairs, legal fees, the cost of annuities, the costs of third party counseling, the amount necessary to pay off existing mortgages or liens, and other appropriate costs.

17. "Ancillary bond facility". That portion of an ancillary bond facility, as defined in the convention center development corporation act, with respect to which the corporation has an actual or potential financial obligation or financial right.

18. "Bonds". Bonds as defined in the convention center development corporation act.

19. "Corporation". The convention center development corporation, created by the convention center development corporation act.

20. "Development corporation credit support". The sum of the respective amounts (or percentages) of required or permissive funding by the corporation of each reserve and financial support fund established by the corporation for its bonds and, to the extent not otherwise provided in respect of the support of bonds, for its ancillary bond facilities for which the agency has determined that the development corporation credit support account established under section twenty-four hundred twenty-nine-b of this part is or will be a source or potential source of funding.

21. "Reserve and financial support fund". The convention center development fund created by the convention center development corporation act and each fund (including, but not limited to, any fund or account in the nature of a reserve fund, a debt service fund, a revenue fund, a redemption fund or a reimbursement fund) established by the corporation in connection with its bonds or ancillary bond facilities from which amounts are required to be, or available to be, applied in satisfaction of financial obligations or financial rights of the corporation under such bonds or ancillary bond facilities.

22. "Convention center development corporation act". The convention

center development corporation act, constituting chapter thirty-five of the laws of nineteen hundred seventy-nine, as amended, by the chapter of the laws of two thousand four which added this subdivision.

§ 2427. Additional powers of the agency. The agency shall have the following additional powers only with respect to insuring mortgage loans and providing development corporation credit support:

1. To establish and levy fees and charges in connection with the processing of applications for mortgage insurance;

* 2. (a) To issue commitments to insure mortgages and to enter into contracts of mortgage insurance,

(b) to issue commitments to provide and to provide pool insurance for one or more aggregates of mortgage loans purchased by the agency pursuant to its forward commitment program, or for one or more aggregates of mortgage loans on single or multi-family residential buildings made by a domestic not-for-profit corporation whose public purposes include combating community deterioration and which is approved as a mortgage lender by the federal housing administration for purposes of insurance issued by such administration, and which is a qualified seller-servicer for the federal national mortgage association and the federal home loan mortgage corporation or for one or more aggregates of preservation loans made by a financial institution with respect to a building owned by a cooperative housing corporation, and

(c) to fulfill its obligations and enforce its rights under any insurance so furnished as provided in this article and such rules and regulations as may be adopted by the agency;

* NB Effective until July 23, 2027

* 2. To enter into commitments to insure mortgages and contracts of mortgage insurance and to fulfill its obligations and enforce its rights under any insurance so furnished as provided in this article and such rules and regulations as may be adopted by the agency;

* NB Effective July 23, 2027

3. To pay, pursue to final collection, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any

equity or right of redemption;

4. To foreclose any mortgage in default or commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or otherwise to acquire or take possession of any such property;

5. To deal with, hold, administer, manage, rent, repair, insure or sell, lease or otherwise dispose of any property conveyed to or acquired by the agency and to enter into agreements with the state, any city, town or village of this state or any person, firm, partnership or corporation, either public or private, for the purpose of causing any such property to be so dealt with;

6. To procure insurance against any loss in connection with its property and other assets and to procure reinsurance in connection with its obligations, all in such amounts and from such insurers as it deems necessary or desirable;

7. To consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security or any other term, of any mortgage, mortgage loan, contract or agreement of any kind which the agency has insured or to which the agency is a party;

8. To sell, at public or private sale, any mortgage, mortgage participation or other obligation held by the agency;

9. To invest any funds held in reserves or sinking funds or any funds not required for immediate use or disbursement, at the discretion of the agency, in obligations of the state or federal government or of any city of the state, the principal and interest of which are guaranteed by the state or federal government, obligations of agencies of the federal government, or in Government National Mortgage Association mortgage backed securities, or special time deposits in, or certificates of deposit issued by, a bank or trust company authorized to do business in the state and secured by a pledge of obligations of the United States of

America or obligations of the state, any city of the state, other municipal corporation, school district or district corporation of the state or obligations of agencies of the federal government, provided that any such investment from time to time (1) may be legally purchased by savings banks of the state as investments of funds belonging to them or in their control and (2) shall be approved by the comptroller.

10. To provide development corporation credit support.

§ 2428 Insurance of mortgages. 1. The agency is authorized, subject to the provisions of this article, to make commitments to insure and to contract to insure mortgage loans eligible for insurance hereunder.

* 1-a. The agency may issue commitments to provide and may provide pool insurance in an amount not in excess of twenty-five percent of the outstanding principal indebtedness at the time of commitment of any aggregate of mortgage loans or with respect to mortgage loans acquired pursuant to section twenty-four hundred five-b of this title, twenty-five percent of the initial principal indebtedness of any aggregate of mortgage loans.

* NB Repealed July 23, 2027

2. The agency shall limit its insurance on a rehabilitation or preservation loan to an amount not in excess of fifty per centum of the outstanding principal indebtedness, provided, however, that the agency may insure an amount not in excess of seventy-five per centum of the outstanding principal indebtedness of a rehabilitation loan if it shall find, pursuant to rules or regulations which it shall establish that the extent of rehabilitation is sufficient to justify such additional insurance, provided further, however, that the agency may insure an amount equal to the full outstanding principal indebtedness when the loan has been made by a public benefit corporation of the state of New York which public benefit corporation has issued or will issue bonds or notes, some or all of the proceeds of which bonds or notes were used or will be used to make such loan, or when the loan has been made by a public employee pension fund.

However, the sum of the percentage of any mortgage loan insured by the agency and the percentage of such loan insured or to be insured by any other party shall not exceed one hundred per centum of the outstanding principal indebtedness.

* 2-a. The agency may issue a commitment to provide and may insure a preservation loan in an amount equal to the full outstanding principal indebtedness of such preservation loan if: (a) the existing indebtedness shall have been originated during the period from January first, two thousand four through December thirty-first, two thousand eight; (b) the amount of each insured preservation loan shall not exceed one hundred fifty million dollars; (c) such preservation loan shall preserve or create affordable housing accommodations; and (d) the preservation loan shall have been made by a public benefit corporation of the state of New York which public benefit corporation has issued or will issue bonds or notes, some or all of the proceeds of which bonds or notes shall have been, or will be, used to make such preservation loan, or the preservation loan shall have been made by a public employee pension fund.

* NB Repealed July 23, 2027

* 3. Except for pool insurance, and except as otherwise provided in subdivision three-a of this section, the agency shall not issue a commitment to insure nor shall it insure any loan unless it shall first find (a) that the property which is the security for such loan is located in a neighborhood characterized by a deficiency of available mortgage financing; (b) that such deficiency has caused or threatens to cause undermaintained and deteriorating housing accommodations and substandard and insanitary neighborhoods; (c) that the granting of such loan will aid in the preservation or rehabilitation of the neighborhood in which such property is located; (d) if the property which is the security for such loan is not a housing accommodation, that the granting of such loan will assist in preventing the deterioration of housing accommodations in the neighborhood in which such property is located; (e) that the sum of (i) twenty percentum or such percentum as may be established by the board of the agency pursuant to subdivision seven of this section, of the amount of such loan which is to be insured, plus (ii) the amount of the mortgage insurance fund requirement for the category of loan does not exceed the amount available in the special

account; and (f) that the property which is the security for such loan meets such other requirements as the agency may from time to time establish by guidelines adopted by the agency.

The agency shall not issue a commitment to provide pool insurance nor shall it provide such insurance unless it shall first find (a) that the sum of (i) twenty per centum, or such per centum as may be established by the board of the agency pursuant to subdivision seven of this section, of the amount of such loans or aggregate of loans which is to be insured, plus (ii) the amount of the mortgage insurance fund requirement for the category of loan does not exceed the amount available in the pool insurance account; and (b) that the property which is the security for such loan or loans meets such other requirements as the agency may from time to time establish by guidelines adopted by the agency.

The agency may issue a commitment to insure and may insure an existing loan, first when an application for such mortgage insurance is pending prior to the making of a loan, when significant circumstances beyond the reasonable control of the mortgagor and mortgagee necessitate the making of the loan prior to the issuance of the commitment to insure and when it is determined by the agency that such loan would not have been made except for the reasonable expectation that the agency would insure the loan, or second, as part of a transaction in which the financial institution requesting insurance makes additional loan or loans which qualify for insurance by the agency, in accordance with provisions of this section and requirements established by the agency, in a total amount such that the uninsured portion of such additional loan or loans equals or exceeds the insured portion of such existing loan or loans.

* NB Effective until July 23, 2027

* 3. The agency shall not issue a commitment to insure nor shall it insure any loan unless it shall first find (a) that the property which is the security for such loan is located in a neighborhood characterized by a deficiency of available mortgage financing; (b) that such deficiency has caused or threatens to cause undermaintained and deteriorating housing accommodations and substandard and insanitary neighborhoods; (c) that the granting of such loan will aid in the

preservation or rehabilitation of the neighborhood in which such property is located; (d) if the property which is the security for such loan is not a housing accommodation, that the granting of such loan will assist in preventing the deterioration of housing accommodations in the neighborhood in which such property is located; (e) that the sum of (i) twenty percentum or such percentum as may be established by the board of the agency pursuant to subdivision seven of this section, of the amount of such loan which is to be insured, plus (ii) the amount of the mortgage insurance fund requirement for the category of loan does not exceed the amount available in the special account; and (f) that the property which is the security for such loan meets such other requirements as the agency may from time to time establish by rules and regulations.

The agency may issue a commitment to insure and may insure an existing loan, first when an application for such mortgage insurance is pending prior to the making of a loan, when significant circumstances beyond the reasonable control of the mortgagor and mortgagee necessitate the making of the loan prior to the issuance of the commitment to insure and when it is determined by the agency that such loan would not have been made except for the reasonable expectation that the agency would insure the loan, or second, as part of a transaction in which the financial institution requesting insurance makes additional loan or loans which qualify for insurance by the agency, in accordance with provisions of this section and requirements established by the agency, in a total amount such that the uninsured portion of such additional loan or loans equals or exceeds the insured portion of such existing loan or loans.

* NB Effective July 23, 2027

* 3-a. The agency may issue a commitment to insure and may insure any loans or aggregate of loans and may issue a commitment to provide and may provide mortgage pool insurance on any loans or aggregate of loans, notwithstanding the criteria set forth in subparagraph (a), (b), (c) or (d) of the opening paragraph of subdivision three of this section provided that it shall find that the property which is the security for such loan or loans is either: (a) located within an empire zone designated pursuant to article eighteen-B of the general municipal law, or (b) will provide affordable housing, or (c) the entity providing the

project's mortgage financing was or is created by local, state or federal legislation and certifies to the agency that the project meets the program criteria applicable to such entity, or (d) providing a retail or community service facility that would not otherwise be provided.

* NB Repealed July 23, 2027

3-b. Notwithstanding any other provision of law to the contrary, when such insurance is not available through the private market the agency may insure reverse mortgage loans which meet the following conditions:

(a) the authorized lender requires primary mortgage insurance on the real property and the applicant is unable to procure such mortgage insurance in the private market;

(b) the reverse mortgage loan is issued pursuant to section two hundred eighty or two hundred eighty-a of the real property law;

(c) the reverse mortgage loan amount shall not exceed the loan to value ratio as may be determined by the superintendent of financial services; and

(d) the real property which is the security for such reverse mortgage loan meets such other requirements as the agency may from time to time establish.

* 4. To be eligible for insurance under this article, a mortgage loan shall (a) (i) be a first lien of the kind which is commonly given to secure advances on, or the unpaid purchase price of, real property, or tangible personal property constituting modular or manufactured housing in the case of mortgage loans purchased by the agency under its forward commitment program, under the laws of the state together with any credit instrument secured thereby, provided, however, that a mortgage loan may be a second lien if such mortgage loan was purchased by the agency or (ii) be secured by an assignment or transfer of stock certificates or other evidence of ownership interest of the borrower in, and a proprietary lease from, a corporation formed for the purpose of the cooperative ownership of residential real estate in the state; (b) secure a rehabilitation or preservation loan on real property held in fee simple or on a leasehold under a proprietary lease or a lease having a period of years to run at the time the mortgage is insured under this article of at least twenty per centum greater duration than the

remaining term of the mortgage; (c) contain terms with respect to prepayment, insurance, repairs, alterations, payment of taxes, special assessments, service charges, default reserves, delinquency charges, foreclosure proceedings, additional and secondary liens, and such other matters as the agency may in its discretion prescribe; (d) be accompanied by certificates, issued by such officers of the mortgage financial institutions, independent appraisers or other persons as the agency may require, certifying that (i) where appropriate, the annual income to be derived from the property equals not less than one hundred and five per centum of the annual charges and expenses, including provision for reserves, satisfactory to the agency, for the amortization of subordinate mortgage loans over the remaining terms of such loans notwithstanding the provisions thereof; (ii) the remaining useful life of the property is greater than the term of the mortgage; and (iii) the property does not contain any substantial violations of local building maintenance and construction codes, except that in the case of a loan made to the owner of a property containing any such violations, the agency may insure or commit to insure such loan if the mortgagee and the owner have submitted a plan, satisfactory to the agency to eliminate such violations and the issuance of such insurance shall be conditioned on removal of such violations to the satisfaction of the local code enforcement agency; and (e) satisfy such additional terms and conditions as the agency may prescribe. For pool insurance, the requirements of paragraph (b) of this subdivision shall not be applicable.

* NB Effective until July 23, 2027

* 4. To be eligible for insurance under this article, a mortgage loan shall (a) (i) be a first lien of the kind which is commonly given to secure advances on, or the unpaid purchase price of, real property under the laws of the state together with any credit instrument secured thereby, provided, however, that a mortgage loan may be a second lien if such mortgage loan was purchased by the agency or (ii) be secured by an assignment or transfer of stock certificates or other evidence of ownership interest of the borrower in, and a proprietary lease from, a corporation formed for the purpose of the cooperative ownership of residential real estate in the state; (b) secure a rehabilitation or preservation loan on real property held in fee simple or on a leasehold under a proprietary lease or a lease having a period of years to run at

the time the mortgage is insured under this article of at least twenty per centum greater duration than the remaining term of the mortgage; (c) contain terms with respect to prepayment, insurance, repairs, alterations, payment of taxes, special assessments, service charges, default reserves, delinquency charges, foreclosure proceedings, additional and secondary liens, and such other matters as the agency may in its discretion prescribe; (d) be accompanied by certificates, issued by such officers of the mortgage financial institutions, independent appraisers or other persons as the agency may require, certifying that (i) where appropriate, the annual income to be derived from the property equals not less than one hundred and five per centum of the annual charges and expenses, including provision for reserves, satisfactory to the agency, for the amortization of subordinate mortgage loans over the remaining terms of such loans notwithstanding the provisions thereof; (ii) the remaining useful life of the property is greater than the term of the mortgage; and (iii) the property does not contain any substantial violations of local building maintenance and construction codes, except that in the case of a loan made to the owner of a property containing any such violations, the agency may insure or commit to insure such loan if the mortgagee and the owner have submitted a plan, satisfactory to the agency to eliminate such violations and the issuance of such insurance shall be conditioned on removal of such violations to the satisfaction of the local code enforcement agency; and (e) satisfy such additional terms and conditions as the agency may prescribe.

* NB Effective July 23, 2027

5. In addition to the conditions set forth in subdivisions three and four of this section, the agency shall not insure nor issue a commitment to insure any rehabilitation loan unless it shall first find that rehabilitation is necessary to upgrade the property and that rehabilitation will not necessitate more than a minimum amount of relocation of the residents of any housing accommodation.

6. A financial institution may request insurance by written application to the agency in such form and manner, together with such information and documents, as the agency may prescribe. No application shall be complete unless and until the financial institution has paid

such processing fees and other charges as the agency may impose in connection therewith. The agency shall signify its acceptance of such application for insurance by issuance of a commitment to insure or a contract of insurance.

7. * (a) The board of directors of the agency may, from time to time, by vote of a majority of all of its members, establish a percentage greater than the per centum set in subdivision five of section twenty-four hundred twenty-six of this title for any or all of the following categories of loans insurable by the agency or for one or more loans within such categories: one to four family dwellings one unit of which is owner-occupied; one to four family dwellings which are not owner-occupied; five or more family dwellings; proprietary leases; condominiums; loans secured by other real property; loans purchased or to be purchased by the agency with proceeds of bonds or notes issued by the agency; loans securing bonds or notes issued by the agency; loans covered by pool insurance; or, combinations thereof. The board shall specify such percentage and shall specify the date on which the establishment of such percentage shall take effect as to (i) commitments issued on or after such date and (ii) nothing contained in this section shall be construed to prohibit the board of directors of the agency from reducing the per centum used in calculating the mortgage insurance fund requirement, provided such new per centum is not less than that set in subdivision five of section twenty-four hundred twenty-six of this title.

* NB Effective until July 23, 2027

* (a) The board of directors of the agency may, from time to time, by vote of a majority of all of its members, establish a percentage other than the percentum set in subdivision five of section twenty-four hundred twenty-six of this chapter for any or all of the following categories of loans insurable by the agency: single family residences which are owner-occupied; single family residences which are not owner-occupied; multi-family residences; proprietary leases; condominiums and loans secured by other real property; or, combinations thereof. The board shall specify such percentage in multiples of five and shall specify the date on which the establishment of such percentage shall take effect as to commitments issued on or after such date.

* NB Effective July 23, 2027

(b) No change in the amount of moneys which must be held in or credited to the mortgage insurance fund pursuant to paragraph (a) of this subdivision shall have force or effect until the governor of the state of New York shall have an opportunity to approve or veto it. For the purpose of procuring such approval or veto, the secretary of the board shall transmit to the governor at the executive chamber in Albany a certified copy of that portion of the minutes of the meeting of the board in which such change was discussed and voted upon as soon after the holding of such meeting as the minutes can be prepared. The governor shall, within thirty days, Saturdays, Sundays and public holidays excepted, after such minutes shall have been delivered at the executive chamber as aforesaid, cause the same to be returned to the board either with his approval or with his veto, provided, however, that if the governor shall not return such minutes within such period then at the expiration thereof the change therein authorized will have full force and effect according to the wording thereof. If the governor within such period returns such minutes with a veto against the change, then such change shall be null and void.

* 8. Notwithstanding any contrary provisions of this article or of any other law, rule or regulation, on and after the effective date of this subdivision;

(a) Except for pool insurance, the agency shall not issue a commitment to insure nor shall it provide loan insurance for any loan if twenty percent (or such other percentage as may be established pursuant to subdivision seven of this section) of the amount to be insured exceeds ten percent of the mortgage insurance fund requirement for all loans insured and loans for which commitments to insure have been issued at that time.

(b) If less than fifty percent, or none of the space of the project is or is to be used for residential purposes, the amount of such loan insurance shall not exceed five million dollars and no such loan insurance may be issued unless the agency finds that the space which is to be used for other than residential purposes is to be used to provide the residents of the neighborhood with retail and community service facilities which would not otherwise be provided. The provisions of this paragraph shall not apply to loan insurance for projects which provide

temporary shelter for homeless persons or community health facilities.
(c) The agency shall not issue a commitment to insure nor shall it provide loan insurance for a preservation loan unless: (i) such loan is made with respect to a one to four family dwelling; or (ii) such loan is made with respect to a building, which on the effective date of this subparagraph, is owned by a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state where such refinancing is not otherwise available and such loan will facilitate or accommodate affordable homeownership opportunities; or (iii) such loan is made with respect to the real property and improvements owned by a cooperative housing corporation formed for the purpose of the cooperative ownership of residential manufactured homes in the state where such refinancing is not otherwise available and such loan will facilitate or accommodate affordable homeownership opportunities; or (iv) such loan is made with respect to multi-family residential buildings with existing indebtedness originated during the period from January first, two thousand four through December thirty-first, two thousand eight, where such loan will facilitate or accommodate the preservation of affordable housing accommodations.
* NB Effective until July 23, 2027
* 8. Notwithstanding any contrary provisions of this article or of any other law, rule or regulation, on and after the effective date of this subdivision;
(a) The agency shall not issue a commitment to insure nor shall it provide loan insurance for an amount in excess of the lesser of ten million dollars or forty percent of the amount of money on deposit in the mortgage insurance fund at that time.
(b) If less than fifty percent, or none of the space of the project is or is to be used for residential purposes, the amount of such loan insurance shall not exceed five million dollars and no such loan insurance may be issued unless the agency finds that the space which is to be used for other than residential purposes is to be used to provide the residents of the neighborhood with retail and community service facilities which would not otherwise be provided.
(c) The agency shall not issue a commitment to insure nor shall it provide loan insurance for a preservation loan unless (i) such loan is made with respect to a one to four family dwelling; or (ii) such loan is

made with respect to a building, which on the effective date of this subparagraph, is owned by a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state where such refinancing is not otherwise available and such loan will facilitate or accommodate affordable homeownership opportunities; or (iii) such loan is made with respect to the real property and improvements owned by a cooperative housing corporation formed for the purpose of the cooperative ownership of residential manufactured homes in the state where such refinancing is not otherwise available and such loan will facilitate or accommodate affordable homeownership opportunities.

* NB Effective July 23, 2027

§ 2428-a. Development corporation credit support account as source of development corporation credit support. 1. The agency is authorized, subject to the provisions of this title, to provide the development corporation credit support account as a source or potential source of payment of development corporation credit support. The agency may provide the development corporation credit support account as a source or potential source of payment of all or any development corporation credit support upon the terms (which shall include a requirement to repay to the mortgage insurance fund any amounts transferred to the corporation or the convention center development fund) and under the conditions it shall set forth in the applicable contracts between the agency and such other parties (including the corporation) as the agency shall deem appropriate with respect to the applicable reserve and financial support funds which are to receive the benefit of such development corporation credit support. The agency may not execute a contract to provide development corporation credit support if, at the time such contract is executed, such execution would impair any then-existing credit rating of the single family pool insurance account or the project pool insurance account.

2. For purposes of determining the mortgage insurance fund requirement with respect to the development corporation credit support account, the board of directors of the agency, by a vote of a majority of all of its

members, shall approve or authorize the applicable contracts which shall establish the amount of the required or permitted deposits in each reserve and financial support fund (which may be determined by reference to percentages of such required or permitted amounts) for which the development corporation credit support account is or will be a source or potential source of development corporation credit support. Such amounts (or percentages) may be different for each reserve and financial support fund.

3. For purposes of section twenty-four hundred eleven of this title, a development corporation credit support agreement shall be deemed and regarded as a mortgage insurance contract for the benefit of parties to such agreement.

§ 2429. Rentals. Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act or local law enacted pursuant thereto, all dwelling units in a multiple dwelling the rehabilitation or construction of which commenced after July first, nineteen hundred seventy-eight and which is financed by a loan insured by the agency, except for dwelling units occupied by reason of ownership of stock in a cooperative, shall be subject to the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four, if applicable in the geographic area in which the multiple dwelling is located, beginning immediately after initial rents as established under applicable provisions of the rent stabilization law of nineteen hundred sixty-nine, the emergency tenant protection act of nineteen seventy-four or the private housing finance law for such dwelling units become effective on the basis of such rehabilitation or construction, provided that any occupant in possession of a dwelling unit that first becomes subject to the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four pursuant to this section shall be offered a two-year lease notwithstanding any contrary provisions of, or regulations adopted pursuant to, such law or act, at the initial rent established for such dwelling unit.

§ 2429-a. Payment of insurance and development corporation credit support. 1. The agency shall establish procedures to be followed by a mortgagee in the event of a default under the terms of any mortgage insured by the agency. The agency may require that prior to submitting a claim to the agency for payment of insurance the mortgagee shall take such actions with respect to the property securing the defaulted mortgage as may be specified by the agency to be satisfactory evidence of a continuing default, including but not limited to the following: (i) becoming lawfully the mortgagee in possession thereof; (ii) causing a receiver to be appointed of such property; (iii) obtaining voluntary conveyance of the mortgagor's right and title to such property; or (iv) obtaining by foreclosure clear and unencumbered title to such property, all in such manner as the agency may require. Following submission of a valid claim the agency shall pay an amount which shall not exceed the lesser of (1) the then outstanding insured principal amount of the mortgage multiplied by the per centum of such outstanding amount insured by the agency and a per centum of the mortgagee's cost arising from the default, inclusive of public liens and delinquent and unpaid interest, all as the agency may from time to time allow, which per centum shall not exceed the per centum of the outstanding principal indebtedness insured by the agency or (2) the insured amount of the mortgage at the date of execution of the insurance contract or its latest amendment, if any, except that the agency shall pay the greater of the two amounts on claims by a public employee pension fund, or by a public benefit corporation derived from the sale of notes or bonds issued by said corporation, provided that no more than the actual loss suffered by such public employee pension fund or public benefit corporation shall be paid. Such payment may be made by the agency in a lump sum, or in partial payments made within such period of time as may be agreed to between the agency and the mortgagee, all in accordance with procedures to be established by the agency.

2. The agency shall establish, by contract or otherwise, procedures to be followed with respect to development corporation credit support for which the development corporation credit support account has been

determined by the agency to be a source or potential source of payment.

§ 2429-b. Mortgage insurance fund. * 1. (a) The agency shall create and establish a mortgage insurance fund. Within such fund, the agency shall establish: (i) a special account, which shall be divided into sub-accounts for each region as defined in subdivision nine of section twenty-four hundred twenty-six of this title; (ii) a single family pool insurance account; (iii) a project pool insurance account; and (iv) a development corporation credit support account. The single family pool insurance account shall be used for all business relating to the insurance of mortgages on properties with one to four dwelling units, the project pool insurance account shall be used for all business relating to the insurance of mortgages on properties other than those with one to four dwelling units, and the development corporation credit support account shall be used for all business relating to development corporation credit support. Separate sub-accounts may be established within the special account, the pool insurance accounts, and the development corporation credit support account as deemed appropriate by the agency.

(b) (i) The mortgage insurance fund shall be used as a revolving fund for carrying out the provisions of this title with respect to mortgages insured and development corporation credit support, provided thereunder. (ii) The agency shall pay into such fund all moneys which may be made available to the agency for the purposes of such fund from any source, including but not limited to the moneys received from recording officers pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law. The agency shall credit the amount of moneys received from the recording officer of each county, pursuant to subdivision two of section two hundred sixty-one of the tax law, to the special account. In any fiscal year, no more than fifty per centum of the amount received from the recording officers during the consecutive twelve month period ending on the preceding March thirty-first may be used by the agency for the purpose of insuring mortgages on property located in any one region pursuant to section two thousand four hundred twenty-eight of this part, provided, however, that this provision shall not include or be applied to pool insurance of mortgage loans purchased by the agency. The agency shall credit any other moneys which may be made available to the agency for the purposes of such fund from any other source to the special account, the single family pool insurance account, the project pool insurance account, or the development corporation credit support account, as appropriate. Any income or interest earned by, or increment to, the mortgage insurance fund due to the investment thereof shall be credited to the special account, the applicable pool insurance account, or the development corporation credit support account, as appropriate.

(c) The agency may credit from the special account to the single family pool insurance account, to the project pool insurance account and to the development corporation credit support account such moneys as are required to satisfy the mortgage insurance fund requirement of such accounts, except that during any twelve-month period ending on March thirty-first the aggregate amount credited to the development corporation credit support account (excluding amounts described in the last sentence of paragraph (b) of this subdivision) shall not exceed the lesser of (i) fifty million dollars or (ii) the aggregate of the amounts required under the contracts executed by the agency to provide development corporation support.

(d) Moneys, investments and cash equivalents of the special account, the single family pool insurance account, the project pool insurance account and the development corporation credit support account shall be kept separate and shall not be commingled with each other or with any other accounts which may be established from time to time, except as otherwise authorized by this section.

(e) Moneys, investments and cash equivalents of the pool insurance accounts and the development corporation credit support account shall be excluded from the excess balance calculation set forth in subdivision two of this section. However, if at any time the moneys, investments and cash equivalents (valued as determined by the agency) of either pool insurance account or the development corporation credit support account exceed the amount necessary to attain and maintain the credit rating or, with respect to development corporation credit support, credit worthiness (as determined by the agency) required to accomplish the purposes of such account the agency shall transfer such excess to the special account and such excess shall be included in the excess balance calculation.

* NB Effective until July 23, 2027

* 1. The agency shall create and establish a mortgage insurance fund. Within such fund, the agency shall establish a special account, which shall be divided into sub-accounts for each region as defined in subdivision nine of section twenty-four hundred twenty-six of this part and a development corporation credit support account. The development corporation credit support account shall be used for all business related to development corporation credit support. Separate sub-accounts may be established within the development corporation credit support account as deemed appropriate by the agency. The mortgage insurance fund shall be used as a revolving fund for carrying out the provisions of this title with respect to mortgages insured and development corporation support provided thereunder. The agency shall pay into such fund all moneys which may be made available to the agency for the purposes of such fund from any source, including but not limited to the moneys received from recording officers pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law. The agency shall credit the amount of moneys received from the recording officer of each county, pursuant to subdivision two of section two hundred sixty-one of the tax law, to the special account. In any calendar year, no more than fifty per centum of the amount received from the recording officers and credited to the special account during the consecutive twelve month period ending on the preceding December thirty-first may be used by the agency for the purpose of insuring mortgages on property located in any one region pursuant to section two thousand four hundred twenty-eight of this part. The agency shall credit any other moneys which may be made available to the agency for the purposes of such fund from any other source to the special account or the development corporation credit support account, as appropriate. Any income or interest earned by, or increment to, the mortgage insurance fund due to the investment thereof shall be credited to the special account or the development corporation credit account, as appropriate.

* NB Effective July 23, 2027

* 1-a. All moneys held in the mortgage insurance fund, except as hereinafter provided, shall be used, as required, solely for the payment of the agency's liabilities arising from mortgages insured as provided

in section twenty-four hundred twenty-nine-a of this part and from the provision of development corporation credit support as provided in section twenty-four hundred twenty-eight-a of this part; provided, however, that no moneys shall be withdrawn from any account at any time in such amount as would reduce the amount of, as applicable, the special account, either pool insurance account or the development corporation credit support account to less than its applicable mortgage insurance fund requirement, except for the purpose of paying such liabilities as the same become due and for the payment of which other moneys of the agency are not available. All payments pursuant to section twenty-four hundred twenty-nine-a of this part, and expenses attributable thereto shall be debited to the special account or the single family pool insurance account or the project pool insurance account or the development corporation credit support account, as appropriate, within the mortgage insurance fund. All other operating expenses of the agency with respect to insurance of mortgages and providing development corporation credit support shall be debited to the special account, the single family pool insurance account, the project pool insurance account or the development corporation credit support account within the mortgage insurance fund, as appropriate.

* NB Effective until July 23, 2027

* 1-a. All moneys held in the mortgage insurance fund, except as hereinafter provided, shall be used, as required, solely for the payment of the agency's liabilities arising from mortgages insured as provided in section twenty-four hundred twenty-nine-a of this part and from the provision of development corporation credit support as provided in section twenty-four hundred twenty-eight-a of this part; provided, however, that no moneys shall be withdrawn from any account at any time in such amount as would reduce the amount of, as applicable, the special account or the development corporation credit support account to less than its applicable mortgage insurance fund requirement, except for the purpose of paying such liabilities as the same become due and for the payment of which other moneys of the agency are not available. All payments pursuant to section twenty-four hundred twenty-nine-a of this part, and expenses attributable thereto shall be debited to the special account or the development corporation credit support account within the mortgage insurance fund. All other operating expenses of the agency with

respect to insurance of mortgages and providing development corporation credit support shall be debited to the special account or the development corporation credit support account within the mortgage insurance fund, as appropriate.

* NB Effective July 23, 2027

2. On or before March twentieth in each year, the board of directors of the agency shall determine the amount estimated to be received by the agency from the additional tax imposed pursuant to subdivision one-a of section two hundred fifty-three of the tax law and deposited in the mortgage insurance fund and credited to the special account plus any other monies deposited in such account plus the amount of reserves available in such special account with respect to mortgage loans that were previously insured in accordance with section twenty-four hundred twenty-eight or development corporation credit support previously provided pursuant to section twenty-four hundred twenty-eight-a of this part under contracts or commitments that have been satisfied or cancelled, pursuant to subdivision one of this section, except charges and fees levied by the agency pursuant to section twenty-four hundred twenty-nine-c of this part, which shall be added in the computation only when such a commitment is cancelled or expires or when the insurance or contractual arrangement to provide development corporation credit support applied for is declared effective. Such determination made on or before March twentieth in each year shall be made for the consecutive twelve-month period ending on the subsequent March thirty-first. The board shall then determine the estimated excess balance, if any, in such special account by determining the amount by which such credits exceed twenty per centum, or such other per centums or amounts as may have been established by the board of directors of the agency pursuant to subdivision seven of section twenty-four hundred twenty-eight of this part, of the amounts insured or committed to be insured and the amounts of development corporation credit support established by the board of directors of the agency pursuant to section twenty-four hundred twenty-eight-a of this part to be provided during such twelve-month period plus any payments by the agency during such twelve-month period on account of a mortgage or development corporation credit support contract entered into during such twelve-month period ending on such

March thirty-first, plus the operating expenses of the agency during such twelve-month period with respect to insurance of mortgages or provision of development corporation credit support, which amount may not exceed an amount determined and certified by the director of the budget, with notification to the chairman of the senate finance committee and chairman of the assembly ways and means committee. On or before May fifteenth, the board shall determine any adjustment to the estimated excess balance necessary to reflect the variance, if any, between such estimated excess balance and the actual excess balance computed as of March thirty-first, and shall certify such adjustment to the director of the budget. The agency shall include such adjustment in the estimated excess balance determination for the following fiscal year, unless otherwise instructed by the director of the budget. The agency shall submit to the director of the budget an estimate of such operating expenses on or before the tenth business day in March of each year and the director of the budget shall make such certification before March twentieth of each year.

Upon making the determination of the estimated excess balance, the agency shall certify such determination to the director of the budget, the chairmen of the senate finance committee and the assembly ways and means committee, and the comptroller. Payment of such actual or estimated excess balance shall be made within ninety days after March twentieth. The agency shall, at the direction of the director of the budget, pay such estimated or actual excess balance, if any, from the special account to the comptroller for deposit to the state general fund; provided, however, that if the aggregate amount in the special account as of such date is less than the mortgage insurance fund requirement, the agency shall retain all or that portion of any such estimated or actual excess balance in such special account necessary to increase the aggregate amount in such special account to the mortgage insurance fund requirement. The director of the budget shall notify the chairmen of the senate finance committee and the assembly ways and means committee ten days prior to the issuance of the directive in respect to the payment of the estimated or actual excess balance to the general fund.

Further provided, however, that the budget to be submitted to the legislature by the governor pursuant to article seven of the constitution shall separately state the amount of such estimated or actual excess balance determined as hereinabove prescribed, if any, which shall be included in the monies and revenues estimated to be available during the current and ensuing fiscal years, respectively.

3. The moneys in such fund shall be deposited in one or more banks or trust companies designated in the manner provided by law, as depositories of the funds of the state. The agency may invest the moneys in such fund in obligations specified in subdivision four of this section. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund. The separate identity of such fund shall be maintained whether its assets consist of cash or investments or both.

4. Moneys in such fund may be invested (a) in special time deposit accounts in, or certificates of deposit issued by, a bank, trust company, savings bank or savings and loan association located and authorized to do business in this state, provided, however, that such time deposit account or certificate of deposit shall be payable within such time as the proceeds may be needed to meet expenditures estimated to be incurred by the agency and provided further that such time deposit account or certificate of deposit be secured by a pledge of obligations of the United States of America or obligations of the state, any city of the state, or other municipal corporation, school district or district corporation of the state or obligations of agencies of the federal government; or (b) in obligations of the United States of America or the state which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control, or in obligations of the Federal National Mortgage Association, or (c) in Government National Mortgage Association mortgage backed securities, provided such obligations shall be payable or redeemable at the option of the owner within such times as the proceeds may be needed to meet expenditures estimated to be incurred by the agency.

5. In computing the amount of the mortgage insurance fund for the

purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par if purchased at par, or if purchased at other than par, at amortized value. Amortized value, when used with respect to securities purchased at a premium above or a discount below par, shall mean the value as of any given date obtained by dividing the total premiums or discount at which such securities were purchased by the number of interest payments remaining to maturity on such securities after such purchase and by multiplying the amount so calculated by the number of interest payment dates having passed since the date of such purchase; and (i) in the case of securities purchased at a premium by deducting the product thus obtained from the purchase price, and (ii) in the case of securities purchased at a discount by adding the product thus obtained to the purchase price.

6. The agency may create and establish such other fund or funds as may be necessary or desirable for the carrying out of its corporate purposes.

§ 2429-c. Charges and fees. * 1. The agency shall fix a premium charge for its insurance of mortgages pursuant to this article which, except for pool insurance, shall not be less than an amount equivalent to one-quarter of one per centum per annum nor more than an amount equivalent to two per centum per annum of the outstanding principal amount of the insurable mortgage loan at any time, without taking into account delinquent payments or prepayments.

* NB Effective until July 23, 2027

* 1. The agency shall fix a premium charge for its insurance of mortgages pursuant to this article which shall not be less than an amount equivalent to one-quarter of one per centum per annum nor more than an amount equivalent to two per centum per annum of the outstanding principal amount of the insurable mortgage loan at any time, without taking into account delinquent payments or prepayments.

* NB Effective July 23, 2027

2. The agency may establish and levy such other charges and fees in connection with applications for mortgage insurance and insurance

commitments as it may deem appropriate and necessary. Such charges and fees shall not exceed a total of two percent of the outstanding principal amount of the insurable mortgage loan.

3. Such premium charges and other charges shall be payable by the mortgagor in cash in such manner as may be prescribed by the agency.

4. Such premium charges and other charges and fees shall not be deemed to be interest for the purposes of sections 5-501 of the general obligations law.

5. The agency may, in its discretion, fix a premium charge for its provision of development corporation credit support pursuant to this part.

§ 2429-d. Contributions to agency. Notwithstanding the provisions of any general or special law or the provisions of any certificate of incorporation, charter or other articles of organization, all domestic corporations or associations organized for the purpose of carrying on business in this state, and any other persons are hereby authorized to make contributions to the agency.

§ 2429-e. Examination. At least once in each calendar year the agency shall be examined by the superintendent of financial services for the purposes of determining the agency's net worth and the soundness of its management and operating policies. The agency shall not, however, be deemed to be a banking organization. The agency shall pay the cost of each such examination. Copies of each examination report, including the findings, conclusions and recommendations of the examiners, shall be furnished to the agency. The agency shall furnish a complete copy of each report, including the findings, conclusions and recommendations of the examiners, to the comptroller.

§ 2429-f. Special provisions relating to directors of the agency. The agency may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any corporation, trust, association, partnership or other entity in which any director of the agency has a financial interest, direct or indirect, provided that (1) such interest is disclosed to the board prior to the consummation of such transaction, (2) such disclosure is recorded in the minutes of the agency and (3) no director having such a financial interest may participate in any decision affecting such transaction.

TITLE 18

STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY ACT

§ 2430. Short title. This title shall be known and may be cited as the "state of New York municipal bond bank agency act"

§ 2431. Legislative findings. It is hereby declared to be in the public interest and to be the policy of the state to foster and promote by all reasonable means the provision of adequate capital markets and facilities for borrowing money by its several municipalities for the financing of their public improvements or purposes from proceeds of bonds or notes issued by those municipalities, and to assist those municipalities in fulfilling their needs for improvements by use of creation of indebtedness and to the extent possible to reduce costs of indebtedness to taxpayers and residents of the state and to encourage continued investor interest in the purchase of bonds or notes of municipalities as sound and preferred securities for investment. It is in the public interest and is the policy of the state to encourage its municipalities to continue their independent undertakings of public improvements and purposes and the financing thereof and to assist them therein by making funds available at reduced interest costs for orderly financing of public improvements and purposes, particularly for those municipalities not otherwise able to borrow for those purposes. It is further declared the state should exercise its power in the interest of its municipalities to further and implement those policies by authorizing a state instrumentality to be created as a body corporate and politic to have full powers to borrow money and to issue its bonds and notes to make funds available through the facilities of that instrumentality at reduced rates and on more favorable terms for borrowing by municipalities through the purchase by that instrumentality of the bonds or notes of municipalities and by granting broad powers to the instrumentality to accomplish and to carry out the aforesaid policies of the state which are in the public interest of the state and of its taxpayers and residents. It is further declared to be in the public interest and is the policy of the state that such instrumentality should so conduct its operations, including the full utilization of existing public corporations, as to provide the lowest rates in terms of borrowing to municipalities as is consistent with a self-supporting operation with no expectation of subsidization with state funds.

It is further declared to be in the public interest and it is the policy of the state to provide a means by which certain cities may receive moneys to refund certain property taxes determined to be in excess of state constitutional tax limits or to reimburse such cities for the prior refunding of such taxes.

It is further declared to be in the public interest and it is the policy of the state to provide a means by which certain special program municipalities may receive moneys for the purpose of paying the cost of settling litigation involving the city school districts of such special program municipalities and the teachers' unions thereof.

It is hereby further declared that many municipalities are owed millions of dollars annually in unpaid property taxes. Such uncollected taxes adversely impact the municipalities' ability to timely collect the moneys necessary to meet their operating expenditures and provide for the delivery of necessary local government services, amplifying the risk of future real property tax increases and negatively impacting those taxpayers who timely remit payment. It is hereby further declared that limited means exist for municipalities to expedite the collection of such delinquent taxes and that as a result such delinquencies often remain unpaid thereby creating a lien against the affected real property and that the sale of such tax liens will enable municipalities to expedite the receipt of anticipated revenues and provide a funding source which will enable municipalities to more effectively carry out their public purposes. It is further declared that the state should exercise its power in the interest of its municipalities to facilitate the sale and purchase of tax liens by authorizing such instrumentality, a trust or other single purpose entity or entities created by such instrumentality, to have full powers to borrow money and to issue its bonds, notes, certificates of participation or other obligations to make funds available to municipalities through the facilities of said instrumentality by the purchase through that instrumentality of the delinquent tax liens created and held by municipalities and by granting broad powers to such instrumentality to accomplish and to carry out the aforesaid policies of the state which are in the public interest of the state and of its taxpayers and residents.

It is hereby further found and declared that, on September eleventh, two thousand one, events occurred that resulted in dramatic and unforeseen negative fiscal changes which affected the state and certain municipalities thereof. The impact of these events, if left unremediated, is contrary to the public interest of the state and such municipalities, and threatens a decline in the general prosperity and economic welfare of the inhabitants of such municipalities and the people of the state. Accordingly, it is a matter of substantial and imperative state concern that such municipalities not fail to address local needs and thereby suffer adverse consequences. It is further declared to be in the public interest and it is the policy of the state to provide a means for such municipalities to receive assistance to meet their obligations and thereby be assisted in relieving the effects of the negative fiscal changes caused by the September eleventh, two thousand one events.

It is further declared to be in the public interest and it is the policy of the state to provide a means by which the enlarged city school district of the city of Troy may receive moneys for the specific object and purpose of liquidating the projected accumulated deficit in its general fund at the close of its fiscal year ending June thirtieth, two thousand two, including any budget notes and revenue anticipation notes which may be a part of the deficit.

It is further declared to be in the public interest and it is the policy of the state to provide a means by which the Shoreham-Wading River Central School District may receive moneys for the specific object and purpose of mitigating the adverse fiscal impact resulting from the loss to the district of a significant majority of the taxable property that it depended on for support of its educational programs.

It is further declared to be in the public interest and it is the policy of the state to provide a means by which a municipality in the state can take advantage of the opportunities for borrowing to provide for public improvements afforded by the American Recovery and Reinvestment Act of 2009 and to do so by authorizing a state instrumentality to borrow money and use the proceeds to purchase obligations issued by a municipality under the American Recovery and Reinvestment Act of 2009, thereby resulting in efficiencies and interest rate savings to the municipality.

It is further declared to be in the public interest and it is the policy of the state to provide a means by which state and local first-responder public safety agencies can establish regional communications capabilities, intended to serve as a part of a statewide interoperable network, and to do so by authorizing a state instrumentality to borrow money and use the proceeds to purchase obligations issued by a municipality to fund these communications capabilities, thereby resulting in savings for taxpayers.

§ 2432. Definitions. As used in this title, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(1) "Agency". The state of New York municipal bond bank agency, the corporate governmental agency created by section two thousand four hundred thirty-three of this title.

(2) "Bonds" and "Notes". The bonds and notes, including any special

program bonds, special school purpose bonds, recovery act bonds, and public safety communications bonds respectively issued by the agency pursuant to this title. Bonds and notes shall not include any tax lien collateralized securities issued pursuant to this title.

(3) "Municipal Bond". A bond or note or evidence of debt payable from any local revenues, including taxes, assessments and rents, which a municipality may lawfully issue to finance local improvements and public purposes, including local ARRA bonds and local public safety communications bonds, but does not include (a) any bond or note or evidence of debt issued by any other state or any public body or municipal corporation thereof, (b) any special program agreement, or (c) any special school purpose agreement or any special school deficit program agreement.

4. "Municipality." Any public corporation enumerated in subdivisions one, two, two-a, two-b, and three of section 2.00 of the local finance law.

(5) "State Aid". All payments and contributions made by the state to and in aid of a municipality as may be provided by law, other than payments of state contributions for old age assistance, family assistance, aid to the blind, aid to the disabled, safety net assistance and local social services administration costs.

(5-a) "School aid". Any apportionment of public money made by the state to or for the benefit (i) of a city school district located within a special program municipality, or (ii) a special school deficit program district, as provided for by article seventy-three of the education law; provided that, with respect to any provisions of this title relating to special school purpose bonds and special school purpose agreements, the term school aid shall have the meaning set forth in section ninety-two-aa of the state finance law.

(5-b) "School Aid Revenues". School aid paid or payable by the comptroller to the agency pursuant to section ninety-two-aa of the state finance law.

(5-c) "Special School Purpose School Aid Revenues". The balance of school aid that does not constitute school aid revenues and that is to be transferred by the comptroller to a special school purpose municipality pursuant to section ninety-two-aa of the state finance law.

(6) "Comptroller". The comptroller of the state of New York.

(7) "State". The state of New York.

(8) "State Agency". Any office, department, board, commission bureau, division, public benefit corporation, agency or instrumentality of the state.

(9) "Amortized Value". When used with respect to securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (a) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (b) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

(10) "Debt Service Reserve Fund Requirement". With respect to any debt service reserve fund created by section twenty-four hundred thirty-nine of this title relating to bonds other than special program bonds or special school purpose bonds or special school deficit program bonds or recovery act bonds or public safety communications bonds, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any succeeding calendar year, of annual debt service payments required to be made to the agency on all municipal bonds purchased with the proceeds of bonds which bonds are secured by such debt service reserve fund, such annual debt service payments for any calendar year being an amount of money equal to the aggregate of (a) all interest payable during such calendar year on all municipal bonds purchased by the agency and then outstanding on said date of computation which are secured by such debt service reserve fund, plus (b) the principal amount of all municipal bonds purchased by the agency and then outstanding on said date of computation which mature during such calendar year and are secured by such debt service reserve fund; and with respect to any debt service reserve fund created by section twenty-four hundred thirty-nine of this title relating to an issue or issues of special program bonds or special school purpose bonds or special school deficit program bonds or recovery act bonds or public safety communications bonds, such amount as shall be

determined by the agency.

(11) "Sinking Fund Payments". The amount of money specified in a resolution authorizing term bonds as payable into a sinking fund for the amortization of such term bonds.

(12) "Special Program Municipality". Any city having a population of less than one million but more than three hundred fifty thousand; and any city having a population of less than two hundred fifty thousand but more than two hundred thousand, determined according to the federal decennial census of nineteen hundred eighty. Such term shall also include the city of Syracuse solely for the purpose of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act and the city of Yonkers solely for the purpose of the Yonkers city school district joint schools construction and modernization act.

(13) "Special Program Bonds". An issue of bonds of the agency, all or a portion of the proceeds of which are made available to a special program municipality in connection with the execution by the agency and such special program municipality of a special program agreement.

(14) "Special Program Agreement". An agreement between the agency and a special program municipality entered into pursuant to section two thousand four hundred thirty-five-a of this title.

(15) "Tax Lien". An interest in or encumbrance on real property, whether or not evidenced by a written instrument, arising from an unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of a municipal corporation or special district. The amount represented by a tax lien shall include all interest, penalties, charges and surcharges imposed pursuant to law.

(16) "Tax Lien Entity". A trust, limited liability company or other special purpose entity or entities created by or at the request of the agency for the purpose of purchasing tax liens from municipalities and issuing tax lien collateralized securities or in connection with such a purchase or issuance.

(17) "Tax Lien Collateralized Securities". Bonds, notes, certificates of participation or other obligations issued by the agency or its tax lien entity the repayment of which are secured only by tax liens and any other funds pledged for the repayment of such securities.

(18) "Purchase and Sale Agreement". An agreement between the agency or

its tax lien entity and a municipality entered into pursuant to section twenty-four hundred thirty-five-b of this title.

(19) "Special School Purpose Municipality". For purposes of this title, a special school purpose municipality shall be (a) each of the cities of New York, Buffalo, Yonkers, Rochester, or Syracuse in the state of New York, or (b) any school district in the state of New York which has prior year claims due and payable pursuant to section thirty-six hundred four of the education law as of May fifteenth, two thousand two which exceeds one million dollars, or (c) any school district in the state of New York other than a city school district in a city having a population of one million or more which has a prior year claim due and payable pursuant to section thirty-six hundred four of the education law as of February fifteenth, two thousand six which exceeds thirty million dollars.

(20) "Special School Purpose Bonds". An issue of bonds of the agency, all or a portion of the proceeds of which are made available to a special school purpose municipality in connection with the execution by the agency and such special school purpose municipality of a special school purpose agreement. The proceeds of such special school purpose bonds shall only be made available to a special school purpose municipality if (i) the interest payable on the special school purpose bonds of such special school purpose municipality qualify for exclusion from gross income for federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended, and (ii) under the principles relating to such exclusion, such special school purpose bonds may be issued with a final maturity of not less than ten years.

(21) "Special School Purpose Agreement". An agreement between the agency and a special school purpose municipality entered into pursuant to section two thousand four hundred thirty-five-d of this title.

(22) "Special School Deficit Program District". The enlarged city school district of the city of Troy in the state of New York is a special school deficit program district for the purposes of this chapter.

(23) "Special School Deficit Program Bonds". An issue of bonds of the agency, all or a portion of the proceeds of which are made available to a special school deficit program district in connection with the execution by the agency and such special school deficit program district

of a special school deficit program agreement.

(24) "Special School Deficit Program Agreement". An agreement between the agency and a special school deficit program district entered into pursuant to section two thousand four hundred thirty-five-e of this title.

(25) "Public safety communications bonds". Bonds of the agency, all or a portion of the proceeds of which are used to purchase a local public safety communication bond. The amount of such bonds issued by the agency shall not exceed one billion dollars.

(26) "Recovery Act Bonds". An issue of bonds of the agency, all or a portion of the proceeds of which are used to purchase local ARRA bonds.

(27) "Local ARRA Bonds". A municipal bond issued to finance or refinance purposes eligible, in whole or in part, for subsidies or tax credits under the American Recovery and Reinvestment Act of 2009.

(28) "Local public safety communications bonds". A municipal bond issued to finance or fund all or a portion of the costs of building regional, interoperable public communications networks for statewide use by first-responder agencies in the state, including equipment and incidental costs. Local public safety communication bonds may also be issued to refinance outstanding bonds issued by municipalities for the purposes described herein provided that present value savings are realized from such a refunding.

§ 2433. State of New York municipal bond bank agency. (1) There is hereby created the state of New York municipal bond bank agency. The agency shall be a body corporate and politic constituting a public benefit corporation. Its membership shall consist of seven directors as follows: the comptroller or a director appointed by the comptroller who shall serve until a successor is appointed, the secretary of state, the director of the budget, the chairman of the New York state housing finance agency and three directors to be appointed by the governor with the advice and consent of the senate, at least one of whom shall be an elected official of a municipality as defined in this title. The directors first appointed by the governor shall serve for terms ending two, three and four years, respectively, from January first next succeeding their appointment. Their successors shall serve for terms of four years each. Directors shall continue in office until their successors have been appointed and qualified. In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, the governor shall appoint a successor with the advice and consent of the senate to serve for the balance of the unexpired term. Each director appointed by the governor shall be a citizen of the United States and a resident of the state. The chairman of the New York state housing finance agency shall serve as chairman of the agency.

(2) The powers of the agency shall be vested in and exercised by a majority of the directors of the agency then in office. The secretary of state and the director of the budget, each may appoint a person from their respective office, division or agency to represent such director, respectively, at all meetings of the agency from which such director may be absent. Any such representative so designated shall have the power to attend and to vote at any meeting of the agency from which the director so designating him as a representative is absent with the same force and effect as if the director designating him were present and voting. Such designation shall be by written notice filed with the chairman of the agency by each of the said directors. The designation of such persons shall continue until revoked at any time by written notice to the chairman by the respective director making the designation. Such designation shall not be deemed to limit the power of the appointing director to attend and vote at any meeting of the agency.

(3) The directors shall serve without salary or other compensation, but each director, except for those who serve ex officio, shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

(4) Such directors, except as otherwise provided by law, may engage in private employment, or in a profession or business. The agency, its directors, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law.

(5) The chief executive officer of the agency shall be the executive director of the New York state housing finance agency.

(6) Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the

agency created by this section; provided, however, a director who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

(7) The governor may remove any director appointed by him for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any such director shall be removed, the governor shall file in the office of the department of state a complete statement of charges made against such director and his findings thereon, together with a complete record of the proceeding.

(8) The agency and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the agency shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the agency, all its rights and properties shall pass to and be vested in the state.

(9) A majority of the directors of the agency then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the agency. The agency may delegate to one or more of its directors, or its officers, agents or employees, such powers and duties as it may deem proper.

§ 2434. Powers of the agency. Except as otherwise limited by this title, the agency shall have power:

(1) To sue and be sued;

(2) To have a seal and alter the same at pleasure;

(3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this title, including, without limitation, any special program agreement entered into pursuant to the provisions of section twenty-four hundred thirty-five-a of this title, any purchase and sale agreement entered into pursuant to the provisions of section twenty-four hundred thirty-five-b of this title and any special school deficit program

agreement entered into pursuant to section twenty-four hundred thirty-five-e of this title;

(4) To make and alter by-laws for its organization and internal management;

(5) To acquire, hold and dispose of real and personal property for its corporate purposes;

(5-a) To establish, create or otherwise form and control one or more trusts or other single purpose entities to facilitate the purchase of tax liens and the issuance of tax lien collateralized securities;

(6) To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;

(7) To acquire, and contract to acquire, bonds issued by municipalities and to enter into advance commitments to municipalities for the purchase of said bonds, all subject to the provisions of section two thousand four hundred thirty-five of this title;

(7-a) To acquire, and contract to acquire, tax liens and to enter into advance commitments with a municipality for the purchase of such tax liens, all subject to the provisions of section twenty-four hundred thirty-five-b of this title;

(7-b) To acquire and contract to acquire local ARRA bonds, and to enter into arrangements with a municipality for the purchase of its local ARRA bonds;

(7-c) To acquire and contract to acquire, and to enter into arrangements with a municipality for the purchase of its local public safety communications bonds.

(8) Subject to any agreement with bondholders or noteholders, to invest moneys of the agency not required for immediate use or disbursement, including proceeds from the sale of any bonds or notes, in (a) obligations of the state or the United States of America, (b) obligations the principal of and interest on which are guaranteed by the state or by the United States of America or an agency or instrumentality of the United States of America, (c) obligations of agencies or instrumentalities of the United States of America or (d) interest bearing time deposits of banks or trust companies secured by obligations described in clauses (a), (b) or (c) of this subdivision or by obligations of agencies or instrumentalities of the state;

(9) Subject to any agreement with bondholders or noteholders, to

purchase bonds or notes of the agency, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to said date;

(10) To borrow money and to issue negotiable bonds and notes and to provide for and secure the payment thereof and to provide for the rights of the holders thereof;

(11) To make and execute contracts for the servicing of municipal bonds acquired by the agency pursuant to this title, and for the servicing of special program agreements, special school purpose agreements and special school deficit program agreements, and to pay the reasonable value of services rendered to the agency pursuant to those contracts;

(11-a) To make and execute contracts for professional services including, but not limited to, attorneys, financial advisors, due diligence providers and other professional services related to the servicing of tax liens acquired by the agency or its tax lien entity pursuant to this title, and for the servicing of tax lien purchase and sale agreements, and to pay the reasonable value of services rendered to the agency or its tax lien entity pursuant to those contracts;

(12) To contract with the New York State housing finance agency to render such services as the agency may deem appropriate, including but not limited to the use of the premises, personnel and personal property of the New York State housing finance agency, and to pay the reasonable costs thereof and provide for the reimbursement to the New York state housing finance agency for any expenses necessarily incurred by the New York state housing financing agency in carrying out the terms of such contract. Any such contract shall be subject to the separate approval of the director of the budget;

(13) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source and to comply, subject to the provisions of this title, with the terms and

conditions thereof;

(14) To acquire, hold, use and dispose of its income, revenues, funds and moneys;

(15) To fix, revise, from time to time, charge and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the agency and its tax lien entity, and service charges, as the agency shall determine to be reasonable;

(16) Subject to any agreement with bondholders or noteholders, consent to the modification with respect to rate or rates of interest, time of payment of any installment of principal or interest, security or any other term of any municipal bond of which it is the holder, or of any contract or agreement of any kind to which it is a party;

(16-a) Subject to any agreement with the holders or owners of tax lien collateralized securities, consent to the modification with respect to the time of payment, interest or penalties of a tax lien owned by the agency or its tax lien entity, or of any other contract or agreement to which it is a party;

(17) To establish any terms and provisions with respect to any purchase of municipal bonds by the agency, including date and maturities of the bonds, provisions as to redemption or payment prior to maturity, and any other matters which are necessary, desirable or advisable in the judgment of the agency;

(17-a) To establish any terms and provisions with respect to any purchase of tax liens by the agency or its tax lien entity, including the sale date and, subject to terms of the tax liens purchased, provisions as to redemption or payment prior to the stated redemption date, and any other matters which are necessary, desirable or advisable in the judgment of the agency;

(18) To establish any terms and provisions with respect to any special program agreement, special school purpose agreement or special school deficit program agreement, including any terms for payment, and any other matters which are necessary, desirable or advisable in the judgment of the agency;

(18-a) To establish any terms and provisions with respect to any tax lien purchase and sale agreement, including any terms for payment, and any other matters which are necessary, desirable or advisable in the judgment of the agency;

(19) To certify to the comptroller the need for diversion of state aid payable to any municipality in default on its bonds or failing to make the required appropriation for interest and principal on any bonds held by the agency pursuant to the provisions of section twenty-four hundred thirty-six of this title;

(20) To certify to the comptroller the need for diversion of state aid payable to any special program municipality failing to make a scheduled payment to or for the account of the agency under a special program agreement entered into by the agency for the purpose described in paragraph (a) of subdivision one of section twenty-four hundred thirty-five-a of this title;

(21) To pledge or assign, as security for any of its bonds or notes, any moneys, funds, municipal bonds, special program agreements, special school purpose agreements, or special school deficit program agreements, assets or revenues of the agency, including, without limitation, any state aid or school aid received or receivable pursuant to section twenty-four hundred thirty-six of this title;

* (21-a) To certify to the comptroller the need for diversion of school aid payable to any special program municipality failing to make a scheduled payment to or for the account of the agency under a special program agreement entered into by the agency for the purpose described in paragraph (b) of subdivision one of section twenty-four hundred thirty-five-a of this title;

* NB There are 2 sub (21-a)'s

* (21-a) To pledge or assign as security for any tax lien collateralized securities any tax liens, moneys, funds, tax lien purchase and sale agreements, assets or revenue of the agency or its tax lien entity;

* NB There are 2 sub (21-a)'s

(21-b) To certify to the comptroller, with a copy to the commissioner of education, the amounts required with respect to special school purpose bonds as described in section twenty-four hundred thirty-five-d of this title.

(21-c) To certify to the comptroller, with a copy to the commissioner of education, the need for diversion of school aid payable to a special school deficit program district to make a scheduled payment to or for the account of the agency under a special school deficit program agreement entered into by the agency pursuant to section twenty-four hundred thirty-five-e of this title.

(22) To do any and all things necessary or convenient to carry out its purposes and exercise powers given and granted in this title.

§ 2435. Loans to municipalities. 1. The agency may purchase, and contract to purchase, municipal bonds from municipalities at such price or prices, upon such terms and conditions and in such manner, not inconsistent with the provisions of the local finance law, as the agency shall deem advisable; provided, however, that the average interest rate payable on all municipal bonds (taken as a group) purchased with the proceeds of an issue of bonds shall equal or exceed the interest rate on such issue of bonds. The agency shall not purchase the municipal bonds of any municipality if (i) the aggregate principal amount thereof, together with the aggregate principal balances of the municipal bonds of such municipality then outstanding and held by the agency, exceed an amount equal to ten percent of the aggregate principal amount of the statutory authorization at the time for the issuance of bonds and notes, as provided in section twenty-four hundred thirty-eight of this title, and (ii) the aggregate principal amount thereof exceeds an amount equal to fifty percent of the aggregate principal amount of all municipal bonds proposed to be so purchased at the time; provided, however, that this sentence shall not apply to local ARRA bonds or local public safety communications bonds.

2. The agency shall require as a condition of purchase of municipal bonds from municipalities that each such municipality shall agree (i) to pledge its full faith and credit for the payment of the principal of and interest on such municipal bonds, (ii) to make annual appropriations for amounts required for the payment of such principal and interest, and (iii) if at any time the municipality fails to make the required appropriation to pay such principal and interest, or fails to make the payment of the required principal and interest, the provisions of section twenty-four hundred thirty-six and/or twenty-four hundred thirty-six-b of this title shall take effect. All municipalities selling municipal bonds to the agency are hereby authorized to make and carry

out the agreements with the agency required in this subdivision.

3. In connection with the sale or proposed sale of municipal bonds to the agency, any municipality may, notwithstanding the provisions of any general or special law to the contrary, pay (i) such fixed or annual charges as may be prescribed from time to time by the agency for or with respect to the purchase by the agency of the municipal bonds of such municipality, and (ii) all charges or expenses necessary for the conversion or reconversion of any of its municipal bonds from or into coupon form or registered form as may be required by the agency in connection with any sale or other disposition of such municipal bonds.

§ 2435-a. Special program agreements. (1) In order to fulfill the purposes of this title and to provide a means by which the special program municipalities may (a) receive moneys to refund certain property taxes determined to be in excess of state constitutional tax limits or to reimburse the special program municipalities for the prior refunding of such taxes or (b) receive moneys to be applied to the cost of settling litigation involving the city school districts of special program municipalities and the teachers' unions in such special program municipalities, or (c) receive moneys for the financing of public improvements to be applied to the cost of the reconstruction, rehabilitation or renovation of an educational facility pursuant to the provisions of subdivision (b) of section sixteen of chapter six hundred five of the laws of two thousand, or (d) receive moneys for the financing of public improvements to be applied to the cost of a project for design, reconstruction or rehabilitation of a school building pursuant to the provisions of section fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, or (e) receive moneys for the financing of public improvements to be applied to the cost of a project for design, reconstruction or rehabilitation of a school building, or the construction of a new school building, pursuant to the provisions of section twelve of the Yonkers city school district joint schools construction and modernization act, and notwithstanding any general or special law to the contrary, the agency and each special program municipality are hereby authorized to enter into one or more special program agreements, which special program agreements shall, consistent with the provisions of this title, contain such terms, provisions and conditions as, in the judgment of the agency, shall be necessary or desirable. Each special program agreement shall specify the amount to be made available to the respective special program municipality from the proceeds of an issue of special program bonds and shall require such special program municipality, subject to appropriation by the appropriate legislative body of such special program municipality, to make payments to the agency in the amounts and at the times determined by the agency to be necessary to provide for payment of such issue of special program bonds and such other fees, charges, costs and other amounts as the agency shall in its judgment determine to be necessary or desirable.

(2) Any special program agreement entered into pursuant to subdivision one of this section shall provide that the obligation of the special program municipality executing such special program agreement to fund or pay the amounts therein provided for shall not constitute a debt of such special program municipality within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available and that no liability shall be incurred by such special program municipality beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the appropriate legislative body of such special program municipality.

§ 2435-b. Tax lien purchase and sale agreements. (1) In order to fulfill the purposes of this title and to provide a means by which municipalities may collect the moneys necessary to fund their expenditures and provide revenue to fund any other lawful purpose and notwithstanding any general or special law to the contrary, the agency or its tax lien entity and any municipality are hereby authorized to enter into one or more purchase and sale agreements for the sale of tax liens by such municipality and the purchase of such tax liens by the agency or its tax lien entity, which purchase and sale agreements shall, consistent with the provisions of this title, contain such terms, provisions and conditions as, in the judgment of the agency or its tax lien entity, shall be necessary or desirable. Each purchase and sale agreement shall specify the amount to be made available to the respective municipality from the proceeds of an issue of tax lien collateralized securities which amount may be more or less than the face amount of the tax liens purchased by the agency or its tax lien entity, and any other amounts which may be made available to the respective municipality on a contingent basis under the terms of the agreement. In addition, each purchase and sale agreement may require such municipality, subject to appropriation by the appropriate legislative body of such municipality, to make provisions for the payment of such other fees, charges, costs and other amounts as the agency shall in its judgment determine to be necessary or desirable.

(2) Any purchase and sale agreement entered into pursuant to subdivision one of this section shall provide that the obligation of the municipality executing such purchase and sale agreement to fund or pay the amounts therein provided for shall not constitute a debt of such municipality within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available and that no liability shall be incurred by such municipality beyond the moneys available for such purpose, and that any such payment obligation of such municipality other than the timely payment of any moneys collected by it and due to the agency or its tax lien entity as a result of the redemption of tax liens which are the subject of such purchase and sale agreements, is subject to appropriation by the appropriate legislative body of such municipality.

§ 2435-c. Purchase of tax liens. (1) The agency or its tax lien entity may purchase, and contract to purchase, tax liens from municipalities at such price or prices, upon such terms and conditions and in such manner, as the agency shall deem advisable.

(2) The agency shall require as a condition of purchase of tax liens from municipalities that each such municipality shall agree (i) to promptly pay, as directed by the agency, any moneys collected by the municipality in connection with the redemption and cancellation of such tax liens, (ii) to pay, subject to appropriation by the appropriate legislative body of such municipality, any amounts due and owing to the

agency or its tax lien entity as a result of the sale of such tax liens, (iii) to make such covenants, representations, and warranties with respect to the tax liens sold as required to effectuate the sale of such tax liens and facilitate the marketing of tax lien collateralized securities issued by the agency or its tax lien entity and (iv) to accept a note or other instrument issued by the agency or its tax lien entity to evidence any contingent amounts payable under the terms of the purchase and sale agreement. All municipalities selling tax liens to the agency or its tax lien entity are hereby authorized to make and carry out the agreements with the agency or its tax lien entity as required in this subdivision. All municipalities are also authorized to sell on their own behalf, or have the agency or its tax lien entity sell on their own behalf, all or part of the contingent amounts payable to such municipalities under the terms of a tax lien purchase and sale agreement.

(2-a) In connection with the purchase or proposed purchase of tax liens by the agency or its tax lien entity, the agency or its tax lien entity may purchase, and contract to purchase, real property from municipalities acquired by the municipalities pursuant to any tax enforcement proceeding, and which have not yet been disposed of by such municipalities.

(3) In connection with the sale or proposed sale of tax liens to the agency or its tax lien entity, any municipality may, notwithstanding the provisions of any general or special law to the contrary, pay (i) such fixed or annual charges as may be prescribed from time to time by the agency for or with respect to the purchase by the agency or its tax lien entity of the tax liens of such municipality, and (ii) all charges or expenses necessary for the conversion or reconversion of any of its tax liens into such form as may be required by the agency in connection with any sale or other disposition of such tax liens.

§ 2435-d. Special school purpose agreements. In order to fulfill the purposes of this title and to provide a means by which the special school purpose municipalities may receive assistance to meet their obligations and, notwithstanding any general or special law to the contrary, the agency and each special school purpose municipality are hereby authorized to enter into one or more special school purpose agreements in accordance with the provisions of this title as to financing of costs by the agency, the application of school aid revenues to the agency to secure its bonds and further assurances in respect of the agency's receipt of such revenues. Any such special school purpose agreements shall not constitute indebtedness of the special school purpose municipality for purposes of section 20.00 of the local finance law or any constitutional or statutory limitation. In addition, any special school purpose bonds issued in connection with such special school purpose agreement shall not constitute a debt of the state or of the applicable special school purpose municipality under any constitutional or statutory provision. Any such school aid revenues shall belong to the agency, shall not be, or be treated as, revenues of the special school purpose municipality for appropriation, accounting or any other purpose, provided, however, that such school aid revenues shall be deemed to be revenues of the special school purpose municipality for the purpose of any computation of federal or state aid, and shall not be consolidated, commingled or otherwise combined with any other moneys of the agency and any such special school purpose agreement shall include a statement to such effect. Any such school aid revenues and any such special school purpose agreements may be pledged by the agency in accordance with and with the effect of subdivision ten of section two thousand four hundred thirty-seven of this title to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. Each special school purpose agreement shall specify the amount to be made available to the respective special school purpose municipality through the proceeds of an issue of special school purpose bonds and such other matters as the agency shall determine necessary or desirable as to the application of bond proceeds or the security of the bonds. Such special school purpose agreement shall also provide that the agency shall not be entitled to receive any special school purpose school aid revenues. The receipt of the proceeds of any issue of special school purpose bonds by the special school purpose municipality shall be deemed to satisfy an equivalent amount of prior year claims owed to the school district of such special school purpose municipality pursuant to section thirty-six hundred four of the education law, and such proceeds provided pursuant to this section shall not reduce the apportionments payable for approved project costs pursuant to subdivisions six, six-a and six-b and paragraph c of subdivision fourteen of section thirty-six hundred two and subdivision twelve of section thirty-six hundred forty-one of the education law and may be used by an eligible school district to fund the principal amount of any costs that are in excess of the costs approved for an apportionment pursuant to such subdivisions six, six-a or six-b of section thirty-six hundred two or subdivision twelve of section thirty-six hundred forty-one of the education law.

§ 2435-e. Special School Deficit Program Agreements. (1) In order to fulfill the purposes of this title and to provide a means by which a special school deficit program district may receive assistance to meet its obligations and, notwithstanding any general or special law to the contrary, the agency and the special school deficit program district are, subject to the provisions of subdivision (3) of this section, hereby authorized to enter into one or more special school deficit program agreements, which special school deficit program agreements shall, consistent with the provisions of this title, contain such terms, provisions and conditions as, in the judgement of the agency, shall be necessary or desirable. Each special school deficit program agreement shall specify the amount to be made available to the special school deficit program district through the proceeds of an issue of special school deficit program bonds and shall require such special school deficit program district, subject to appropriation by the board of education of such special school deficit program district, to make payments to the agency in the amounts and at the times determined by the agency to be necessary to provide for payment of such issue of special school deficit program bonds and such other fees, charges, costs, and other amounts as the agency shall in its judgement determine to be necessary or desirable.

(2) Any special school deficit program agreement entered into pursuant to subdivision one of this section shall provide that the obligations thereunder to fund or pay the amounts therein provided for shall not constitute a debt of the state or such special school deficit program district within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available and

that no liability shall be incurred by the state or such special school deficit program district beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the board of education of such special school deficit program district.

§ 2436. State aid guarantee. 1. In the event that a municipality fails to make any payment of principal or interest on its municipal bonds, the chairman of the agency shall certify to the comptroller that the municipality has failed to meet its obligations. Such certificate shall be in such form as the agency deems desirable, but shall include the exact amount of interest and principal required to satisfy the municipality's obligations to the agency.

2. The comptroller, upon receipt of such certificate from the agency, shall withhold from the municipality any state aid payable to such municipality to the extent necessary to meet the certified amount of interest or principal and shall immediately pay over to the agency the amount so withheld.

3. Pending payment to the agency from the comptroller of any such state aid withheld from a municipality, the agency shall, if payments of interest or principal are due on the agency's bonds, withdraw an amount sufficient to meet such amounts withheld from a municipality from the debt service reserve fund securing such bonds. Any such amount withdrawn from such debt service reserve fund shall be paid into such debt service reserve fund upon receipt by the agency from the comptroller of any state aid withheld. Any amount so paid to the agency from such state aid shall not obligate the state to make, nor entitle the municipality to receive, any additional amounts of state aid.

4. In the event that a special program municipality shall fail to make a payment in such amount (as calculated in accordance with the special program agreement to which such municipality shall be a party) and by such date as is provided to be made by such municipality in its special program agreement, the chairman of the agency shall so certify to the comptroller. Such certificate shall be in such form as the agency deems

desirable, but shall specify the amount by which such payment shall have been deficient. The comptroller, upon receipt of such certificate from the agency, shall withhold from such special program municipality any state aid payable to such municipality to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the agency the amount so withheld; provided, however, that in the case of a special program agreement entered into for the purpose described in paragraph (b) or (c) or (d) or (e) of subdivision one of section twenty-four hundred thirty-five-a of this title, the comptroller shall be authorized to withhold from the special program municipality such school aid as is payable to the city school district of the special program municipality, to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the agency the amount so withheld. Any amount so paid to the agency from such state and/or school aid shall not obligate the state to make, nor entitle the special program municipality to receive, any additional amounts of state and/or school aid. Nothing contained therein shall be deemed to prevent the state from modifying, reducing or eliminating any program or programs of state and/or school aid; nor shall the state be obligated by the terms hereof to maintain state and/or school aid at any particular level or amount.

5. In the event that a special school deficit program district shall fail to make a payment in such amount (as calculated in accordance with the special school deficit program agreement to which such school district shall be a party) and by such date as is provided to be made by such school district in its special school deficit program agreement, the chairman of the agency shall so certify to the comptroller, with a copy to the commissioner of education. Such certificate shall be in such form as the agency deems desirable, but shall specify the amount by which such payment shall have been deficient. The comptroller, upon receipt of such certificate from the agency, shall withhold from such special school deficit program district any school aid payable to such special school deficit program district to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the agency the amount so withheld. Any amount so paid to the agency from such school aid shall not obligate the state to

make, nor entitle the special school deficit program district to receive, any additional amounts of school aid. Nothing contained therein shall be deemed to prevent the state from modifying, reducing or eliminating any program or programs of school aid; nor shall the state be obligated by the terms hereof to maintain school aid at any particular level or amount.

§ 2436-a. School aid revenues. With respect to each issue of outstanding special school purpose bonds, the chairman of the agency shall annually certify, or in the case of the first such certificate within thirty days after the sale of an issue of special school purpose bonds, to the comptroller and the director of the budget, with a copy to the commissioner of education, a schedule setting forth the amount of school aid revenue necessary for payment of the following obligations:

(a) all interest and all payments of principal and redemption premium, if any, on such special school purpose bonds maturing or otherwise coming due during the subsequent state fiscal year;

(b) the amounts required to be deposited in any debt service reserve fund with respect to such special school purpose bonds;

(c) the amount, if any, due to any provider of any bond credit or liquidity facility, representing payments made by it as provided in the applicable resolution or trust indenture, including any related reasonable interest, fees or charges so provided;

(d) the amount, if any, required to be rebated to the United States to provide for continued federal tax exemption of such special school purpose bonds; and

(e) any administrative or other fees, costs or charges due to the agency or any other party in connection with such special school purpose bonds.

The certification may be amended and, in the event of a bond sale, shall be amended no later than thirty days after such sale. The schedule accompanying such certification shall provide for such payment dates as the agency deems appropriate to ensure that sufficient funds will be available to meet its obligations relating to such special school purpose bonds as they come due.

§ 2436-b. Local ARRA bonds. (1) The agency may purchase local ARRA bonds using the proceeds of recovery act bonds, subject to the provisions of this section and to any other provision of law applicable to the municipality and bonds it issues, including any debt limitation applicable to the municipality that issued the local ARRA bond, as well as to the other provisions of this title. To the extent that any such other provision of law conflicts with a provision of this section, the provision of this section shall control, except as otherwise stated.

(2) Subject to the provisions of this section:

(a) Local ARRA bonds issued by a county, except a county wholly within a city, may be additionally secured by a pledge to the agency of its available county sales tax revenues subject to the provisions of subdivision five of this section.

(b) Local ARRA bonds issued by a city may be additionally secured by a pledge to the agency of its available city sales tax revenues or its available mortgage recording tax revenues, or both subject to the provisions of subdivision five of this section.

(c) Local ARRA bonds issued by a town may be additionally secured by a pledge to the agency of its available mortgage recording tax revenues subject to the provisions of subdivision five of this section.

(d) Local ARRA bonds issued by a village may be additionally secured by a pledge to the agency of its available mortgage recording tax revenues subject to the provisions of subdivision five of this section.

(3) (a) Nothing contained in this title shall limit the right and obligations of a municipality to comply with the provisions of any existing contract with or for the benefit of the holders of any of its other bonds, notes or other obligations.

(b) Nothing contained in this title shall be construed to limit the power of a municipality to determine, from time to time, within available funds for the municipality, the purposes for which expenditures are to be made by the municipality and the amounts of such expenditures.

(c) Nothing contained in this title shall alter, limit, modify or impair the right of any school district or of any city, town, or village within a county to receive from the county net collections, as authorized by section twelve hundred sixty-two of the tax law or other applicable provision of part four of article twenty-nine of the tax law or by an unconsolidated state law that notwithstands such provision of the tax law, from the county's sales and compensating use taxes imposed pursuant to the authority of subpart B of part one of article twenty-nine of the tax law. Further, nothing contained in this title shall alter, limit, modify or impair the right of any city or town within a county to receive from the county the net amount of mortgage recording tax revenues imposed by subdivision one of section two hundred fifty-three of the tax law, as authorized by subdivision three of section two hundred sixty-one of the tax law.

(d) The agency's recovery act bonds secured by payments of principal and interest due with respect to local ARRA bonds shall not be a debt of either the state or any municipality, and neither the state nor any municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency; and such recovery act bonds shall contain on the face thereof a statement to such effect.

(e) Subject to the provisions of any contract with holders of bonds, notes or other obligations, proceeds of recovery act bonds to be paid to a municipality to purchase its local ARRA bonds shall be paid to the municipality and shall not be commingled with any other money of the agency.

(f) Nothing contained in this title shall be construed to create a debt of the state within the meaning of any constitutional or statutory provisions. Any provision with respect to state aid shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the state beyond the moneys available for that purpose, and any payment to be made by the comptroller of state aid is subject to annual appropriation of state aid by the state legislature.

(g) Nothing contained in this title shall be deemed to restrict the right of the state to amend, repeal, modify, or otherwise alter any provision of law relating to state aid to municipalities. The agency shall include in any resolution, contract, or agreement with holders of its bonds, notes or other obligations a provision which states that no default occurs as a result of the state's exercising its right to amend, repeal, modify, or otherwise alter any provision of law relating to state aid to municipalities.

(4) (a) A municipality may covenant and agree that the municipality will not limit, alter or impair the rights hereby vested in the agency to fulfill the terms of any agreements made with holders of the agency's recovery act bonds, the proceeds of which were used to purchase the municipality's local ARRA bonds, such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds, until such bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. Nothing contained in this title shall be deemed to restrict any right of the municipality to amend, modify, repeal or otherwise alter any local laws, ordinances or resolutions imposing or relating to taxes or fees, or appropriations relating to such taxes or fees, or setting aside or allocating and applying, paying or using net collections pursuant to the authority of part four of article twenty-nine of the tax law or pursuant to the authority of any other provision of state law that notwithstands a provision of such part, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount as then projected by the municipality of (i) sales and compensating use taxes imposed by the municipality pursuant to the authority of subpart B of part one of article twenty-nine of the tax law (to the extent that the municipality is authorized to impose such taxes and is imposing them at the time it issues its local ARRA bonds); and (ii) all such net collections to be set aside or to be allocated and applied, paid or used by the municipality pursuant to the authority of part four of article twenty-nine of the tax law or pursuant to any other provision of state law that notwithstands a provision of such part four during each of the agency's fiscal years following the effective date of such amendment, modification or other alteration shall be not less than two hundred percent of maximum annual debt service on the municipality's local ARRA bonds then outstanding. Notwithstanding anything to the contrary in this section, a municipality that imposes sales and compensating use taxes at the time it issues local ARRA bonds further agrees that it shall continue to impose such taxes during the time such bonds are outstanding at the maximum rate authorized therefor, without regard to any additional rate, provided that any increase in the rate of such taxes to

satisfy this obligation shall comply with the applicable provisions of subpart B of part one of article twenty-nine of the tax law.

(b) Any such agreement with a municipality may be pledged by the agency to secure its recovery act bonds used to purchase local ARRA bonds issued by that municipality and may not be modified thereafter except as provided by the terms of the pledge or subsequent agreements with the holders of such recovery act bonds.

(c) The agency shall not include within any resolution, contract or agreement with holders of recovery act bonds any provision which provides that a default occurs as a result of a municipality exercising its right to amend, modify, repeal or otherwise alter such taxes, fees or appropriations or such net collections. Nothing in this title shall be deemed to obligate a municipality to make any payments or impose any taxes or set aside or allocate and apply, pay or use net collections pursuant to the authority of part four of article twenty-nine of the tax law or pursuant to the authority of an unconsolidated state law that notwithstands a provision of such part; except that a municipality shall impose taxes pursuant to the authority of subpart B of part one of article twenty-nine of the tax law at the maximum rate authorized therefor, without regard to any additional rate, provided that any increase in the rate of such taxes to satisfy this obligation shall comply with the applicable provisions of subpart B of part one of article twenty-nine of the tax law.

(5) (a) If a municipality fails to pay to the agency any principal or interest due on its local ARRA bonds secured by a pledge of its available local sales and use tax revenues or its available mortgage recording tax revenues, or both, as described in subdivision two of this section, the chairman of the agency shall notify the comptroller in writing that such municipality has failed to meet its obligations. Such notice shall set forth in detail the term, amount, interest rate, and payment schedule of the local ARRA bonds in default, and the exact amounts of principal and interest due from such municipality in default. The agency shall provide a copy of such notice to the chief fiscal officer of such municipality in default and, in the case of a default by a city, town, or village with respect to local ARRA bonds secured by mortgage recording tax revenues, also to the chief fiscal officer of the county in which the city, town, or village is located. The agency shall

provide such notice to the comptroller at least thirty days prior to the date that the comptroller is expected to withhold and pay over local sales and use tax revenues to the agency.

(b) Upon the comptroller receiving such complete, certified written notice from the agency, the comptroller shall, notwithstanding any provision of section twelve hundred sixty-one of the tax law to the contrary, pay to the agency, on or before the fifteenth day of each month, all or a portion of the local sales and use tax revenues due the municipality in default, until the amount certified in default has been extinguished. The comptroller shall make such payments to the agency only out of net collections not otherwise pledged, required to be intercepted or otherwise encumbered by provisions of law in effect immediately prior to the date the municipality's local ARRA bonds secured by a pledge authorized by this section shall have been issued.

(c) Upon receiving such complete, certified written notice from the agency, the chief fiscal officer of a county, notwithstanding the provisions of section two hundred sixty-one of the tax law, shall pay over to the comptroller, the net amount of mortgage recording tax revenues imposed by subdivision one of section two hundred fifty-three of the tax law due to the city, town, or village in default. The chief fiscal officer of the county shall continue to make those payments to the comptroller until the agency sends certified notice to the officer and to the comptroller that the city or town is no longer in default. The comptroller shall pay to the agency, on or before the fifteenth day of each month, all or a portion of the mortgage recording tax revenues received from the chief fiscal officer of the county, until the amount certified in default has been extinguished.

(d) Such payments by the comptroller to the agency shall be made on account of, and for the benefit of, the municipality in default. If so requested by the agency, as indicated in its certified notice to the comptroller, the comptroller shall make such payments to a trustee pursuant to an indenture for holders of the recovery act bonds issued by the agency that were used to purchase the municipality's local ARRA bonds in default. Such payments by the comptroller on behalf of such municipality shall be applied by the agency or, if paid directly to the trustee, by such trustee, to cure that municipality's default. To the extent the comptroller makes any such payment to the agency or to such a trustee, the municipality's default shall be cured.

(e) The comptroller shall not be responsible for any inaccuracy in the amount of such payments based upon the notice furnished by the agency. The comptroller shall not be required to make payments under this subdivision which are greater than the amounts of local sales and use tax revenues due the municipality, as certified to the comptroller by the commissioner of taxation and finance as provided in subdivision (c) of section twelve hundred sixty-one of the tax law (subject to the limitation in paragraph (b) of this subdivision), or which are greater than the amount of net mortgage recording tax revenues paid to the comptroller by the chief fiscal officer of the county. After the comptroller makes any payments of net collections required under this section, the comptroller shall pay any balance of net collections due such municipality to such municipality in the manner provided in subdivision (c) of section twelve hundred sixty-one of the tax law or other applicable law. The comptroller shall be required to make payments under this section for only so long as the municipality is in default as certified in the agency's notice to the comptroller.

(f) The authority in this section to withhold local sales and use tax revenues and mortgage recording tax revenues and pay them over to the agency shall be in addition to the state aid guaranty set forth in section twenty four hundred thirty-six of this title; and the agency may certify that either or both revenue sources may be withheld to the extent necessary to satisfy the municipality's unmet obligations to the agency.

(g) Any withholding of revenues pursuant to this subdivision or state aid pursuant to section twenty-four hundred thirty-six of this title with respect to local ARRA bonds shall be made in consultation with the director of the budget of the state; provided, however, such consultation shall not delay or otherwise adversely affect the agency's right to receive timely payment of such revenues and/or state aid.

(6) When used in this section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(a) "Sales and compensating use taxes" means taxes imposed by a county or city pursuant to the authority of subpart B of part one of article twenty-nine of the tax law.

(b) "Net collections" shall have the same meaning as in subdivision

(f) of section twelve hundred sixty-two of the tax law.

(c) "County sales tax revenues" means net collections set aside for county purposes pursuant to subdivision (a) of section twelve hundred sixty-two of the tax law or other applicable provision of part four of article twenty-nine of the tax law, from a county's sales and compensating use taxes.

(d) "City sales tax revenues" means net collections from a city's sales and compensating use taxes.

(e) "Municipality" means municipality as defined in paragraph one of section 2.00 of the local finance law.

(f) "Local sales and use tax revenues" means any of the tax revenues defined in paragraph (c) or (d) of this subdivision, or any combination of them, as the case may be.

(g) "Secure" means a pledge of sales and compensating use taxes or mortgage recording taxes for the purposes of default by a municipality as a result of a failure to pay debt service on its local ARRA bonds.

§ 2436-c. Local public safety communications bonds. (1) The agency may purchase local public safety communications bonds using the proceeds of public safety communication bonds, subject to the provisions of this section and to any other provision of law applicable to the municipality and bonds it issues, including any debt limitation applicable to the municipality that issued the local public safety communications bond, as well as to the other provisions of this title. To the extent that any such other provision of law conflicts with a provision of this section, the provision of this section shall control, except as otherwise stated.

(2) Local public safety communications bonds shall be payable from funds provided by a municipality for payment thereof as well as any monies available from special public safety communications agreements.

(3) The agency's public safety communications bonds secured by payments of principal and interest due with respect to local public safety communications bonds shall not be a debt of either the state or any municipality, and neither the state nor any municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency; and such local public safety communications bonds shall contain on the face thereof a statement to such effect.

(4) Subject to the provisions of any contract with holders of bonds, notes or other obligations, proceeds of public safety communications bonds to be paid to a municipality to purchase its local public safety communications bonds shall be paid to the municipality and shall not be commingled with any other money of the agency.

(5) Nothing contained in this title shall be construed to create a debt of the state within the meaning of any constitutional or statutory provisions.

(6) (a) A municipality may covenant and agree that the municipality will not limit, alter or impair the rights hereby vested in the agency to fulfill the terms of any agreements made with holders of the agency's public safety communications bonds, the proceeds of which were used to purchase the municipality's local public safety communications bonds, or in any way impair the rights and remedies of such holders or the security for such bonds, until such bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged.

(b) Any such agreement with a municipality may be pledged by the agency to secure its public safety communications bonds used to purchase local public safety communications bonds issued by that municipality and may not be modified thereafter except as provided by the terms of the pledge or subsequent agreements with the holders of such public safety communications bonds.

§ 2437. Bonds and notes of the agency. (1) Subject to the provisions of section two thousand four hundred thirty-eight of this title, the agency shall have the power and is hereby authorized from time to time to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts as, in the opinion of the agency, shall be necessary to provide sufficient funds for achieving the corporate purposes thereof, including the purchase of municipal bonds, the providing of certain amounts to special program municipalities from the proceeds of special program bonds, the providing of certain amounts to special school purpose municipalities from the proceeds of special school purpose bonds, the providing of certain amounts to a special school deficit program district from the proceeds of special school deficit program bonds, the payment of interest on bonds and notes of the agency, establishment of reserves to secure such bonds and notes, payment of letter of credit, bond insurance and other credit and liquidity support facility fees, premiums, reimbursements and expenses, fees and expenses of trustees and paying agents and other financing costs including any accrued costs payable to the New York state housing finance agency pursuant to any contract entered into under subdivision twelve of section two thousand four hundred thirty-four of this title and all other expenditures of the agency incident to and necessary or convenient to carry out its corporate purposes and powers, except the operating expenses of the agency.

(2) Except as may otherwise be expressly provided by the agency, all bonds and notes issued by the agency shall be general obligations of the agency, secured by the full faith and credit of the agency and may be payable out of any moneys, assets, or revenues of the agency, subject only to any agreements with holders of particular bonds or notes pledging any particular moneys, assets or revenues, all as may be designated in the proceedings of the agency under which the bonds or notes shall be authorized to be issued.

(3) Bonds and notes shall be authorized by a resolution or resolutions of the agency adopted as provided by this title; provided, however, that any such resolution authorizing the issuance of bonds or notes may delegate to an officer of the agency the power to issue such bonds or notes from time to time and to fix the details of any such issues of bonds or notes by an appropriate certificate of such authorized officer.

(4) Such bonds or notes shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, shall be of such denominations, shall be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places within or without the state, be subject to such terms of redemption prior to maturity and have such other terms as may be provided by such resolution or resolutions or such certificate with respect to such bonds or notes, as the case may be; provided, however, that the maximum maturity of bonds other than special program bonds, special school purpose bonds or

special school deficit program bonds shall not exceed forty years from the date thereof, the maximum maturity of special program bonds shall not exceed thirty years, the maximum maturity of special school purpose bonds shall not exceed twenty years, the maximum maturity of special school deficit program bonds shall not exceed ten years and the maximum maturity of notes or any renewals thereof shall not exceed five years from the date of the original issue of such notes.

(5) Any bonds or notes of the agency other than special program bonds, special school purpose bonds, special school deficit program bonds, recovery act bonds or public safety communications bonds shall be sold at public sale and from time to time upon such terms and at such prices as may be determined by the agency, and the agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. Any special program bonds, special school purpose bonds, special school deficit program bonds, recovery act bonds or public safety communications bonds shall be sold at public or private sale and from time to time upon such terms and at such prices as may be determined by the agency, and the agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof provided, however, that special program bonds relating to a special program agreement entered for the purpose described in paragraph (b) of subdivision one of section twenty-four hundred thirty-five-a of this title shall be sold on or before June thirtieth, two thousand one. No special program bonds, special school purpose bonds, special school deficit program bonds, or recovery act bonds, or public safety communications bonds of the agency may be sold by the agency at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

(6) The agency is authorized to provide for the issuance of its bonds or notes for the purpose of refunding any bonds or notes of the agency then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the redemption date next succeeding the date of delivery of such refunding bonds or notes. The proceeds of any such bonds or notes issued for the purpose of so

refunding outstanding bonds or notes, may, in the discretion of the agency, be applied to the purchase or retirement at maturity of such outstanding bonds or notes or the redemption of such outstanding bonds or notes on the redemption date next succeeding the date of delivery of such refunding bonds or notes, or both such purposes, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the agency. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of or guaranteed by the state or the United States of America, or in certificates of deposit or time deposits secured in such manner as the agency shall determine, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, on the outstanding bonds or notes to be so refunded by purchase, retirement at maturity or redemption, as the case may be. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds or notes to be so refunded by purchase, retirement at maturity or redemption, as the case may be. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, if any, earned or realized on the investments thereof may be returned to the agency for use by it in any lawful manner. All such bonds or notes shall be issued and secured and shall be subject to the provisions of this title in the same manner and to the same extent as any other bonds or notes authorized pursuant to this title.

(7) Whether or not the bonds and notes are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds and notes for registration.

(8) Subject only to the provisions of sections two thousand four hundred thirty-eight and two thousand four hundred thirty-nine of this title, any resolution or resolutions authorizing any bonds or notes of the agency may contain provisions which may be a part of the contract with the holders of such bonds or notes, as to: (a) pledging or creating a lien, to the extent provided by such resolution or resolutions, on all

or any part of any monies or assets of the agency or of any moneys held in trust or otherwise by others for the payment of such bonds or notes; (b) otherwise providing for the custody, collection, securing, investment and payment of any moneys of the agency; (c) the setting aside of reserves or sinking funds and the regulation or disposition thereof; (d) limitations on the purpose to which the proceeds of sale of any issue of such bonds or notes then or thereafter to be issued may be applied; (e) limitations on the issuance of additional bonds or notes, the terms upon which additional bonds or notes may be issued and secured, and upon the refunding of outstanding or other bonds or notes; (f) the procedure, if any, by which the terms of any contract with the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which such consent may be given; (g) the creation of special funds into which any moneys of the agency may be deposited; (h) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine, which may include any or all of the rights, powers and duties of the trustee appointed pursuant to section two thousand four hundred forty of this title, and limiting or abrogating the right of the holders of bonds or notes to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; (i) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the agency and providing for the rights and remedies of the holders of bonds or notes in the event of such default, providing, however, that such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this title; and (j) any other matters of like or different character, which in any way affect the security and protection of the bonds or notes and the rights of the holders thereof.

(9) Any resolution or resolutions or trust indenture or indentures under which bonds or notes of the agency are authorized to be issued may contain provisions for vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of any issue of notes or bonds pursuant to section two thousand four hundred forty of this title, in which event the provisions of said section two thousand four hundred forty

authorizing the appointment of a trustee by such holders of bonds or notes shall not apply.

(10) It is the intention of the legislature that any pledge of earnings, revenues, other moneys or assets made by the agency shall be valid and binding from the time when the pledge is made; that the earnings, revenues, other moneys or assets so pledged and thereafter received by the agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(11) Neither the members of the agency nor any person executing the bonds or other obligations shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

§ 2437-a. Tax lien collateralized securities. (1) The agency or its tax lien entity shall have the power and is hereby authorized from time to time to issue its tax lien collateralized securities in such principal amounts as, in the opinion of the agency, shall be necessary to provide sufficient funds for the purchase of tax liens, or the refunding of outstanding securities of the agency or its tax lien entity, establishment of reserves to secure such tax lien collateralized securities, payment of letter of credit, bond insurance and other credit and liquidity support facility fees, premiums, reimbursements and expenses, fees and expenses of trustees and paying agents and other financing costs including any accrued costs payable to the New York state housing finance agency pursuant to any contract entered into under subdivision twelve of section twenty-four hundred thirty-four of this title and all other expenditures of the agency or its tax lien entity incident to and necessary or convenient to the purchase of municipal tax liens.

(2) Except as may otherwise be expressly provided by the agency, all tax lien collateralized securities issued by the agency or its tax lien

entity shall be special limited obligations of the agency or its tax lien entity payable only upon the redemption of the tax liens purchased or the liquidation of the related real estate parcels and other collateral or credit enhancement agreements pledged to secure such obligations, subject to any agreements pledging any particular moneys, assets or revenues, all as may be designated in the proceedings of the agency under which said tax lien collateralized securities shall be authorized to be issued.

(3) Tax lien collateralized securities shall be authorized by a resolution or resolutions of the agency adopted as provided by this title; provided, however, that any such resolution authorizing the issuance of such securities may delegate to an officer of the agency the power to issue such securities from time to time and to fix the details of any such issues of tax lien collateralized securities by an appropriate certificate of such authorized officer.

(4) Tax lien collateralized securities shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, shall be of such denominations, shall be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places within or without the state, be subject to such terms of redemption prior to maturity and have such other terms as may be provided by such resolution or resolutions or such certificate with respect to such securities, as the case may be.

(5) Any tax lien collateralized security of the agency or its tax lien entity may be sold at public or private sale and from time to time upon such terms and at such prices as may be determined by the agency, and the agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof.

(6) Whether or not tax lien collateralized securities are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, tax lien collateralized securities are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the tax lien collateralized securities for registration.

(7) Any resolution or resolutions authorizing any tax lien

collateralized securities of the agency or of its tax lien entity may contain provisions which may be a part of the contract with the holders of securities, as to: (i) pledging or creating a lien, to the extent provided by such resolution or resolutions, on all or any part of any moneys or assets of the agency and its tax lien entity or of any moneys held in trust or otherwise by others for the payment of such securities; (ii) otherwise providing for the custody, collection, securing, investment and payment of any moneys of the agency; (iii) the setting aside of reserves or sinking funds and the regulation or disposition thereof; (iv) limitations on the purpose to which the proceeds of sale of any issue of securities then or thereafter to be issued may be applied; (v) limitations on the issuance of additional securities, the terms upon which additional securities may be issued and secured, and upon the refunding of outstanding or other securities; (vi) the procedure, if any, by which the terms of any contract with the holders of such securities may be amended or abrogated, the amount of such securities the holders of which must consent thereto and the manner in which such consent may be given; (vii) the creation of special funds into which any moneys of the agency may be deposited; (viii) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine; (ix) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the agency and providing for the rights and remedies of the holders of such securities in the event of such default, providing, however, that such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this title; and (x) any other matters of like or different character, which in any way affect the security and protection of the tax lien collateralized securities and the rights of the holders thereof.

(8) Any resolution or resolutions or trust indenture or indentures under which tax lien collateralized securities of the agency or its tax lien entity are authorized to be issued may contain provisions for vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine.

(9) It is the intention of the legislature that any pledge of tax liens, earnings, revenues, other moneys or assets made by the agency or its tax lien entity shall be valid and binding from the time when the

pledge is made; that the tax liens, earnings, revenues, other moneys or assets so pledged and thereafter received by the agency or its tax lien entity shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency or its tax lien entity irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(10) Neither the members of the agency nor any person executing the tax lien collateralized securities shall be liable personally on the tax lien collateralized securities or be subject to any personal liability or accountability by reason of the issuance thereof.

§ 2438. Bond authorization. (1) The agency shall not issue bonds and notes in an aggregate principal amount at any one time outstanding exceeding one billion dollars, excluding tax lien collateralized securities, special school purpose bonds, special school deficit program bonds, special program bonds issued to finance the reconstruction, rehabilitation or renovation of an educational facility pursuant to the provisions of subdivision (b) of section sixteen of chapter six hundred five of the laws of two thousand, special program bonds issued to finance the cost of a project for design, reconstruction or rehabilitation of a school building pursuant to the provisions of section fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, special program bonds issued to finance the cost of a project for design, construction, reconstruction or rehabilitation of a school building pursuant to the provisions of section thirteen of the Yonkers city school district joint schools construction and modernization act, recovery act bonds, public safety communications bonds and bonds and notes issued to refund outstanding bonds and notes.

(2) The agency shall not issue special school purpose bonds in an aggregate principal amount in excess of: for the city of New York, four hundred thirty-five million dollars; for the city of Buffalo, four million seven hundred thousand dollars; for the city of Rochester, five

million one hundred thousand dollars; for the city of Syracuse, eight hundred thousand dollars; and for the city of Yonkers, three hundred thousand dollars; or the amount of prior year claims that are due and payable to each such school district of each such special school purpose municipality pursuant to section thirty-six hundred four of the education law. Such amount shall exclude bonds issued to fund any debt service reserve fund, bonds issued to refund such special school purpose bonds, bonds issued to pay the costs of issuance of such special school purpose bonds and the amount of bonds that would constitute interest under the Internal Revenue Code of 1986, as amended. Notwithstanding any provision of law to the contrary, the special school purpose bonds issued for the city of New York shall be issued in such principal amount as will provide funds sufficient to pay interest on such bonds for a period of at least two years after the date of issuance thereof and such amount shall be excluded from the limitation contained in this subdivision.

(3) The agency shall not issue special school deficit program bonds (a) prior to the time the state comptroller determines the amount of the accumulated projected deficit of a special school deficit program district in its general fund at the close of its current fiscal year ending June thirtieth, two thousand two, including any budget notes and revenue anticipation notes which may be part of such deficit, as provided in a chapter of the laws of two thousand two, and (b) in aggregate principal amount in excess of the lesser of (i) the amount of such deficit as determined by the state comptroller or (ii) sixteen million five hundred thousand dollars, excluding bonds to fund any debt service reserve fund, bonds issued to refund special school deficit program bonds, bonds issued to pay the costs of issuance of such special school deficit program bonds and the amount of bonds that would constitute interest under the Internal Revenue Code of 1986, as amended.

(4) The fixing of the statutory maximum in this section shall not be construed as constituting a contract between the agency and the holders of its bonds or notes that additional bonds and notes may not be issued subsequently by the agency in the event that such statutory maximum shall subsequently be increased by law.

§ 2439. Reserve funds and appropriations. The agency shall create and establish one or more special funds to be known as debt service reserve funds and shall pay into such reserve funds (a) any moneys appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of bonds or notes, to the extent provided in the resolution of the agency authorizing the issuance thereof and (c) any other moneys which may be available to the agency for the purposes of such funds from any other source or sources. The moneys held in or credited to the debt service reserve fund established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of the bonds of the agency secured by such reserve fund, as the same mature, sinking fund payments, the purchase of such bonds of the agency, the payment of interest on such bonds of the agency, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity, provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the debt service reserve fund requirement, except for the purpose of paying principal and interest on the bonds of the agency secured by such reserve fund maturing and becoming due and any sinking fund payments and for the payment of which other moneys of the agency are not available. Moneys in any debt service reserve fund not required for immediate use or disbursement, at the discretion of the agency may be invested in any investments approved or authorized in accordance with the provisions of section ninety-eight of the state finance law. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par if purchased at par, or if purchased at other than par, at amortized value. The agency shall not issue bonds at any time if upon issuance, the amount in the debt service reserve fund securing such bonds will be less than the debt service reserve fund requirement, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such reserve fund, will be not less than the debt service reserve fund requirement.

Any excess in any debt service reserve fund at the close of any fiscal year of the agency over the debt service reserve fund requirement may be transferred to any other fund or account of the agency as the agency may determine.

§ 2440. Remedies of bondholders and noteholders. (1) In the event that the agency shall default in the payment of principal or of interest on any issue of bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the agency is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes then outstanding shall, in his or its own name.

(a) enforce all rights of the bondholders or noteholders, including the right to require the agency to collect interest and principal payments on the bonds held by it adequate to carry out any agreement as to, or pledge of, such interest and principal payments, and to require the agency to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this title:

(b) bring suit upon such bonds or notes:

(c) by action or suit, require the agency to account as if it were the trustee of an express trust for the holders of such bonds or notes:

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes:

(e) declare all such bonds or notes due and payable and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

(3) Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

(4) Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the agency and to the attorney general of the state.

(5) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action, or proceeding shall be laid in the county in which the principal office of the agency is located.

(6) The remedies granted by this section shall not apply to tax lien collateralized securities. The remedies available to the holders of such securities shall be expressly limited to those set forth in the contract with the owners of such securities.

§ 2441. State and municipalities not liable on bonds and notes. The bonds, notes, tax lien collateralized securities and other obligations of the agency and its tax lien entity shall not be a debt of the state of New York or of any municipality, and neither the state nor any municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency pledged therefor and such bonds, notes, tax lien collateralized securities and other obligations shall contain on the face thereof a statement to such effect.

§ 2442. Agreement of the state. (1) The state of New York does hereby pledge to and agree with the holders of any bonds, notes or tax lien collateralized securities issued under this title that the state will not limit or alter the rights hereby vested in the agency to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bond, notes or tax lien collateralized securities together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds, notes or tax lien collateralized securities. Nothing contained in this title shall be deemed to restrict any right of the state to amend, modify, repeal or otherwise alter (a) any provision of law relating to state aid, or (b) statutes imposing or relating to taxes or fees, or (c) appropriations relating thereto.

(2) The agency shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, modify, or repeal or otherwise alter (a) any provision of law relating to state aid; or (b) statutes imposing or relating to taxes or fees, or (c) appropriations relating thereto. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the agency.

§ 2443. Property and income. The property of the agency and its income and operations shall be exempt from taxation or assessments of every kind and nature, nor shall the agency be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

§ 2444. Exemption from taxation of bonds, notes and tax lien collateralized securities. It is hereby determined that the creation of the agency is in all respects for the benefit of the people of the state, for the improvement of their health and welfare, and for the promotion of the economy, and that said purposes are public purposes and the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state covenants with the purchasers and all subsequent holders and transferees of bonds, notes, and tax lien collateralized securities issued by the agency and its tax lien entity, in consideration of the acceptance of and payment for the bonds, notes, and tax lien collateralized securities that the bonds, notes and tax lien collateralized securities of the agency, and its tax lien entity, issued pursuant to this title and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such bonds, notes or tax lien collateralized securities shall at all times be free from taxation, except for estate or gift taxes and taxes on transfers.

§ 2445. Bonds and notes as legal investments for public officers and fiduciaries. The bonds and notes of the agency are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 2446. Moneys of the agency. (1) Subject to any agreement with bondholders or noteholders or except as otherwise authorized or provided in this act, all moneys of the agency from whatever source derived shall be paid to the comptroller of the agency and shall be invested in any investments approved or authorized in accordance with the provisions of section ninety-eight of the state finance law. The moneys in such accounts shall be paid by the comptroller or other agent duly designated by the agency on requisition of the chairman of the agency or of such other person or persons as the agency may authorize to make such requisitions. All deposits of such moneys, shall, if required by the agency, be secured by (i) obligations of the United States of America or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits or (ii) in such other manner as the agency may require. The obligations securing such deposits shall either be deposited with the comptroller of the agency or be held by a trustee or agent satisfactory to the agency. The comptroller or his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the agency, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

(2) The agency shall have power to contract with holders of any of its bonds or notes, as to the custody, collection, securing, investment, and payment of any moneys of the agency, of any moneys held in trust or otherwise for the payment of bonds or notes, and to carry out such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits.

(3) Subject to the provisions of any contract with bondholders or noteholders and to the approval of the comptroller, the agency shall prescribe a system of accounts.

(4) The agency shall submit to the governor, chairman of the senate finance committee, chairman of the assembly ways and means committee and the comptroller, within thirty days of the receipt thereof by the agency, a copy of the report of every external examination of the books and accounts of the agency other than copies of the reports of such examinations made by the comptroller.

§ 2447. Actions. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the agency or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice.

Except in an action for wrongful death, no action shall be commenced (a) prior to the expiration of thirty days from the date on which the demand, claim or claims upon which the action is founded were presented to a director of the agency or other officer thereof designated for such purpose nor (b) more than one year and ninety days after the cause of action therefor shall have accrued. An action against the agency for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 2448. Limitation of liability. Neither the members of the agency, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from carrying out any of the powers expressly given in this act.

§ 2449. Assistance by state officers, departments, boards and commissions. All officers, departments, boards, agencies, divisions and commissions of the state may render any services to the agency as are within the area of their respective governmental functions as fixed by law and as may be requested by the agency and shall comply promptly with any reasonable request by the agency as to the making of any study or review as to desirability, need, cost or expense with respect to any public project, purpose or improvement, or the financial feasibility thereof or the financial or fiscal responsibility or ability in connection therewith of any (a) municipality making application for loan to the agency and for the purchase by the agency of municipal bonds to be issued by that municipality, or (b) any special program municipality making application for the benefit of proceeds of special program bonds to be issued by the agency.

§ 2450. Annual report. The agency shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the comptroller and the director of the budget within six months after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the agency for its operating and capital outlay purposes, including a listing of all private consultants engaged by the agency on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including a schedule of the municipal bonds held and the status of reserve, special or other funds; and (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

§ 2451. Court proceedings; preferences; venue. Any action or proceeding to which the agency or the people of the state of New York may be parties, in which any question arises as to the validity of this act, shall be preferred over all other civil causes except election causes in all courts of the state of New York and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the agency in any action or proceeding questioning the validity of this title in which he may be allowed to intervene. The venue of any such action or proceeding shall be laid in the county in which the principal office of the agency is located.

§ 2452. Inconsistent provisions of other laws superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

§ 2453. Construction. This title, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes.

§ 2454. Separability. If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

* TITLE 19

NEW YORK STATE SPORTS AUTHORITY

* NB (Disbanded March, 1980)

*** § 2460. Short title.** This title may be cited as the New York state sports authority act.
* NB (Disbanded March, 1980)

*** § 2461. Legislative findings.** It is hereby found, determined and declared that there is an immediate need to promote the further development of recreational opportunities in the state by facilitating the acquisition, construction and rehabilitation of sports complexes, stadiums, arenas and related facilities for the holding of professional and amateur athletic events; to provide a means to attract and locate major professional team franchises in the state. It is further declared it is desirable that a state sports authority be created for the purpose of providing and maintaining such sports facilities and the creation and maintenance of facilities incidental or useful in the operation of sports facilities. It is hereby further declared that the corporate purposes and powers conferred under this title and the expenditure of public moneys pursuant thereto constitute a serving of a valid public purpose.
* NB (Disbanded March, 1980)

*** § 2462. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "state" shall mean the state of New York;

2. The term "authority" shall mean the corporate body created by section two thousand four hundred sixty-three of this title;

3. The terms "bonds and notes" shall mean the bonds and notes authorized in this title;

4. The term "participating municipality" shall mean any public benefit corporation, city, county, town, village or any combination thereof exercising its powers throughout the political subdivision in which a sports facility is or is proposed to be located, which submits a plan pursuant to the provisions of section twenty-four hundred sixty-five of this title or which joins in the submission of such plan with such a municipality or corporation;

5. The term "sports facility" shall mean a sports complex, stadium, or arena and other related facilities suitable for the holding of athletic or sporting events, including parking therefor;

6. The "comptroller" shall be the comptroller of the state;

7. The "commissioner of taxation and finance" shall be the commissioner of taxation and finance of the state;

8. The term "state aid" shall mean any moneys payable by the comptroller to any participating municipality pursuant to section fifty-four of the state finance law and section one hundred twelve of the highway law;

9. The term "amortized value" shall mean that for securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (a) in the case of securities

purchased at a premium, by deducting the product thus obtained from the purchase price, and (b) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.
* NB (Disbanded March, 1980)

*** § 2463. New York state sports authority.** 1. For the purpose of effectuating the policy declared in section twenty-four hundred sixty-one of this chapter, there is hereby created a corporate instrumentality of the state to be known as "New York state sports authority" in this title referred to as "the authority", which shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of five members to be appointed by the governor, by and with the advice and consent of the senate. Of the members first appointed, one shall serve for a term ending April first, nineteen hundred seventy-four; one of such members shall serve for a term ending one year from such date; one of such members shall serve for a term ending two years from such date; one of such members shall serve for a term ending three years from such date; and one of such members shall serve for a term ending four years from such date. Their successors shall serve for terms of five years each. Each member shall hold office until his successor has been appointed and qualified. The governor shall designate one of the members to be chairman who shall be the chief executive officer of the authority.

2. The chairman and the other members shall receive compensation within the amounts made available by appropriation therefor. Each member, including the chairman, shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

3. The chairman shall be the chief executive officer of the authority and shall be responsible for the discharge of the executive and administrative functions and powers of the authority, but he shall be empowered to delegate any one or more of such functions or powers, including, without limitations, that of appointment, discipline and removal of officers or employees, to one or more executive officers

appointed by the board.

4. The authority shall be a "state agency" for the purposes of sections seventy-three and seventy-four of the public officers law.

5. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any public corporation as defined in the general corporation law, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his acceptance of membership on or chairmanship of the authority; provided, however, a member or chairman who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

6. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any member shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

7. The authority shall continue so long as it shall have bonds or other obligations outstanding and until its existence shall be terminated by law. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the state.

* NB (Disbanded March, 1980)

*** § 2464. General powers of the authority.** Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To acquire, hold and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the appropriation of real property;

4. To acquire, in the name of the authority, by purchase or appropriation, real property or rights or easements therein necessary or convenient for its corporate purposes, and, except as may otherwise be provided herein, to use the same so long as its corporate existence shall continue;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

6. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ counsel, auditors, engineers, architects and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

7. To make contracts and leases, and to execute all instruments necessary or convenient;

8. To examine and approve all leases and agreements of a participating municipality, relating to the sports facility;

9. To acquire, construct, reconstruct, construct additions to, improve, maintain and operate sports facilities including, but not limited to, buildings, structures, parking and other facilities ancillary or appurtenant to such sports facilities as may be necessary or convenient until responsibility therefor may be transferred to the participating municipality;

10. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, public or private, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

11. To fix and collect any payments, fees and other charges for the use of the sports facility subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

12. To borrow money and issue negotiable bonds and notes or other obligations and to provide for and secure the payment thereof and to provide for the rights of the holders thereof;

13. To invest any funds held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, its agencies and instrumentalities, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) certificates of deposit of banks or trust companies in this state, secured, if the authority shall so require, by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and (d) as to the said reserve and sinking funds, other securities in which the trustee or trustees of any public retirement system or pension fund has the power to invest the moneys thereof pursuant to article four-a of the retirement and social security law, each such reserve and sinking fund being treated as a separate fund for the purposes of the said article four-a of the retirement and social security law;

14. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

15. To enter upon such lands, waters or premises as in the judgment of

the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

16. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

Notwithstanding the foregoing provisions of this section, no power granted under this title shall be exercised by the authority without the prior submission of a plan to it by a participating municipality in accordance with the provisions of section twenty-four hundred sixty-five hereof.

* NB (Disbanded March, 1980)

*** § 2465. Plans for sports facilities.** Any participating municipality may by resolution of its governing body or in the case of the city of New York, the board of estimate, prepare and submit a plan to the authority for the acquisition, construction, improvement or modernization of a sports facility. Such a plan may be jointly sponsored by any number of participating municipalities. After submission of a plan by one or more participating municipalities for a sports facility, the authority shall conduct a comprehensive evaluation study concerning the request, including but not limited to the amateur and professional team interest in the facility, potential local support, economic feasibility, the possibilities of multi-purpose use and the availability of land, transportation and ancillary facilities.

* NB (Disbanded March, 1980)

*** § 2466. The acquisition of real property.** 1. The authority may from time to time determine what real property is necessary for the construction, improvement and operation of a sports facility and for parking and access thereto. If funds are made available by the authority for payment of the cost and expense of the acquisition thereof, the commissioner of transportation when requested by the authority shall acquire such real property in the name of the state by appropriation, and, when necessary, remove the owner or occupant thereof and obtain possession for the authority according to the procedure provided by section three hundred forty-seven of the highway law. The authority shall have the right to possess and use for its corporate purposes so long as its corporate existence shall continue all such real property and rights in real property so acquired.

2. Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by the commissioner of transportation with the approval of the authority, or by the court of claims as provided in said section three hundred forty-seven of the highway law. When a claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before said court. All awards and judgments arising from such claims shall be paid out of moneys of the authority.

3. The authority may also, and in any case, acquire real property in the name of the authority by deed and may pay such price therefor as shall be agreed with the owner thereof.

4. A participating municipality may, by resolution of its governing body or in the case of the city of New York, the board of estimate, convey by deed, with or without consideration, to the authority for so long as its corporate existence shall continue, any lands owned by the municipality. In the event the authority shall determine the land is excess and is no longer required for authority purposes, it shall reconvey the property with any improvements thereon to the municipality.

5. After consultation with the participating municipality, the authority shall, in constructing, reconstructing, rehabilitating, altering or improving any project, comply with the requirements of local laws, ordinances, codes, charters or regulations applicable to such construction, reconstruction, rehabilitation, alteration or improvement, provided, however, that when, in the discretion of the authority, such

compliance is not feasible or practicable, the authority shall comply with the requirements of the state building code, formulated by the state building code council pursuant to article eighteen of the executive law, applicable to such construction, reconstruction, rehabilitation, alteration or improvement.

6. (a) All contracts for the construction, reconstruction, rehabilitation or improvement of buildings or structures let by the authority shall comply with the applicable provisions of section one hundred thirty-five of the state finance law. The authority in preparing separate specifications may provide for assignment of responsibility for coordination of any of the contracts for such work to a responsible person, firm or corporation.

(b) The authority shall not award any construction contract except to the lowest bidder who in its opinion is qualified to perform the work required and is responsible and reliable. The authority may, however, reject all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid if in its judgment the business and technical organization, plant, resources, financial standing or experience of the bidder, compared with the work to be performed, justifies such rejection.

(c) Any construction contract awarded by the authority shall contain such other terms and conditions, and such provisions for penalties, as the authority may deem desirable.

* NB (Disbanded March, 1980)

*** § 2467. Bond and note authorization.** 1. The authority shall have the power and is hereby authorized to issue from time to time its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts as the authority shall determine to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of all or any part of the cost of acquiring, constructing, reconstructing, constructing additions to, improving, maintaining and operating sport facilities, including but not limited to buildings, structures, parking and other facilities ancillary or appurtenant to such sports facilities, the payment of interest on bonds and notes of the authority, the establishment of reserves to secure such bonds and notes of the authority and the payment of all other expenditures, including operating expenses, of the authority incident to or necessary or convenient to carry out its corporate purposes and powers.

2. The authority shall have the power to issue from time to time (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and redemption premium, if any, and, whenever it deems refunding expedient, to refund any bonds of the authority then outstanding, whether the bonds to be refunded have or have not matured, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such bonds, by the issuance of new bonds, and, if deemed advisable by the authority, to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds. Pending such purchase, redemption or payment, such proceeds may be invested and reinvested in obligations of or guaranteed by the United States of America, or in obligations of agencies of the United States of America, secured in such manner as the authority shall determine, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, on the outstanding bonds to be refunded. The interest and earned increment, if any, resulting from any such investment, may also be applied to the purchase, redemption or payment of the outstanding bonds to be so refunded and any balance remaining upon completion of the purchase, redemption or payment of all such outstanding bonds shall be returned to the authority for use by it in any lawful manner.

3. No bonds or notes of the authority shall be issued if upon such issuance the aggregate principal amount of bonds and notes of the authority then outstanding exceeds three hundred fifty million dollars, provided that such statutory maximum principal amount shall not be construed as constituting a contract between the authority and the holders of its bonds or notes that additional bonds or notes may not be

issued subsequently by the authority in the event that such statutory maximum shall be increased subsequently by law and provided further that, in determining such aggregate principal amount there shall be deducted (i) all sums then available for the payment of such bonds or notes either at maturity or through the operation of a sinking fund; (ii) the aggregate principal amount of outstanding bonds issued (a) to refund notes and (b) to refund bonds theretofore issued and then outstanding; and (iii) the aggregate principal amount of outstanding notes issued to renew notes theretofore issued and then outstanding.

4. The issuance of bonds and notes by the authority shall be authorized by resolution or resolutions of the authority without further authorization or approval, which resolution or resolutions shall be a part of the contract with the holders of the bonds or notes thereby authorized and may contain provisions as to:

(a) pledging all or any part of the moneys, earnings, income and revenues derived from the project to secure the payment of the bonds or of any issue of the bonds, subject to such agreements with bondholders as may then exist;

(b) the payments, fees or other charges to be fixed, established and collected and the amounts to be raised in each year thereby, and the use and disposition of the moneys, earnings, income and other revenues;

(c) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a sports facility or sports facilities;

(e) limitations on the purposes to which and the manner in which the proceeds of sale of any bonds or any issue of bonds may be applied;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured; and the refunding of outstanding bonds or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any earnings or revenues of the authority may be deposited;

(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section twenty-four hundred seventy-five of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, powers and duties of such trustee;

(k) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the bondholders and providing the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this title;

(l) limitations on the power of the authority to sell or otherwise dispose of its properties;

(m) limitations on the amount of moneys derived from a sports facility or sports facilities to be expended for operating, administrative and other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of a sports facility or sports facilities and the safeguarding and application of all moneys;

(p) the payment of the proceeds of bonds and revenues of a sports facility or sports facilities to a trustee or other depositary, and for the method of disbursement thereof and such safeguards and restrictions as the authority may determine;

(q) any other matters, of like or different character which may in any way affect the security or protection of the bonds.

* NB (Disbanded March, 1980)

*** § 2468. Bonds and notes of the authority.** 1. All bonds and notes issued by the authority may be secured by the full faith and credit of the authority subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys of the authority, all as may be provided in the proceedings of the authority pursuant to which the bonds or notes shall be authorized to be issued.

2. Bonds and notes issued by the authority shall bear such date or dates and shall mature at such time or times as shall be provided by any such resolution of the authority, except that no note or any renewal thereof shall mature more than five years from the date of the original note and no bond shall mature more than forty years from the date of its issue.

3. Bonds may be issued in one or more series as serial bonds payable in annual installments or as term bonds or as a combination thereof. Bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form either payable to bearer with coupons or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as may be provided by any such resolution of the authority. Any signature, manual or facsimile, of an officer of the authority appearing on bonds or notes or coupons shall be valid and sufficient for all purposes whether or not such officer shall then be in office. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent.

4. The resolution authorizing the issuance of any bonds or notes may provide that such bonds and notes may be payable at such place or places, within or without the state, may bear interest at such rate or rates, may be payable at such time or times, may be in such form and evidenced in such manner, and may contain such other provisions not inconsistent herewith, including provisions as to reserve or sinking funds, security for the payment of bonds or notes, redemption or refunding of bonds or notes, events of default, remedies of bondholders or noteholders, appointment of trustees or fiscal agents, custody, collection, securing, investment and payment of any money of the authority and amendment or abrogation of such provisions, all as the

authority shall determine.

5. Any bonds or notes of the authority may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by the authority, and the authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. No bonds or notes of the authority may be sold at private sale, however, unless such sale and the terms thereof have been approved in writing by (i) the comptroller of the state of New York where such sale is not to such comptroller, or (ii) the state director of the budget where such sale is to such comptroller.

6. The authority may issue one or more series of bonds or notes whether in connection with or secured by the same or a different project or portion thereof except as may otherwise be provided in the proceedings under which such bonds or notes shall be authorized to be issued.

7. Neither the members, directors, officers or employees of the authority nor any person executing the bonds or notes of the authority shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

8. Issuance by the authority of one or more series of bonds or notes for one or more purposes shall not preclude it from issuing other bonds or notes in connection with the same sports facility or any other sports facility, but the proceedings whereunder any subsequent bonds or notes may be issued shall recognize and protect any prior pledge or lease made for any prior issue of bonds or notes unless in the proceedings authorizing such prior issue the right is reserved to issue subsequent bonds or notes on a parity with such prior issue.

9. All bonds or notes authorized under this section and the interest coupons applicable thereto are hereby made and shall be construed to be negotiable instruments.

10. The authority shall have power out of any funds available therefor to purchase (as distinguished from the power of redemption herein provided) any bonds or notes of the authority, and all bonds so purchased shall be cancelled.
* NB (Disbanded March, 1980)

*** § 2469. Security for bonds or notes; construction and acquisition of sports facilities.** 1. The principal of and interest on any bonds or notes issued by the authority may be secured by a pledge of any revenues and receipts of the authority and may be secured by a lease or other instrument covering all or any part of a sports facility, including any additions, improvements, extensions to or enlargements of any sports facilities thereafter made.

2. Bonds or notes issued for the acquisition, construction, reconstruction, construction of additions to, rehabilitation, or improvement of a sports facility may also be secured by an assignment of any lease of such sports facility and by an assignment of the revenues and receipts derived by the authority from any such lease.

3. Each pledge, agreement, mortgage or other instrument made for the benefit or security of any of the bonds or notes of the authority shall continue effective until the principal of and interest on the bonds or notes for the benefit of which the same were made shall have been fully paid, or until provisions shall have been made for such payment in the manner provided in the resolution or resolutions under which the same may be authorized.

4. The authority may provide in any proceedings under which bonds or notes may be authorized that any sports facility or part thereof may be constructed, reconstructed, rehabilitated or improved by the authority, or any participating municipality, and may also provide in such proceedings for the time and manner of and requisites for disbursements to be made for the cost of such construction, and for all such certificates and approvals of construction and disbursements as the authority shall deem necessary and provide for in such proceedings.

5. Any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

6. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition, construction, reconstruction, construction of additions to, improvement and maintenance and operation, repair and insurance of the sports facilities, and the custody, safeguarding and application of all moneys. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the project. If the bonds shall be secured by a trust indenture the bondholders shall have no authority to appoint a separate trustee to represent them.

* NB (Disbanded March, 1980)

*** § 2470. Resources of authority.** 1. The authority may receive, accept, invest, administer, expend and disburse for its corporate purposes appropriations from the capital construction fund and the state purposes fund of the state, payments made to it by participating municipalities, and other revenues and moneys made available or to be made available to it from any or all sources for the construction, acquisition, reconstruction, rehabilitation and improvement of sports facilities, including gifts, grants and loans from the federal government, any state agency, any county, city, town or village, any private foundation, organization or individual, or any other source.

2. All moneys of the authority, other than appropriations and except as otherwise authorized or provided herein, shall be paid to the commissioner of taxation and finance as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in two or more separate bank accounts, and one of such accounts, to which shall be credited all income from investments or other accounts and all other moneys received or to be received annually by the authority on a recurring basis, shall be denominated the "sports facilities income fund account". The moneys in such fund account shall be paid out on checks signed by the commissioner of taxation and finance on requisition of the chairman of the authority or such other officer or employee or officers or employees as the authority shall authorize to make such requisition. All deposits of such moneys shall, if required by the commissioner of taxation and finance or the authority, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

3. Any such moneys of the authority not required for immediate use may, at the discretion of the authority, be invested by the commissioner of taxation and finance in obligations of the United States or the state or obligations the principal and interest of which are guaranteed by the United States or the state.

4. The comptroller, or his legally authorized representative is hereby authorized and empowered from time to time to examine the books and accounts of the authority including its receipts, disbursements, contracts, reserve funds, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the

comptroller at least once in every five years; the comptroller is authorized, however, to accept from the authority, in lieu of such an examination, an external examination of its books and accounts made at the request of the authority.

* NB (Disbanded March, 1980)

*** § 2471. Lease agreements.** 1. Any agreement entered into between the authority and a participating municipality may provide for (i) the construction, acquisition, reconstruction, rehabilitation or improvement of one or more sports facilities, and (ii) the leasing thereof and of the land upon which the same is erected and upon completion of construction, acquisition, reconstruction, rehabilitation or improvement for a term not exceeding forty years and upon such terms and conditions including annual lease rental as may be agreed upon.

2. The participating municipality shall make payments to the authority subject to local appropriation therefor in accordance with the leasing agreement entered into pursuant to subdivision one of this section. The authority may pledge or assign any or all moneys in the sports facilities income fund account and in any rental reserve account established pursuant to section twenty-four hundred seventy-two of this title and any or all moneys which may be in either or both such accounts in the future, whether equal to or in excess of the amount of such payments due or becoming due in any year, and any or all right, title and interest of the authority in and to the moneys in or to be deposited in such fund accounts.

3. The attorney general shall pass upon the form and sufficiency and manner of execution of any lease agreement entered into pursuant to this section and the same shall not be effective unless so approved by him.

4. The state shall not be liable for any payments payable to the authority by a participating municipality pursuant to the terms of a lease agreement entered into pursuant to this section and such agreement shall contain among its terms a statement to such effect.

* NB (Disbanded March, 1980)

* **§ 2472. Reserve fund.** 1. The authority may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such reserve funds (a) any payments received from a participating municipality (b) any moneys appropriated and made available by the state for the purposes of such funds (c) any proceeds of sale of bonds and notes to the extent provided in the resolution of the authority authorizing the issuance thereof (d) any moneys directed to be transferred by the authority to such funds, and (e) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of and interest on bonds of the authority secured by such reserve fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in the then current or any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest on the bonds of the authority secured by such reserve fund maturing and becoming due and sinking fund payments for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the authority to the extent it does not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in the then current or any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all

or a portion of such reserve fund are invested shall be valued at par if purchased at par or, if purchased at other than par, at amortized value.

2. The authority shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in the then current or any succeeding calendar year on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the authority, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in the then current or any succeeding calendar year on the bonds then to be issued and on all other bonds of the authority then outstanding and secured by such reserve fund.

3. To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this act, provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in the then current or any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund.

4. Upon full amortization of any outstanding bonds issued for the acquisition, construction or rehabilitation of sports facilities, the authority is empowered to provide for the transfer or sale of such facilities to the participating municipality.

* NB (Disbanded March, 1980)

*** § 2473. State aid guarantee; withholding thereof.** 1. In the event that a participating municipality fails to make its required payment, in whole or in part, to the authority, the chairman of the authority shall certify to the comptroller that such municipality has failed to meet its obligations. Such certificate shall be in such form as the authority deems desirable, but shall include the exact amount of payment required to satisfy such municipality's obligation to the authority.

2. The comptroller, upon receipt of such certificate from the authority, shall withhold from the city, county, town or village or, in the event the participating municipality is a public benefit corporation from the city, county, town or village on whose behalf such corporation was created, state aid payable to such city, county, town or village to the extent necessary to meet the required amount of payments. The comptroller shall immediately pay over to the sports facilities income fund account the amount so withheld.

* NB (Disbanded March, 1980)

*** § 2474. Extraordinary conditions provision.** In the event that a participating municipality fails to make its required payment in whole or in part, to the authority because of extraordinary conditions beyond the control of the participating municipality as determined by the authority, the chairman of the authority shall certify such conditions to the comptroller. The comptroller upon receipt of such certification from the authority shall withhold state aid in the same manner as set forth in section twenty-four hundred seventy-three in an amount not to exceed eighty per centum of the total required payment minus the amount paid by the municipality. The comptroller shall immediately pay over to the sports facilities income fund account the amount so withheld. In such cases, the authority shall provide for the outstanding amounts so due in an appropriate and timely manner.

* NB (Disbanded March, 1980)

*** § 2475. Remedies of bondholders and noteholders.** 1. In the event that the authority shall default in the payment of principal or of interest on any issue of bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes then outstanding shall, in his or its own name:

(a) enforce all rights of the bondholders or noteholders, including the right to require the authority to collect interest and principal payments on the bonds held by it adequate to carry out any agreement as to, or pledge of, such interest and principal payments, and to require the authority to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this title.

(b) bring suit upon such bonds or notes.

(c) by action or suit, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes.

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes.

(e) declare all such bonds or notes due and payable and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the authority and to the attorney general of the state.

5. The supreme court shall have jurisdiction of any suit, action or

proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action, or proceeding shall be laid in the county in which the principal office of the authority is located.

* NB (Disbanded March, 1980)

*** § 2476. State and municipalities not liable on bonds and notes.** The bonds, notes and other obligations of the authority shall not be a debt of the state of New York or of any municipality, and neither the state nor any municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

* NB (Disbanded March, 1980)

*** § 2477. Agreement of the state.** The state of New York does hereby pledge to and agree with the holders of any bonds or notes issued under this title that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bonds or notes together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

* NB (Disbanded March, 1980)

*** § 2478. Property and income.** The property of the authority and its income and operations shall be exempt from taxation, assessments or service charges of every kind and nature, and the authority shall not be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

* NB (Disbanded March, 1980)

*** § 2479. Exemption from taxation of bonds and notes.** It is hereby determined that the creation of the authority is in all respects for the benefit of the people of the state, for the improvement of their health and welfare, and for the promotion of the economy, and that said purposes are public purposes and the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state covenants with the purchasers and all subsequent holders and transferees of bonds and notes issued by the authority, in consideration of the acceptance of and payment for the bonds and notes, that the bonds and notes of the authority, issued pursuant to this title and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation, except for estate or gift taxes and taxes on transfers.

* NB (Disbanded March, 1980)

*** § 2480. Bonds and notes as legal investments for public officers and fiduciaries.** The bonds and notes of the authority are hereby made securities in which all public officers and bodies of this state and all political subdivisions thereof, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all political subdivisions thereof for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB (Disbanded March, 1980)

*** § 2481. Actions.** In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice.

Except in an action for wrongful death, no action shall be commenced (a) prior to the expiration of thirty days from the date on which the demand, claim or claims upon which the action is founded were presented to a director of the authority or other officer thereof designated for such purpose nor (b) more than one year after the cause of action therefor shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

* NB (Disbanded March, 1980)

*** § 2482. Limitation of liability.** Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from carrying out any of the powers expressly given in this act.

* NB (Disbanded March, 1980)

*** § 2483. Assistance by state officers, departments, boards and commissions.** All officers, departments, boards, agencies, divisions and commissions of the state may render any services to the authority as are within the area of their respective governmental functions as fixed by law and as may be requested by the authority and shall comply promptly with any reasonable request by the authority as to the making of any study or review as to desirability, need, cost or expense with respect to any public project, purpose or improvement, or the financial feasibility thereof or the financial or fiscal responsibility or ability in connection therewith of any municipality making application for loan to the authority.

* NB (Disbanded March, 1980)

*** § 2484. Annual report.** The authority shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the comptroller and the director of the budget within six months after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the authority for its operating and capital outlay purposes, including a listing of all private consultants engaged by the authority on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including the status of reserve, special or other funds; and (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

* NB (Disbanded March, 1980)

*** § 2485. Court proceedings; preferences; venue.** Any action or proceeding to which the agency or the people of the state of New York may be parties, in which any question arises as to the validity of this act, shall be preferred over all other civil causes except election causes in all courts of the state of New York and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this title in which he may be allowed to intervene. The venue of any such action or proceeding shall be laid in the county in which the principal office of the authority is located.

* NB (Disbanded March, 1980)

*** § 2486. Inconsistent provisions of other laws superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

* NB (Disbanded March, 1980)

*** § 2487. Construction.** This title, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes.

* NB (Disbanded March, 1980)

*** § 2488. Separability.** If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

* NB (Disbanded March, 1980)

TITLE 21

SARATOGA SPRINGS CITY CENTER AUTHORITY

§ 2490-a. Short title. This title may be cited as the "Saratoga Springs city center authority".

§ 2490-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section twenty-four hundred ninety-c of this title;

2. The term "city" shall mean the city of Saratoga Springs, Saratoga county, New York;

3. The term "board" shall mean the members of the authority;

4. The term "mayor" shall mean the mayor of the city of Saratoga Springs;

5. The term "city council" shall mean the city council of the city of Saratoga Springs;

6. The term "bonds" shall mean the bonds and where applicable, the notes authorized in this title;

7. The term "real property" shall mean lands, including air and subsurface rights and lands under water, structures, franchises and interests in lands and any and all things usually included within the said terms, including not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases,

licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate;

8. The term "project" shall mean the Saratoga Springs city center to be constructed within the city for the purpose of providing convention or trade show facilities and shall include all real and personal property, driveways, roads, approaches, structures, parking lots, mechanical equipment and all appurtenances and facilities either on, above, or under the ground which are used or useable in connection with such city center.

§ 2490-c. Saratoga Springs city center authority. A board to be known as the Saratoga Springs city center authority is hereby created. The board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and six other members all of whom shall be appointed by the mayor with the consent of the city council. Initially, three members shall be appointed for six years; two members for five years; and two members for four years. At the expiration of such terms, the terms of office of their successors shall be six years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by expiration of term shall be filled for the unexpired term. The mayor, or his designated representative from the city council, shall serve as an ex officio, nonvoting member of the board while in office. The board may delegate to one or more of its members, or to its officers, agents and employees, such powers and duties as it may deem proper. Members of the board shall be entitled to no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the voting members of the board then in office. The authority, and its corporate existence, shall continue only for a period of fifty years, and thereafter, until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have been otherwise discharged, except that no additional liabilities may be incurred after the termination of its corporate existence. Upon its ceasing to exist, all its rights and property shall pass to the city.

§ 2490-d. Purposes and powers of the authority. The purposes of the authority shall be to construct, operate and maintain the project consisting of the Saratoga Springs city center authority and facilities in connection therewith. To carry out the purposes the authority shall have power:

1. To sue and be sued;

2. To acquire, hold and dispose of personal property for its corporate purposes;

3. To have a seal and alter the same at pleasure;

4. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the project;

5. With the consent of the city council, to use agents, employees and facilities of the city, paying to the city its agreed portion of the compensation or costs;

6. To appoint officers, agents and employees; and to describe their qualifications and fix their compensation; subject, however, to the provisions of the civil service law as hereinafter provided;

7. To make contracts and leases, and to execute all instruments necessary or convenient;

8. To construct such buildings, structures, parking and other facilities as may be necessary or convenient;

9. To reconstruct, improve, maintain and operate the project;

10. To collect rentals, fees and other charges for the use of the project subject to and in accordance with such agreements with bondholders as may be hereinafter provided;

11. To contract for the services of architects, engineers, lawyers, financial and other professional advisers and to fix their compensation;

12. To construct, operate and maintain the project; to contract for the construction, operation and maintenance of any part thereof, or for services to be performed in connection therewith; to rent part thereof, and to grant concessions, all on such terms and conditions as it may determine; provided, however, that the location of the site of the project and the plans thereof shall be subject to the prior approval of the city council.

§ 2490-e. Acquisition of land for the project. 1. The authority may acquire lands by purchase or condemnation for the project. It shall have the power to sell, lease or otherwise dispose of said real property and shall retain and have the power to use the proceeds of sale, rental or other moneys derived from the disposition thereof for its purposes.

2. Notwithstanding any law to the contrary the city may, by legal instrument authorized by a resolution, lease real property owned by the city to the authority, with or without consideration, for so long as the authority's existence shall continue.

3. Notwithstanding any other provision of law, the city may by legal instrument authorized pursuant to resolution, purchase, lease, license or otherwise acquire the project or any interest therein, including terms of years; and, by resolution, establish a capital reserve fund for the purpose of financing all or a part of the cost of such purchase, lease, license or other acquisition, including rent related to the acquisition of a leasehold interest in the project, and make

expenditures from such fund for such purposes.

§ 2490-f. Civil service status of employees. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city of Saratoga Springs civil service commission, and such employees shall be entitled to membership in the city pension and retirement system, and shall be entitled to the same rights and obligations thereunder as the employees of the city.

§ 2490-g. Contracts. The authority shall let contracts for construction and materials in the manner provided by law for contracts of the city.

§ 2490-h. Moneys of the authority. 1. All moneys of the authority shall be paid to the commissioner of finance of the city of Saratoga Springs as agent for the authority, who shall designate depositories and who shall not commingle such moneys with any other moneys. The moneys in such accounts shall be paid out on checks of the commissioner of finance on requisition of the chairman of the authority or of such other person or persons as the authority may authorize upon proper audit of the city.

2. At the end of every fiscal year, the authority shall pay all excess funds to the city for its use. The term excess funds shall mean authority moneys not required for the authority's budget in the next fiscal year. In addition, the authority, with the consent of the city council, can retain funds in a special capital account as a reserve fund for possible future capital projects such as major repairs, reconstruction or renovation of the civic center, additional equipment or replacement of existing fixtures and equipment. The size of the capital account shall be mutually agreed to by the authority and the city, and no funds shall be expended from the said capital account without the consent of the city council.

3. All deposits of such moneys shall, if required by the commissioner of finance, be secured by obligations of the United States or of the state of New York, of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for the deposits.

4. The city of Saratoga Springs commissioner of finance and his legally authorized representative are authorized and empowered from time to time to examine the accounts and books of the authority, including all receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

5. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds and the deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

§ 2490-i. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for its corporate purposes in the aggregate principal amount of not exceeding fifteen million dollars. The authority shall have power from time to time and whenever it deems refunding expedient to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. In computing the total amount of bonds of the authority, which may at any time be outstanding, the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

2. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates, mature at such time or times, except that notes and any renewals thereof shall mature within five years from the date of the original issuance and bonds and any renewals thereof shall mature within thirty years from the date of the original issuance. The bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine.

3. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) Pledging all or any part of the revenues, other moneys or property of the authority to secure the payment of the bonds, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source;

(b) The setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) Limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) The rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) Limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds, the holders of which must consent thereto and the manner in which such consent may be given;

(h) The creation of special funds into which any revenues or moneys may be deposited;

(i) The terms and provisions of any trust deed or indenture securing the bonds under which the bonds may be issued;

(j) Vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section twenty-four hundred ninety-j of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) Defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) Limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) Limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) The payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) Any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

4. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, consistent or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act (including refraining from doing any act) which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a plege or security interest is created nor any financing statement need be recorded or filed.

6. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

7. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding:

(a) If the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date;

(b) If the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

§ 2490-j. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (j) of subdivision three of section twenty-four hundred ninety-i of this title. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Saratoga and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding, shall in his or its own name:

(a) By action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates and charges adequate to carry out any agreement as to, or pledge of such rents, rates and charges and to require the authority to carry out any other agreements

with the holders of such bonds to perform its duties under this title;
(b) Bring an action or proceeding upon such bonds;
(c) By action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;
(d) By action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and
(e) Declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of Saratoga.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the project and subject to any pledge or agreement with holders of such bonds shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with

bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action, or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

7. The trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 2490-k. State, city and municipalities not liable on authority bonds. Neither the state, the city nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the city or any other municipality or public corporation, and such bonds shall contain on the face thereof a statement to such effect.

§ 2490-l. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other

obligations of this state is now or hereafter may be authorized.

§ 2490-m. Agreement with the state. The state hereby pledges to and agrees with the holders of any bonds issued by the authority pursuant to this title, that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of bondholders, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2490-n. Exemption from taxes, assessments and certain fees. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes. The authority shall be deemed a public authority for the purposes of section four hundred twelve of the real property tax law.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2490-o. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless:

(a) Notice of claim shall have been made and served upon the authority within the time limit by and in compliance with section fifty-e of the general municipal law;

(b) It shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused;

(c) The action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based; and

(d) An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority it shall

have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose concerning such account or claim and when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2490-p. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2490-q. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

* TITLE 25

NEW YORK CITY SPORTS AUTHORITY

*** § 2500. Short title.** This title may be cited as the "New York city sports authority act".

* NB (Discontinued-Board of Directors never appointed)

*** § 2501. Definitions.** As used or referred to in this title, unless a different meaning clearly appears from the context, the following terms shall mean and include:

1. "Amortized value". For securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (a) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (b) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

2. "Authority". The corporation created by section twenty-five hundred three of this title.

3. "Board of estimate". The board of estimate of the city of New York.

4. "Bonds". The bonds authorized by this title.

5. "City". The city of New York.

6. "City council". The city council of the city of New York.

7. "Comptroller". The comptroller of the city of New York.

8. "Corporation counsel". The corporation counsel of the city of New York.

9. "Governor". The governor of the state of New York.

10. "Mayor". The mayor of the city of New York.

11. "Notes". The notes authorized by the title.

12. "Real property". Lands, including air and subsurface rights and lands under water, structures, franchises and interests in lands and any and all things usually included within the said terms, including not only fees simple absolute but also any and all lesser interests, such as

easements, rights of way, uses, leases, licenses, and all other incorporeal heriditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate.

13. "Sports facility". Real property in the city of New York but not in the borough of Brooklyn used or to be used primarily for the conduct of sports events, including a sports complex, stadium or arena and other related facilities suitable for the holding of athletic or sports events, including parking therefor.

14. "State". The state of New York.
* NB (Discontinued-Board of Directors never appointed)

*** § 2502. Legislative findings and statement of purposes.** It is hereby found, determined and declared that the city has acquired certain large sports facilities located in the city, including Yankee stadium, Shea stadium, Randall's island stadium and Singer bowl and may contemplate the acquisition or construction of other sports facilities; that other sports facilities are maintained or will be constructed in the city by public or private corporations; that the maintenance and operation of such facilities in the most efficient and economical manner possible through the flexible and imaginative use of business and management skills, the coordination of their activities, the providing of amateur, professional and scholastic sports events, meetings, exhibitions, cultural events and other events of civic, community and general public interest in such facilities, the promotion of the city's competitive position in the field of sports in relation to other large cities, and the carrying out of these purposes and the functions, powers and duties provided in this act are essential for the health, welfare, recreation and prosperity of the people of the city and state, for the promotion of competitive sports for youth and the prevention of juvenile delinquency and for the improvement of trade and commerce in the city and the state.

It is hereby further found, determined and declared that at all levels of government--federal, state and local--experience has shown that when government operates in a field usually reserved for private enterprise, a public authority is a useful device to provide the creativity and independence which regular government agencies cannot offer and that therefore it is in the public interest to create such an authority and to vest such powers in the authority as are necessary or convenient to implement the foregoing purposes since neither unaided private enterprise nor government alone can adequately perform them; that the creation and operation of the authority, as hereafter provided, is in all respects for the benefit of the people of the city and the state, and is a governmental, state, city and public purpose; and that the exercise by such authority of the functions, powers, and duties as hereinafter provided, constitutes the performance of an essential public and governmental function.

* NB (Discontinued-Board of Directors never appointed)

*** § 2503. New York city sports authority.** 1. There is hereby created the New York city sports authority which shall be a corporate governmental agency, constituting a public benefit corporation. Upon submission of a plan pursuant to section twenty-four hundred sixty-five of the New York state sports authority act the authority shall qualify as a "participating municipality" within the meaning of and for the purposes of the New York state sports authority act. Its membership shall consist of sixteen members, who shall constitute the board of directors. Fifteen members shall be appointed by the governor, five of whom shall be designated by the mayor and five of whom shall be designated by the city council. The remaining member shall be chief executive officer of the authority. Such chief executive officer shall be chosen by the aforementioned fifteen members from persons other than themselves and shall serve at the pleasure of the board of directors with powers and duties as set forth in the by-laws of the authority. The members shall designate from among themselves the person who shall be chairman of the board of directors.

2. Members, except for the chief executive officers shall be appointed

for a term of six years from the effective dates of their appointments, provided, however, that six members first appointed by the governor shall each serve for a six year term, two of whom shall have been designated by the mayor and two of whom shall have been designated by the city council; six members first appointed by the governor shall each serve for a five year term, two of whom shall have been designated by the mayor and two of whom shall have been designated by the city council; and three members first appointed by the governor shall each serve for a four year term, one of whom shall have been designated by the mayor and one of whom shall have been designated by the city council. Each member shall continue to serve until the appointment and qualification of his successor. If at any time there is a vacancy in the membership of the authority by reason of death, resignation, disqualification or otherwise, such vacancy shall be filled for the unexpired term in the same manner as the original appointment.

3. A majority of the whole number of members then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the authority, the authority shall have power to act by a majority of the members present at any meeting at which a quorum is in attendance. No vote at such meeting shall be cast by proxy. The authority may delegate to one or more of its members, officers, agents and employees, such powers as the members may deem proper.

4. The members of the authority except for the president, acting in his capacity as chief executive officer of the authority, shall serve without salary, but each member shall be reimbursed for his actual and necessary expenses incurred in the performance of his official duties as a member of the authority. The members of the authority may engage in private employment or in a profession or business (if not otherwise prohibited from so doing by virtue of any other public office), subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The authority shall, for the purposes of such sections, be a "state agency" and the members thereof shall be "officers" of the agency for the purpose of said sections.

5. The members of the authority by a majority vote of the whole number of members then in office may remove any member for cause, provided that such member be first furnished with a written list of charges against him and given an opportunity to be heard, in person or by counsel, upon not less than ten days' notice.

6. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, any city, county, town or village, any other political or civil division of the state, any municipality, any governmental entity operating any public school or college, any school district or other public agency or instrumentality or unit of government which exercise governmental powers under the laws of the state, shall forfeit his office or employment by reason of his acceptance of appointment or service as a member, officer or agent of the authority; nor shall such service as such member, officer or agent of the authority be deemed incompatible or in conflict with such office or employment.

7. The authority shall continue until its liabilities have been met or otherwise discharged or provided for and until its existence shall have been terminated by law. Upon the termination of the existence of the authority, all of its rights and property shall pass to and be vested in the city.

8. On or before November fifteenth of each year, the authority shall submit to each member of the board of estimate and to the chairman of the finance committee of the city council, a financial statement for the preceding city fiscal year, a report of its activities during that year, and a report on its program for both the current and next succeeding city fiscal years.

* NB (Discontinued-Board of Directors never appointed)

*** § 2504. General powers of the authority.** In the exercise of the powers conferred and the performance of duties imposed upon the authority and subject to limitations contained elsewhere in this title, the authority shall have the following general powers:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To make and alter by-laws for the management and regulations of its affairs and subject to agreements with bondholders for the regulation of any sports facility;

4. To make and execute contracts and all other instruments, including leases, subleases and evidences of indebtedness necessary or convenient to accomplish its corporate purposes;

5. To prescribe a system of accounts for the authority;

6. To purchase, receive, take by gift, grant, devise, bequest or otherwise, lease, accept jurisdiction over or otherwise acquire, own, hold, manage, operate, improve, employ, use and otherwise deal in and with, real or personal property, necessary or convenient for its corporate purposes;

7. To sell or otherwise dispose of personal property held in its corporate name;

8. Subject to the approval of the mayor, to execute and deliver deeds for real property held in its corporate name and to transfer, lease, sublease or otherwise dispose of or make available real property upon such terms as shall be agreed upon;

9. To accept grants, loans, contributions, subsidies or other forms of financial assistance from the United States, the state or the city, or any agency or instrumentality thereof, and from any other source, and to use same or expend the proceeds thereof for its corporate purposes;

10. With the consent of the city to use agents, employees and facilities of the city, including the corporation counsel, paying to the

city its agreed proportion of the compensation or costs;

11. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the provisions of the civil service law, as hereinafter provided;

12. To engage the services of construction, engineering, architectural, legal, financial or other consultants surveyors and appraisors, necessary or convenient for its corporate purposes, on a contract basis or as employees, for professional service and technical assistance and advice;

13. To construct, reconstruct, improve, maintain, or operate or cause to be constructed, reconstructed, improved, maintained or operated such buildings, structures, parking and other facilities as may be necessary or convenient;

14. To fix and collect rents, rates, fees and other charges for service rendered by the authority or for the use of its property;

15. To procure such insurance as the authority deems necessary;

16. With the consent of the mayor to form or cause to be formed, subsidiary corporations pursuant to any general law of the state necessary or convenient for its corporate purposes;

17. To undertake planning, design and feasibility studies in accordance with the terms and conditions of any agreement with the city; or, subject to the approval of the mayor in accordance with the terms and conditions of any agreement to which the city is not a party;

18. To enter into agreements with the city and the state and the United States, or any agency or instrumentality thereof, individual, firm or corporation for any lawful purpose necessary or convenient for its corporate purposes; and

19. To do all things necessary or convenient for its corporate

purposes.
* NB (Discontinued-Board of Directors never appointed)

*** § 2505. Acquisition of real property for the authority and contracts with the city.** 1. The city may, by resolution of the board of estimate, or by deed authorized by such a resolution, convey for so long as the authority's corporate existence shall continue, lease for not more than ninety-nine years or grant other authorizations with or without consideration, to the authority for the use and occupancy of the authority or any subsidiary of the authority for its corporate purposes, real property then owned by the city and such conveyance, lease or authorization may reserve to the city such rights as may be agreed upon between the city and the authority.

2. The city may acquire real property in the name of the city for conveyance or lease to the authority pursuant to subdivision one of this section or for the management or operation thereof by the authority pursuant to subdivision four of this section or for the purpose of the widening of existing roads, streets, parkways, avenues or elevated highways connecting with such real property or for such purposes and partly for other city purposes by purchase or condemnation in the manner provided by law for the acquisition of real property by the city. The city shall have power to acquire by condemnation property already devoted to another public use. Such roads, streets, parkways, avenues and elevated highways connected with such real property shall be operated, maintained and reconstructed by the city, and except as agreed upon between the city and the authority, with the approval of the board of estimate, the city shall have exclusive jurisdiction over them.

2-a. Notwithstanding the provisions of any general, special or local law or charter, the city is hereby empowered to purchase or lease from the authority for a term not exceeding ninety-nine years a sports facility, or enter into any other agreement relating to a sports facility, upon such terms and conditions as may be agreed upon by the city and the authority.

3. Notwithstanding the provisions of section 107.00 of the local finance law, for the purpose of financing and paying for the cost of the acquisition of such property and the renovation thereof the city is hereby authorized and empowered, without providing from current funds any part of such costs or otherwise complying with the provisions of such section 107.00 but upon compliance with all other applicable provisions of the local finance law, to issue bonds and notes and to make expenditures from the proceeds of such bonds and notes or from any fund into which such proceeds are paid. Notwithstanding the provisions of section 11.00 of the local finance law, the period of probable usefulness for the effectuation of any of the objects or purposes in connection with the acquisition or renovation of such real property is hereby determined to be forty years. Nothing herein contained, however, shall prevent the application of the period of probable usefulness prescribed in any subdivision of said section 11.00 of the local finance law for any object or purpose constituting a separable part of such objects and purposes.

4. The city may enter into agreements with the authority for the management or operation in whole or in part of a sports facility owned or acquired by the city.

5. Subject to the approval of the board of estimate, the city may enter into agreements with the authority to pay for planning, design and feasiblity studies undertaken or caused to be undertaken by the authority.

6. Since the authority's continued discharge of its public and governmental purposes is of benefit to the city, the city shall pay, within the appropriations available therefor, if any, the expenses of the establishment and continued operation of the authority.

7. Notwithstanding any other provision of law, the city shall have the power to contract indebtedness and to issue its obligations pursuant to the local finance law for the purpose of financing any payment authorized to be made by the city pursuant to subdivisions four, five or six of this section. Any such payment shall constitute an object or

purpose for which the period of probable usefulness is hereby determined to be five years.

* NB (Discontinued-Board of Directors never appointed)

*** § 2506. Moneys of the authority.** 1. Subject to the provisions of this title, the members of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all monies for the authority from whatever sources derived.

2. The monies of the authority shall be paid to the comptroller as the agent of the authority, who shall designate depositories and who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such account or accounts shall be paid out on checks by the comptroller on requisitions of the chairman of the board of directors of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the comptroller in the manner provided by the New York city charter. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state or of the city of a market value equal at all times to the amount of the deposit, and all bank and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representative are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, investments and any other records and papers relating to its financial standing.

* NB (Discontinued-Board of Directors never appointed)

*** § 2507. Employees of the authority.** 1. Notwithstanding any inconsistent provision of this title, the appointment and promotion of all employees of and for the authority shall be made in accordance with the provisions of the civil service law under the rules of the city civil service commission. Such employees shall be under the jurisdiction of such city civil service commission and their compensation shall be fixed by the authority.

2. The city and the authority shall have the power to provide for the transfer to the authority of agents and employees and the use of the facilities of the city to enable the authority to fulfill its corporate purposes. Employees of the city to be transferred to the authority pursuant to this title shall be eligible for such transfer and appointment to offices and positions of the authority without further examination, and all such employees who have been appointed to positions in the city service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the authority as they had in city service. Employees who are members or beneficiaries of any existing pension or retirement system shall continue to have such rights, privileges, obligations or status with respect to such system or systems as are prescribed by law on the date this title takes effect, and all such employees who have been appointed to positions in city service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the authority as they had in city service.

* NB (Discontinued-Board of Directors never appointed)

*** § 2508. Contracts of the authority.** 1. All contracts for the construction, reconstruction, rehabilitation or improvement of buildings or structures shall be let in the manner provided by law for contracts of the city. The authority in preparing separate specifications may provide for assignment of responsibility for coordination of any of the contracts for such work to a responsible person, firm or corporation.

2. The authority shall not award any construction contract except to the lowest bidder who in its opinion is qualified to perform the work required and is responsible and reliable. The authority may, however, reject all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid if in its judgment the business and technical organization,

plan, resources, financial standing or experience of the bidder, compared with the work to be performed, justifies such rejection.

3. Any construction contract awarded by the authority shall contain such other terms and conditions, and such provisions for penalties, as the authority may deem desirable.

* NB (Discontinued-Board of Directors never appointed)

*** § 2508-a. Certain property acquired by authority.** In the event that the New York state sports authority upon full amortization of any outstanding bonds issued for the acquisition, construction or rehabilitation of a sports facility, transfers such sports facility to the authority pursuant to subdivision four of section twenty-four hundred seventy-two of this chapter, such sports facility shall pass to and be vested in the city.

* NB (Discontinued-Board of Directors never appointed)

*** § 2508-b. Payments to the city.** Notwithstanding any provision of law, the authority may with respect to any sports facility provide in any lease or sublease that rental payments to the authority made pursuant to such lease or sublease shall include an amount which the authority shall pay to the city which shall constitute a payment in lieu of taxes with respect to such sports facility.

* NB (Discontinued-Board of Directors never appointed)

*** § 2509. Bond and note authorization.** 1. The authority shall have the power and is hereby authorized to issue from time to time its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts as the authority shall determine to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of all or any part of the cost of acquiring, constructing, reconstructing, constructing additions to, improving, maintaining and operating sports facilities, including but not limited to buildings, structures, parking and other facilities for such sports facilities, the payment of interest on bonds and notes of the authority, the establishment of reserves to secure such bonds and notes of the authority and the payment of all other expenditures, including operating expenses, of the authority incident to or necessary or convenient to carry out its corporate purposes and powers.

2. The authority shall have the power to issue from time to time (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and redemption premium, if any, and, whenever it deems refunding expedient, to refund any bonds of the authority then outstanding, whether the bonds to be refunded have or have not matured, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such bonds, by the issuance of new bonds, and, if deemed advisable by the authority, to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds. Pending such purchase, redemption or payment, such proceeds may be invested and reinvested in obligations of or guaranteed by the United States of America, or in obligations of agencies of the United States of America, secured in such manner as the authority shall determine, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any on the outstanding bonds to be refunded. The interest and earned increment, if any, resulting from any such investment, may also be applied to the purchase, redemption or payment of the outstanding bonds to be so refunded and any balance remaining upon completion of the purchase, redemption or payment of all such outstanding bonds shall be returned to the authority for use by it in any lawful manner.

3. No bonds or notes of the authority shall be issued if upon such issuance the aggregate principal amount of bonds and notes of the authority then outstanding exceeds one hundred million dollars, provided that such statutory maximum principal amount shall not be construed as constituting a contract between the authority and the holders of its

bonds or notes that additional bonds or notes may not be issued subsequently by the authority in the event that such statutory maximum shall be increased subsequently by law and provided further that, in determining such aggregate principal amount there shall be deducted (i) all sums then available for the payment of such bonds or notes either at maturity or through the operation of a sinking fund; (ii) the aggregate principal amount of outstanding bonds issued (a) to refund notes and (b) to refund bonds theretofore issued and then outstanding; and (iii) the aggregate principal amount of outstanding notes issued to renew notes theretofore issued and then outstanding.

4. The issuance of bonds and notes by the authority shall be authorized by resolution or resolutions of the authority without further authorization or approval, which resolution or resolutions shall be a part of the contract with the holders of the bonds or notes thereby authorized and may contain provisions as to:

(a) pledging all or any part of the moneys, earnings, income and revenues derived from the project to secure the payment of the bonds or of any issue of the bonds, subject to such agreements with bondholders as may then exist;

(b) the payments, fees or other charges to be fixed, established and collected and the amounts to be raised in each year thereby, and the use and disposition of the moneys, earnings, income and other revenues;

(c) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of a sports facility or sports facilities;

(e) limitations on the purposes to which and the manner in which the proceeds of sale of any bonds or any issue of bonds may be applied;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured; and the refunding of outstanding bonds or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any earnings or revenues

of the authority may be deposited;
(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which the bonds may be issued;
(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section twenty-five hundred thirteen of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, powers and duties of such trustee;
(k) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the bondholders and providing the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this title;
(l) limitations on the power of the authority to sell or otherwise dispose of its properties;
(m) limitations on the amount of moneys derived from a sports facility or sports facilities to be expended for operating, administrative and other expenses of the authority;
(n) the protection and enforcement of the rights and remedies of the bondholders;
(o) the obligations of the authority in relation to a sports facility or sports facilities and the safeguarding and application of all moneys;
(p) the payment of the proceeds of bonds and revenue of a sports facility or sports facilities to a trustee or other depository, and for the method of disbursement thereof and such safeguards and restrictions as the authority may determine;
(q) any other matters of like or different character which may in any way affect the security or protection of the bonds.
* NB (Discontinued-Board of Directors never appointed)

*** § 2510. Bonds and notes of the authority.** 1. All bonds and notes issued by the authority may be secured by the full faith and credit of the authority subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys of the authority, all as may be provided in the proceedings of the authority pursuant to which the bonds or notes shall be authorized to be issued.

2. Bonds and notes issued by the authority shall bear such date or dates and shall mature at such time or times as shall be provided by any such resolution of the authority, except that no note or any renewal thereof shall mature more than five years from the date of the original note and no bond shall mature more than forty years from the date of its issue.

3. Bonds may be issued in one or more series as serial bonds payable in annual installments or as term bonds or as a combination thereof. Bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form either payable to bearer with coupons or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as may be provided by any such resolution of the authority. Any signature, manual or facsimile, of an officer of the authority appearing on bonds or notes or coupons shall be valid and sufficient for all purposes whether or not such officer shall then be in office. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent.

4. The resolution authorizing the issuance of any bonds or notes may provide that such bonds and notes may be payable at such place or places, within or without the state, may bear interest at such rate or rates, may be payable at such time or times, may be in such form and evidenced in such manner, and may contain such other provisions not inconsistent herewith, including provisions as to reserve or sinking funds, security for the payment of bonds or notes, redemption or refunding of bonds or notes, events of default, remedies of bondholders or noteholders, appointment of trustees or fiscal agents, custody, collection, securing, investment and payment of any money of the authority and amendment or abrogation of such provisions, all as the

authority shall determine.

5. Any bonds or notes of the authority may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by the authority, and the authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. No bonds or notes of the authority may be sold at private sale, however, unless such sale and the terms thereof have been approved in writing by (i) the comptroller where such sale is not to such comptroller, or (ii) the mayor where such sale is to such comptroller.

6. Neither the members, directors, officers or employees of the authority nor any person executing the bonds or notes of the authority shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

7. Issuance by the authority of one or more series of bonds or notes for one or more purposes shall not preclude it from issuing other bonds or notes in connection with the same sports facility or any other sports facility, but the proceedings whereunder any subsequent bonds or notes may be issued shall recognize and protect any prior pledge or lease, made for any prior issue of bonds or notes unless in the proceedings authorizing such prior issue the right is reserved to issue subsequent bonds or notes on a parity with such prior issue.

8. All bonds or notes authorized under this section and the interest coupons applicable thereto are hereby made and shall be construed to be negotiable instruments.

9. The authority shall have power out of any funds available therefor to purchase (as distinguished from the power of redemption herein provided) any bonds or notes of the authority, and all bonds so purchased shall be cancelled.

* NB (Discontinued-Board of Directors never appointed)

*** § 2511. Security for bonds or notes.** 1. The principal of and interest on any bonds or notes issued by the authority may be secured by a pledge of any revenues and receipts of the authority and may be secured by a lease or other instrument covering all or any part of a sports facility, including any additions, improvements, extensions to or enlargements of any sports facilities thereafter made.

2. Bonds or notes issued for a sports facility may also be secured by an assignment of any lease of such sports facility and by an assignment of the revenues and receipts derived by the authority from any such lease.

3. Each pledge, agreement, mortgage or other instrument made for the benefit or security of any of the bonds or notes of the authority shall continue effective until the principal of and interest on the bonds or notes for the benefit of which the same were made shall have been fully paid, or until provision shall have been made for such payment in the manner provided in the resolution or resolutions under which the same may be authorized.

4. The authority may provide in any proceedings under which bonds or notes may be authorized for the time and manner of and the requisites for disbursements to be made for the cost of a sports facility, and for all certificates and approvals of construction and disbursements as the authority shall deem necessary.

5. Any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

6. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company in the state of New York. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to any sports facility and the custody, safeguarding and application of all moneys. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of any such sports facility to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of any such sports facility. If the bonds shall be secured by a trust indenture the bondholders shall have no authority to appoint a separate trustee to represent them.

* NB (Discontinued-Board of Directors never appointed)

*** § 2512. Reserve fund.** The authority may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such reserve funds (a) any moneys appropriated and made available by the city for the purposes of such funds (b) any proceeds of sale of bonds and notes to the extent provided in the resolution of the authority authorizing the issuance thereof (c) any moneys directed to be transferred by the authority to such funds, and (d) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this section, except as hereinafter provided, shall be used solely for the payment of the principal of an interest on bonds of the authority secured by such reserve fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds of the authority or the payment or any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest on the bonds of the authority secured by such reserve fund maturing and becoming due and sinking fund payments for the payment of which other moneys of the authority are not available.

* NB (Discontinued-Board of Directors never appointed)

*** § 2513. Remedies of bondholders and noteholders.** 1. In the event that the authority shall default in the payment of principal or of interest on any issue of bonds or notes after the same shall become due, whether at maturty or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instuments filed in the office of the clerk of the county in which the principal office of the authority is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes then outstanding shall, in his or its own name:

(a) enforce all rights of the bondholders or noteholders, including the right to require the authority to collect interest and principal payments on the bonds held by it adequate to carry out any agreement as to, or pledge of, such interest and principal payments, and to require the authority to carry out any other agreements with the holder of such bonds or notes and to perform its duties under this title.

(b) bring suit upon such bonds or notes.

(c) by action or suit, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes.
(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes.
(e) declare all such bonds or notes due and payable and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the mayor, to the authority and to the comptroller.

5. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action, or proceeding shall be laid in the county of New York.
* NB (Discontinued-Board of Directors never appointed)

*** § 2514. State and city not liable on bonds and notes.** The bonds, notes and other obligations of the authority shall not be a debt of the state of New York or of the city or of any other municipality in the state, and neither the state nor any municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.
* NB (Discontinued-Board of Directors never appointed)

*** § 2515. Agreement of the state.** The state of New York does hereby pledge to and agree with the holders of any bonds or notes issued under this title that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bonds or notes together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

* NB (Discontinued-Board of Directors never appointed)

*** § 2516. Property and income.** The property of the authority and its income and operations shall be exempt from taxation, assessments or service charges of every kind and nature, and the authority shall not be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

* NB (Discontinued-Board of Directors never appointed)

*** § 2517. Exemption from taxation of bonds and notes.** It is hereby determined that the creation of the authority is in all respects for the benefit of the people of the state, for the improvement of their health and welfare, and for the promotion of the economy, and that said purposes are public purposes and the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state covenants with the purchasers and all subsequent holders and transferees of bonds and notes issued by the authority, in consideration of the acceptance of and payment for the bonds and notes, that the bonds and notes of the authority, issued pursuant to this title and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation, except for estate or gift taxes and taxes on transfers.

* NB (Discontinued-Board of Directors never appointed)

*** § 2518. Bonds and notes as legal investments.** The bonds and notes of the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardian executors, trustees and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

* NB (Discontinued-Board of Directors never appointed)

*** § 2519. Legal officer of the authority.** The Corporation Counsel shall be attorney and counsel of the authority and shall approve all legal documents as to form.

* NB (Discontinued-Board of Directors never appointed)

*** § 2520. Actions against authority.** 1. Except in an action for wrongful death, an action against the authority for personal injury, real or personal property damage or destruction or founded on tort shall not be commenced more than one year and ninety days after the cause of action thereof shall have accrued nor unless a notice of claim shall have been served on a member of the authority or officer or employee thereof designated by the authority for such purpose, within the time limited by, and in compliance with the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. The venue of every action, suit or special proceeding brought against the authority shall be laid in the county of New York.

3. No member, officer, employee or agent of the authority, while acting in the scope of his authority, shall be subject to any personal liability resulting from exercising or carrying out of any of the authority's purposes or powers.
* NB (Discontinued-Board of Directors never appointed)

*** § 2521. Applicability.** The authority shall not acquire, construct or operate any sports or other facility in the Borough of Brooklyn.
* NB (Discontinued-Board of Directors never appointed)

TITLE 26

NEW YORK CITY STABILIZATION RESERVE CORPORATION

§ 2530. Short title. This title may be cited as the "New York City Stabilization Reserve Corporation Act".

§ 2531. Definitions. For the purposes of this title:

1. "City" means the city of New York.

2. "Director of management and budget" means the director of management and budget of the city of New York.

3. "Corporation" means the New York city stabilization reserve corporation as created by this title.

4. "Mayor" means the mayor of the city of New York.

5. "Comptroller" means the comptroller of the city of New York.

6. "State" means the state of New York.

7. "Bonds" and "notes" means revenue bonds and notes respectively, issued by the corporation pursuant to this title.

8. "Revenues" means all aid, rents, fees, charges, payments and other income and receipts paid or payable to the corporation or a trustee for the account of the corporation, including any payment required to be made to the corporation by this title.

9. "Operating expenses" means all expenses incurred by the corporation in the administration of the corporation including but not limited to

salaries, administrative expenses, insurance premiums, auditing and legal expenses and fees and expenses incurred for professional consultants and fiduciaires.

10. "Capital reserve fund requirement" means as of any particular date of computation, an amount of money equal to the amount required, for the then current fiscal year of the corporation, to pay interest during such fiscal year on all bonds of the corporation outstanding on said date of computation, the principal amount of all bonds of the corporation outstanding on said date of computation which matures during such fiscal year and the amount of sinking fund payments payable during such fiscal year with respect to any bonds of the corporation outstanding on said date of computation.

11. "Sinking fund payment" means the amount of money specified in the resolution authorizing bonds as payable into a sinking fund during a particular fiscal year for the retirement of term bonds which mature after such fiscal year, but shall not include any amount payable by reason only of the maturity of the bond.

§ 2532. New York city stabilization reserve corporation. (a) There is hereby created the New York city stabilization reserve corporation. The corporation shall be a corporate governmental agency constituting a public benefit corporation. It shall have the powers and privileges of a corporation and all of its business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other personal property held under its corporate name.

(b) The corporation shall continue until all its liabilities have been met or otherwise discharged and until its existence shall have been terminated by law. Upon the termination of the existence of the corporation, all of its rights and property shall pass to and be vested in the city.

§ 2533. Legislative findings and declaration of purposes. The legislature hereby finds and declares that the city of New York is faced with a grave and unprecedented fiscal crisis which threatens the city's ability to provide essential services and thereby endangers the welfare of all the inhabitants of such city. This crisis has been caused by a heightened demand for such services at a time of a sharp increase in the cost thereof. Accordingly, the legislature hereby further finds and declares that it is necessary for a corporation to be created to assist such city to enable it to provide such essential services during the nineteen hundred seventy-three--nineteen hundred seventy-four and nineteen hundred seventy-four--nineteen hundred seventy-five fiscal years of such city on a sound financial basis.

§ 2534. Administration of the corporation. (1) The corporation shall be administered by three directors, one of whom shall be the director of management and budget. The remaining two directors shall be appointed by the mayor, no more than one of whom may be a city official. Directors who are not city officials shall serve for a term expiring at the end of the term actually served by the officer making the appointment and may be removed for cause by the mayor after hearing on ten days notice.

(2) The mayor shall designate a chairman and a vice-chairman from among the directors. The chairman shall preside over all meetings of the directors and shall have such other duties as the directors or the corporation may direct. The vice-chairman shall preside over all meetings of the directors in the absence of the chairman and shall have such other duties as the directors of the corporation may prescribe.

(3) The directors of the corporation shall serve without salary, but each director shall be reimbursed for actual and necessary expenses incurred in the performance of his official duties as a director of the corporation. The directors of the corporation may engage in private employment or in a profession or business (if not otherwise prohibited from so doing by virtue of any other public office), subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The corporation shall, for the purpose of such sections, be a "state agency" and the directors thereof shall be "officers" of the agency for the purpose of said sections.

(4) Notwithstanding any inconsistent provisions of law, general,

special or local, no officer or employee of the state of New York, any city, county, town or village, any other political or civil division of the state, any municipality, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit his office or employment by reason of his acceptance of appointment as a director, officer or agent of the corporation nor shall service as such director, officer or agent of the corporation be deemed incompatible or in conflict with such office or employment.

(5) A majority of the whole number of directors then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the corporation. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the corporation, the corporation shall have power to act by a majority of the directors present at any meeting at which a quorum is in attendance. The corporation may delegate to one or more of its directors, or officers, agents and employees, such powers and duties as the directors may deem proper.

(6) The corporation may appoint officers, employees and agents as it may require and prescribe their duties and fix their compensation.

(7) On or before November fifteenth of each year, the corporation shall submit a financial statement to the mayor, the state comptroller and the city comptroller, the state director of the budget and the city director of the budget, and to the city board of estimate and the city council.

§ 2535. General powers of the corporation. The corporation shall have the following powers in addition to those specially conferred elsewhere in this title: (1) to sue and be sued; (2) to have a seal and alter the same at pleasure; (3) to make and alter by-laws for its organization and internal management and, subject to agreements with noteholders or bondholders, to make rules and regulations governing the use of its property and facilities; (4) to make and execute contracts, leases, subleases and all other instruments or agreements necessary or convenient for the exercise of its powers and functions under this title; (5) to purchase real or personal property necessary and convenient for its corporate purposes; to execute and deliver deeds for real property held in its own name; and to sell or otherwise to dispose of such real or personal property that, in the judgment of the corporation, is no longer necessary for its corporate purposes; (6) to appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation; (7) to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement; (8) subject to other provisions of law, to transfer to the city such sums of money as are not required for other purposes; (9) to borrow money and to issue negotiable notes or bonds or other obligations and to fund or refund the same, and to provide for the rights of the holders of its obligations; (10) subject to the provisions of any contract with noteholders or bondholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the corporation, in obligations of the city, state or federal government, obligations the principal of and interest on which are guaranteed by the city, state or federal government, or obligations of agencies of the federal government which may, from time to time, be legally purchased by savings banks of the state as investments of funds belonging to them or in their control and which have been approved by the state comptroller or in secured time deposits or other interest bearing accounts secured by such obligations; (11) subject to the provisions of any contract with noteholders or bondholders, to purchase notes or bonds of the corporation; (12) to procure insurance against any loss in such amounts and from such insurers as it deems desirable; (13) to engage the services of consultants on a contract basis for rendering professional and technical assistance and advice; (14) to contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from any other source and to comply with the terms and conditions thereof; (15) as security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to pledge all or any part of its revenues; (16) to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title.

§ 2536. Notes and bonds of the corporation. 1. (a) The corporation shall have power and is hereby authorized from time to time to issue its negotiable notes and bonds in conformity with applicable provisions of the uniform commercial code in such principal amount, as the corporation shall determine to be necessary, to provide sufficient funds for achieving its corporate purposes, including the making of payments to the city, the payment of interest on notes and bonds of the corporation, the establishment of reserves to secure such notes and bonds, and the payment of all operating expenses of the corporation and all other expenditures of the corporation incidental to or necessary or convenient to carry out its corporate purposes and powers.

(b) The corporation shall have the power, from time to time, to issue (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its other corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(c) Except as may otherwise be expressly provided by the corporation, every issue of its notes and bonds shall be general obligations of the corporation payable out of any revenues of the corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

(d) The notes and bonds shall be authorized by resolution of the corporation, shall bear such date and shall mature at such time as such resolution may provide, except that no note or bond or the renewal or refunding thereof shall mature more than ten years from the date of the original issue of such note or bond. The bonds may be issued as serial bonds or as term bonds or as a combination thereof. Provision for the payment of principal of and interest on bonds shall be made in not more than ten approximately equal annual installments or in not more than twenty approximately equal semi-annual installments. The notes and bonds shall bear interest at such rate and shall be in such denomination, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place and be subject to such terms of redemption as such resolution may provide. The notes and bonds may be sold by the corporation at public or private sale, at such price as the corporation shall determine.

2. Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(b) pledging all or any part of the assets of the corporation to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(e) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;

(f) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) limitations on the amount of moneys to be expended by the corporation for operating expenses of the corporation;

(h) vesting in a trustee such property, rights, powers and duties in trust as the corporation may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this title or limiting the rights, powers and duties of such trustee;

(i) the acts or omissions to act which shall constitute a default in the obligations and duties of the corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in event of such default, including the right to appointment of a receiver; providing, however, that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this title;

(j) any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

3. Any pledge made by the corporation shall be valid and binding from the time when the pledge is made. The revenues or property so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed to protect such pledge except in the office of the corporation.

4. Neither the directors of the corporation nor any other person executing the notes or bonds of the corporation shall be subject to any personal liability or accountability by reason of the issuance thereof.

5. The corporation, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor, to purchase notes or bonds of the corporation, which shall thereupon be cancelled, at a price not exceeding:

(a) if the notes or bonds are then redeemable, the redemption price then applicable.

(b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds becme subject to redemption.

6. In the discretion of the directors of the corporation, the bonds

may be secured by a trust indenture by and between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its corporate powers and the custody, safeguarding and application of all moneys. The Corporation may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the corporation. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

7. Whether or not the notes and bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the notes and bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes and bonds for registration.

8. The corporation shall not issue any bonds or notes if such issue would bring the aggregate amount of indebtedness evidenced by bonds or notes of the corporation issued pursuant to this title to an amount exceeding five hundred twenty million dollars. In calculating the amount of indebtedness issued by the corporation pursuant to this title, there shall be excluded the amount of indebtedness to be refunded or renewed from the proceeds from the sale of, or to be exchanged for, new obligations.

§ 2537. Reserve fund and appropriations. 1. (a) The corporation shall create and establish a special fund (herein referred to as the capital reserve fund) on or before December first, nineteen hundred seventy-five and shall pay into such capital reserve fund (1) any monies appropriated and made available by the city for the purpose of such fund, (2) any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of the corporation authorizing the issuance thereof, and (3) any other monies which may be made available to the corporation for the purpose of such fund from any other source. All monies held in the capital reserve fund, except as hereinafter provided, shall be used as required solely for the payment of the principal of bonds as the same mature, sinking fund payments, the purchase or redemption of bonds, the payment of interest on bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that monies in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the capital reserve fund requirement, except for the purposes provided herein, for which other monies of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the corporation to other funds or accounts of the corporation to the extent it does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) In computing the amount of the capital reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par or if purchased at less than par at their cost to the corporation.

(c) To assure the continued operation and solvency of the corporation for the carrying out of its corporate purpose, provision is made in paragraph (a) of this subdivision for the accumulation in the capital reserve fund of an amount equal to the capital reserve fund requirement. In order further to assure such maintenance of the capital reserve fund, there shall be paid by the city to the corporation for deposit in the capital reserve fund on or before the first day of December, in each year, such amount, if any, needed for the purpose of maintaining the capital reserve fund at the capital reserve fund requirement as shall be certified by the chairman of the corporation to the mayor and the director of management and budget on or before the fifteenth day of February next preceding; provided that any such amount shall have been first appropriated by or on behalf of the city for such purpose or shall have been otherwise made available.

2. The corporation may create and establish such other fund or funds as may be necessary or desirable for its corporate purpose.

§ 2538. Payments to the city. (a) In the event that the mayor of such city certifies to the corporation an amount which is not in excess of one hundred fifty million dollars as the amount which is required by such city during the city fiscal year nineteen hundred seventy-three--nineteen hundred seventy-four to enable such city to provide essential services during such city fiscal year, the corporation may within the limitation of aggregate indebtedness set forth in section twenty-five hundred thirty-six of the title, issue its notes or bonds and deliver such amount to the comptroller of such city for deposit in the city's general fund.

(b) In the event that the mayor shall include in his proposed expense budget for the fiscal year nineteen hundred seventy-four--nineteen hundred seventy-five of such city an estimate of amounts payable from the corporation, the mayor shall, by July fifteenth of such fiscal year certify in writing to the corporation the amounts payable from the corporation which the city council deducted as part of the total amount of receipts as estimated by the mayor from the amount of the budget in fixing the tax rate pursuant to section fifteen hundred fifteen of the New York city charter. The amount as certified shall be the amount which is required by the city from the corporation. Upon receipt of such certification, the corporation may, within the limitation of aggregate indebtedness set forth in section twenty-five hundred thirty-six of this title, issue its notes or bonds in an amount adequate to provide the certified amount and shall promptly deliver such amount to the comptroller for deposit in the city's general fund. Such certification shall be deemed a finding by the mayor, city council and city board of estimate that the city is faced with a grave fiscal crisis warranting such financial assistance by the corporation.

§ 2539. Resources of the corporation. (a) Subject to the provisions of this title, the directors of the corporation shall receive, accept, invest, administer, expend and disburse for its corporate purposes all monies for the corporation from whatever sources derived including (1) payments by the city or by the state comptroller pursuant to the provisions of sections twenty-five hundred thirty-seven and twenty-five hundred forty of this title; and (2) any other payments, gifts, or appropriations to the fund from any other source.

(b) The monies of the corporation shall be paid to the comptroller as agent of the corporation who shall not commingle such monies with any other monies. Subject to the provisions of any contract with noteholders or bondholders, all corporation monies received by the corporation which, together with other monies of the corporation available for the operating expenses of the corporation including the payment of debt service and payments to the capital reserve fund, exceed the amount required for such purposes shall be transferred to the city on the fifteenth day of February.

(c) The monies in any of the corporation's accounts shall be paid out on checks signed by the comptroller on requisitions of the chairman of the directors of the corporation or of such other officer or employee as the directors shall authorize to make such requisition.

(d) The comptroller or his legally authorized representative, from time to time may examine the books and accounts of the corporation, including its receipts, disbursements, contracts, reserves, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller at least once every five years; in lieu of such an examination, the comptroller may accept from the corporation an external examination of the books and accounts made at the request of the directors of the corporation.

§ 2540. Payments to the corporation. (a) Since the corporation's continued discharge of its public and governmental purpose is of benefit to the city, the city shall pay, within the appropriations available therefor, the expenses of the establishment and continued operation of the corporation.

(b) In the event of the failure or inability of the city to pay over to the corporation, in full, on or before the first day of December, the amount required to be paid by section twenty-five hundred thirty-seven of this title, the chairman of the corporation shall forthwith certify to the state comptroller the amount remaining unpaid and thereupon the state comptroller shall pay such amount to the corporation out of the first monies available for the next succeeding payments to the city from the stock transfer tax fund established by section ninety-two-b of the state finance law.

(c) In the event that the amount paid by the comptroller pursuant to subdivision (b) of this section is inadequate to restore the capital reserve fund to the capital reserve fund requirement, the state comptroller shall pay to the corporation, out of the first monies available for the next succeeding payments of (i) state aid apportioned to the city of New York as per capita aid for the support of local government pursuant to section fifty-four of the state finance law or (ii) such other aid or assistance payable by the state to the city and not otherwise allocated as shall supersede or supplement such state per capita aid, including federal monies apportioned to the city by the state, such amount remaining unpaid, after giving written notice to the director of management and budget of each amount to be paid out of such aid, until the amount in the capital reserve fund is restored to the capital reserve fund requirement; except, however, that prior to any deductions from any such aid or assistance, state aid monies, if any, payable, pursuant to the provisions of any law the effective date of which is prior to the effective date of this title, to a public benefit corporation shall be paid in full to such corporation. Any amount so paid over to the corporation shall be deducted from the corresponding apportionment of such per capita state aid otherwise payable to the city of New York, and shall not obligate the state to make nor entitle the city to receive any additional apportionment or payment of per capita state aid.

§ 2541. Agreement with the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this title that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the said holders thereof, or in any way impair the rights and remedies of such holders until such notes and bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 2542. State and city not liable on notes and bonds. The notes, bonds or other obligations of the corporation shall not be a debt of either the state or the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the corporation; and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 2543. Remedies of noteholders and bondholders. 1. In the event that the corporation shall default in the payment of principal of or interest on or sinking fund payment on any issue of notes or bonds after the same shall become due, whether at maturity or upon call from redemption, or in the event that the corporation shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of New York and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the corporation to carry out any agreement with such holders and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

(c) by action or suit, require the corporation to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county of New York.

4. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the corporation, the mayor and to the attorney general of the state.

§ 2544. Notes and bonds as legal investments. The notes and bonds of the corporation are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The notes and bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corportions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 2545. Exemption from taxation. 1. It is hereby determined that the creation of the corporation and the carrying out of its corporate purpose is in all respects a public and governmental purpose for the benefit of the people of the state and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

2. The property of the corporation and its income and operations shall be exempt from taxation.

3. The notes and bonds of the corporation issued pursuant to this title and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other monies received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 2546. Employees of the corporation. 1. Notwithstanding any inconsistent provisions of this act, the appointment and promotion of all employees of and for the corporation shall be made in accordance with the provisions of the civil service law and shall be subject to the jurisdiction of the city civil service commission and the compensation for such employees shall be fixed by the corporation.

2. The city and the corporation shall have the power to provide for the transfer to the corporation of agents, employees and facilities of the city to enable the corporation to fulfill its corporate purposes. Employees of the city to be transferred to the corporation pursuant to this title shall be automatically appointed and transferred to the corporation in the same or equivalent classification and position they hold at the time of the transfer. The corporation, its officers and

employees, shall be subject to article fourteen of the civil service law and for all purposes the corporation shall be deemed "public employer", provided, however, that chapter fifty-four of the New York city charter and administrative code of the city of New York and executive orders number fifty-two, dated September twenty-ninth, nineteen hundred sixty-seven, as amended, promulgated by the mayor, shall apply in all respects to the corporation, its officers and employees except that paragraph seven and paragraph eight of said executive order shall not be applicable to the corporation, its officers and employees. Employees who are members or beneficiaries of any existing pension or retirement system shall continue to have such rights, privileges, obligations or status with respect to such system as are prescribed by law on the date this title takes effect, and all such employees who have been appointed to positions in city service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the corporation as they had in city service.

§ 2547. Actions against the corporation. (a) Except in an action for wrongful death, an action against the corporation for personal injury or property damage or founded on tort shall not be commenced more than one year and ninety days after the cause of action thereof shall have accrued nor unless a notice of claim shall have been served on a director of the corporation or officer or employee thereof designated by the corporation for such purpose, within the time limited by, and in compliance with the requirements of section fifty-e of the general municipal law. An action against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

(b) The venue of every action, suit or special proceeding brought against the corporation shall be laid in the county of New York.

(c) Neither any director of the corporation nor any officer, employee, or agent of the corporation, while acting within the scope of their authority, shall be subject to any personal liability resulting from exercising or carrying out of any of the corporation's purposes or powers.

§ 2548. Assistance to the corporation. With the consent of the city, the corporation may use agents, employees and facilities of the city, including the corporation counsel, paying to the city its agreed proportion of the compensation or costs.

§ 2549. Corporation counsel to be attorney. The corporation counsel of the city shall be attorney and counsel for the corporation, except with the approval of the corporation counsel the corporation may retain or employ such counsel as are necessary to carry on its corporate purposes.

§ 2550. Termination of authority and existence. At such time as notes and bonds of the corporation or notes and bonds of the municipal assistance corporation for the city of New York, or any combination thereof, are outstanding in the aggregate principal amount equal to five hundred twenty million dollars, the purposes for which the corporation was created shall have been satisfied and the corporation shall not be authorized to issue any notes or bonds that would cause such aggregate amount to be exceeded. If the corporation has no notes or bonds outstanding at such time as its authorization to issue notes or bonds terminates, the existence of the corporation shall terminate.

§ 2551. Bonds or notes legal investments for public authorities. Bonds and notes of the corporation are hereby declared to be legal investments for monies of public corporations of the state of New York and may be used to secure deposits of monies of such corporations in banks or trust companies authorized to do business in the state of New York.

TITLE 27

NEW YORK CONVENTION CENTER OPERATING CORPORATION

Section 2560. Definitions.

§ 2560. Definitions. The following terms, whenever used or referred to in this title, unless the context indicates otherwise, shall have the following meanings:

1. "Corporation." The New York convention center operating corporation.

2. "Convention center." The convention and exhibition center referred to in paragraph (l) of subdivision nine of section five hundred fifty-three of this chapter and any interest therein acquired by the corporation.

3. "State." The state of New York.

4. "City." The city of New York.

§ 2561. Legislative findings and declarations. It is hereby found and declared that existing facilities in the city for conventions, trade exhibitions and public shows including services for the operation and maintenance thereof are inadequate; that construction and operation of a convention center to adequately accommodate these activities would generate new business and employment opportunities, increase the number of public facilities, provide new sources of tax revenue and promote orderly redevelopment in the vicinity of the convention center, all of which would serve the interests of the city and state.

It is further found and declared that the area in New York county generally bounded by thirty-ninth street on the north, thirtieth street on the south, eleventh avenue on the east and twelfth avenue on the west is an area characterized by deteriorated industrial and commercial structures, uncoordinated and incompatible commercial uses, inadequate public facilities and unsanitary and substandard conditions, all of which are detrimental to the economic and social well-being of residents of the city and state and that the location and operation of a convention center in such area will serve as a catalyst for redevelopment and a rejuvenation of civic pride and accomplishment.

It is further found and declared that the convention center will provide significant economic and social benefits to the city, state and region, and that, consistent with social, economic, environmental and other essential considerations of state policy, locating the convention center in the area generally bounded by thirty-ninth street on the north, thirtieth street on the south, eleventh avenue on the east and twelfth avenue on the west is in the public interest, considering the convenience and accessibility of location, the elimination of unsanitary and substandard conditions, the nature and economic characteristics of various other sites considered and the immediacy of the needs of the people of the state for the realization of the significant economic and social benefits to be derived from the convention center.

Therefore, it is hereby found and declared that it is in the public interest to create a public benefit corporation for the purposes of operating and maintaining a convention and exhibition center and to vest such powers in such corporation as are necessary or convenient to effectuate these functions, and that the exercise of the rights and powers herein authorized shall serve a public purpose.

§ 2562. Creation of the corporation. 1. To effectuate the purposes and provisions of this title, there is hereby created the "New York convention center operating corporation", which shall be a body corporate and politic constituting a public benefit corporation. The corporation's board of directors shall consist of twenty-one persons to be appointed with the advice and consent of the senate, including fifteen persons appointed by the governor; two persons appointed by the temporary president of the senate; one person appointed by the minority leader of the senate; two persons appointed by the speaker of the assembly; and one person appointed by the minority leader of the assembly. Four of the members appointed by the governor shall be appointed on the written recommendation of the mayor of the city of New York. One of the directors shall be designated by the governor as chair of the board of directors to serve as such at the pleasure of the governor. Upon recommendation of the chair of the board of directors, the board of directors shall appoint an executive director of the corporation. Notwithstanding any general, special or local law concerning the holding of dual offices, an officer or employee of the state may be appointed as an officer or employee of the corporation, and officers and employees of the state may be appointed as members of the board of directors of the corporation, provided however, that the chair of the board of directors shall not be an officer or employee of the corporation, and the executive director of the corporation shall not be a member of the board of directors.

2. Directors of the corporation shall be appointed for a term of three years from the effective date of their appointments, provided, however, that two persons first appointed by the governor other than the chair shall have a two year term; three persons first appointed by the governor other than the chair shall have a one year term; the four persons appointed on the recommendation of the mayor of the city of New York shall have a term coterminous with the term of office of the mayor of the city of New York appointing them, one person first appointed by the temporary president of the senate shall have a two year term; the person first appointed by the minority leader of the senate shall have a one year term; one person first appointed by the speaker of the assembly shall have a two year term; and the person first appointed by the minority leader of the assembly shall have a one year term except for

those appointed on the recommendation of the mayor whose terms shall expire at the expiration of the term of the mayor appointing them. The terms of office of their successors shall be three years. All directors shall continue to hold office until their successors have been appointed and qualified. If at any time there is a vacancy in the membership of the board of directors by reason of death, resignation, disqualification or otherwise, such vacancy shall be filled for the unexpired term in the same manner as the original appointment.

3. A majority of the appointed voting membership of the board of directors shall constitute a quorum for the transaction of any business or the exercise of any power of the corporation. The powers of the corporation shall be exercised, or may be delegated to one or more directors, officers, agents or employees, by a majority of the appointed voting membership of the board of directors. No vote at such meeting shall be cast by proxy.

4. The directors, other than any officer of the corporation who also serves as a director, shall serve without a salary or other compensation, but each director shall be entitled to reimbursement for expenses incurred in the performance of official duties.

5. The governor may remove any member of the board for cause, provided that such member be first furnished with a list of charges against him and given an opportunity to be heard, in person or by counsel, upon not less than ten days' notice.

6. The fiscal year of the corporation shall end on the date on which the fiscal year of the state ends.

7. The existence of the corporation shall continue until terminated by law, provided, however, that no such law shall take effect so long as the corporation shall have obligations outstanding, unless adequate provision has been made for the payment thereof.

§ 2563. General powers of the corporation. In the exercise of the powers conferred and the performance of the duties imposed upon it by section twenty-five hundred sixty-four of this title, and subject to the limitations contained in other sections of this title, the corporation shall have the following general powers:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To make by-laws for the management and regulation of its affairs;

4. To make and execute contracts and all other instruments including leases and subleases necessary or convenient to accomplish its corporate purposes, including, without limitation, the operation and maintenance of the convention center;

5. To purchase, receive, take by gift, grant, devise, bequest or otherwise, lease or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property, or any interest therein, including air and subsurface rights and lands under water at the site of the convention center or in the general vicinity thereof;

6. To accept grants, loans, contributions, subsidies or other forms of financial assistance from the United States, the state and the city, or any agency or instrumentality thereof, and from any other source, including gifts or transfers by bequest or otherwise, and to use same or expend the proceeds thereof for its corporate purposes;

7. To invest any funds held in reserve or any moneys not required for immediate use or disbursement, at the discretion of the corporation, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in accordance with the provisions of section ninety-eight-a of the state finance law;

8. Subject to the approval of the director of the budget in such form

as he shall specify, to appoint such officers, agents and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties and compensation and to retain or employ other agents, including but not limited to architects, counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

9. With the consent of the state, to use the agents, employees and facilities of the state, paying to the state its agreed proportion of the compensation or costs;

10. To fix and collect rents, rates, fees and other charges for the use of the convention center;

11. To enter into agreements with the city and the state and the United States, or any agency or instrumentality thereof, individuals, firms or corporations for any lawful purposes necessary or desirable to effectuate the purposes of this title; and

12. To do all things necessary or convenient to carry out the purposes and provisions of this title.

13. (a) Notwithstanding paragraph three of subdivision b of section six hundred of the retirement and social security law and subdivision four of section two hundred one of the civil service law, or any other general, special or local law, the corporation may provide to persons in its employ any retirement benefits provided or required pursuant to any agreement with a labor union of which its employees are members, and the corporation is hereby authorized retroactively or in the future to make such contributions as may be necessary to provide such benefits, and any and all payments heretofore made by the corporation in compliance with any such agreement shall be and hereby are ratified and confirmed.

(b) Notwithstanding paragraph three of subdivision b of section six hundred of the retirement and social security law, persons in the employ of the corporation on whose behalf the corporation has made or shall make payments pursuant to paragraph (a) of this subdivision shall neither be required nor permitted to become members of the New York state and local employees' retirement system for so long as such payments continue; provided, however, that nothing in this paragraph shall be deemed to affect the rights and privileges of persons in the employ of the corporation who are enrolled members of the New York state and local employees' retirement system on the effective date of this subdivision, and further, that this paragraph shall not affect the membership of persons in the employ of the corporation who are enrolled members of the New York state and local employees' retirement system on the effective date of this subdivision.

§ 2564. Special powers and duties of the corporation. The corporation shall have the power and duty:

1. To maintain and operate the convention center including the expansion project; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine are fair and reasonable, subject, in the case of rentals and concessions other than for exhibition purposes, to the prior approval of the state comptroller;

2. To approve the plan and design of the convention center project as required by a chapter of the laws of nineteen hundred seventy-nine and the plan and design of the expansion project and any convention hotel financed by chapter three of the laws of two thousand four;

3. To transfer or otherwise make available to the subsidiary of New York state urban development corporation organized pursuant to said chapter of the laws of nineteen hundred seventy-nine, without consideration and when and as requested by said subsidiary, any or all rights, property and assets which shall have been transferred to the corporation pursuant to section twenty-two-a of chapter ten hundred eleven of the laws of nineteen hundred seventy-one as added by section eighteen of said chapter of the laws of nineteen hundred seventy-nine; and

4. To establish a subsidiary for the purposes of forming a pure captive insurance company as provided in section seven thousand two of

the insurance law. Prior to forming such captive insurance company, the corporation or its subsidiary shall complete a feasibility study including, but not limited to, an analysis of the actuarial risks and feasibility associated with the creation of the insurance captive, a measurement of value of such insurance captives relative to financing risk utilizing commercial insurance or self-financing, including in the aggregate and by respective insurance type, the advantages and disadvantages of potential insurance captive structures, and a domicile analysis. Such feasibility study shall be provided to the temporary president of the senate, the speaker of the assembly, and the governor upon completion, and shall be conducted by an independent risk consultant firm or captive insurance broker licensed by the state to perform such duties. Such related risk consultant firm, captive insurance broker, or any subsidiaries or affiliates thereof shall be prohibited from providing any management services for the captive insurance company for the corporation for no less than five years from the date of completing the study.

§ 2565. Cooperation by the state. For the purposes of assisting the corporation in effectuating the purposes and provisions of this title, with respect to the convention center, the state may, with or without consideration:

1. Acting by and through the commissioner of general services, dedicate, sell, convey, lease, grant or otherwise transfer any right, title and interest in any property, real or personal, to the corporation.

2. Enter into agreements with the corporation respecting action to be taken by the state to assist the corporation in carrying out and effectuating the purposes of this title.

3. Do all other things necessary or convenient to carry out the foregoing powers.

§ 2566. Appropriations. 1. To assure the continued operation and solvency of the corporation for the carrying out of the public purposes of this act, there may be, notwithstanding any provision of law to the contrary, annually apportioned and paid to the corporation such sum, if any, as shall be appropriated in the first instance by the state as necessary to enable the corporation to meet all items of expense, including proper maintenance of the convention center, that are approved by the director of the budget to be incurred by the corporation in the next succeeding state fiscal year. The chairman of the corporation shall annually, on or before September fifteenth, make and deliver to the governor and the director of the budget for their approval and for submission to the legislature a budget request for the operations of the corporation. The request shall delineate the total amount needed for corporate purposes, the source and amount of other funds that the corporation expects to receive, and such other information as the director of the budget shall require. The sum or sums appropriated in the first instance, or so much thereof as shall be necessary, shall be apportioned and paid to the corporation during the course of the fiscal year as needed.

2. Notwithstanding the provisions of any general or special law, no part of such appropriation shall be available for the purposes designated until a certificate of approval of availability shall have been issued by the director of the budget and a copy of such certificate filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such certificate may be amended from time to time, subject to the approval of the director of the budget, and a copy of each such amendment shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

3. The director of the budget shall not issue any certificate of approval of availability until the corporation has entered into a written agreement with the director of the budget providing for repayment by such corporation to the state of an amount equal to the total amount expended by the state from such appropriation, on terms to

be determined by the director of the budget, and a copy of such agreement shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Notwithstanding the provisions of section forty-a of the state finance law and any other general or special law, such written agreement shall require repayment only to the extent that moneys are available from the convention center operating corporation fund established in accordance with section twenty-five hundred sixty-nine of this title.

§ 2567. State not liable on obligations. The obligations of the corporation shall not be debts of the state, and the state shall not be liable thereon, and such obligations shall not be payable out of any funds other than those of the corporation.

§ 2568. Exemption from taxation. It is hereby found, determined and declared that the creation of the corporation and the carrying out of its purposes is in all respects for the benefit of the people of the state and is a public purpose, and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. The corporation and its operations, property and moneys shall be free and exempt from taxation of every kind by the city and the state and any subdivision thereof. Except as hereinabove provided and except as may otherwise specifically be provided, nothing contained in this title shall confer exemption from any tax, assessment or fee upon any person, firm, corporation or other entity, or upon the obligations of any of them.

§ 2569. Moneys of the corporation. All moneys of the corporation, from whatever source derived, shall be paid to the commissioner of taxation and finance as agent of the corporation, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account to be known as the "convention center operating corporation fund". The moneys in such fund shall be expended for payment of any and all costs and expenditures as required for the corporate purposes of the corporation and authorized by appropriation or required pursuant to repayment agreements required by section twenty-five hundred sixty-six of this title, provided that all expenditures from such fund shall be subject to the prior approval of the director of the budget. The moneys in such fund when made available shall be paid out on check of the commissioner of taxation and finance on requisition of the chairman of the corporation or of such other person or persons as the corporation may authorize to make such requisition. All deposits of such moneys shall, if required by the commissioner of taxation and finance or the corporation, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the corporation not required for immediate use or disbursement may, at the discretion of the corporation, be invested by the commissioner of taxation and finance in accordance with the provisions of section ninety-eight-a of the state finance law. The state comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the corporation, including its receipts, disbursements, contracts, leases, investments and any other records and papers relating to its financial standing.

§ 2570. Actions. A notice of claim, served in accordance with the provisions of section fifty-e of the general municipal law, shall be a condition precedent to the commencement of an action against the corporation, its directors, officers, employees or agents. No such action shall be commenced more than one year and ninety days after it has accrued, except that an action against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 2571. Limitation of liability; indemnification. 1. The directors and officers of the corporation, and any person acting in its behalf while acting within the scope of their authority, shall not be subject to any personal liability resulting from carrying out any of the powers given in this title.

2. The provisions of section seventeen of the public officers law shall apply to directors, officers, employees and agents of the corporation in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any obligations under or pursuant to the terms of this title.

§ 2572. Separability. If any section, clause or provision of this title or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, clause or provision of this title.

TITLE 27-A
GREATER ROCHESTER SPORTS AUTHORITY

§ 2576. Short title. This title may be cited as the "Greater Rochester sports authority act".

§ 2577. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context, the following terms shall mean and include:

1. "Authority". The corporation created by section two thousand five hundred seventy-eight of this title.

2. "City". The City of Rochester.

3. "Board". The members of the authority constituting and acting as the governing body of the authority.

4. "Bonds". The bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

5. "Construct", "construction" or "constructed". The acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a professional soccer stadium; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings,

specifications, procedures and other actions preliminary or incidental thereto.

6. "Cost". As applied to any project, means and includes the cost of construction, the cost of the acquisition of all property, including real property and other property, real, personal and mixed and improved and unimproved, the cost of demolishing, removing or relocating of any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of the professional soccer stadium, machinery, apparatus and equipment, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of other expenses necessary or incidental to the construction of any project or facility for the purposes of professional soccer and the financing of the construction thereof and the financing of the placing of any such project or such facility in operation, including reimbursement to the county or any municipality, state agency, the state, the United States government or any other person for expenditures that would be costs of a project hereunder had they been made directly by the authority.

7. "Controller". The controller of the county of Monroe.

8. "County". The county of Monroe.

9. "County legislature". The Monroe county legislature.

10. "Notes". The notes authorized by the title.

11. "Person". Any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

12. "Project". Any real property or improvements located within the state of New York and within Monroe county, whether or not now in existence or under construction, which shall be necessary or suitable for use as a sports facility or for a use incidental to a sports facility, including, but not limited to, machinery, equipment and other

facilities deemed necessary or desirable in connection therewith, or incidental thereto.

13. "Real property". Lands, including air and subsurface rights and lands under water, structures, franchises and interests in lands and any and all things usually included within the said terms, including not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate.

14. "Revenues". All fees, charges, tolls, rentals, rates and other income and receipts derived from the operation of any sports facility including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, and sale or other disposition of assets, together with all federal, state or municipal aid if any.

15. "Sports facility". Real property and improvements and structures thereon in the county, constituting a professional soccer stadium and other structures or related facilities, suitable for the holding of professional soccer events, including parking therefor.

16. "State". The state of New York.

17. "State agency". Any state office, public benefit corporation, department, board, commission, bureau, division or other agency or instrumentality of the state.

§ 2578. Greater Rochester sports authority. 1. There is hereby created the Greater Rochester sports authority. The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of three members. Two of such members shall be appointed by the county executive with the advice and consent of the county legislature and who shall serve at the pleasure of the county executive, and one of such members shall be appointed by the city mayor with the advice and consent of the city council, and shall serve at the pleasure of the city mayor.

2. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointments. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of a county. The members of the authority shall receive no compensation for their services but shall be reimbursed for all other actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the members of the authority at a meeting duly called and held and a majority of members shall constitute a quorum. Except as hereafter provided, no action shall be taken except pursuant to the affirmative vote of at least two voting members. The board shall appoint from its members a chairperson, vice-chairperson, and a treasurer and may delegate to one or more of its members, officers, agents or employees, such powers and duties as it may deem proper.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public corporation shall forfeit his or her office, or employment, by reason of his or her acceptance of appointment as a member, officer or employee of the authority, nor shall service as such member, officer or employee be deemed incompatible or in conflict with such office, membership or employment.

4. The authority shall be perpetual in duration, unless terminated by law. Provided, however that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of its rights and property shall pass to and be vested in such municipality or legal entity as provided in said law.

5. It is hereby determined and declared, that the authority and the carrying out of its powers and duties are in all respects for the benefit of the people of the county and the state for the improvement of their health, welfare and prosperity and that such purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

6. Nothing in this title shall be construed to obligate the state in any way in connection with the operation or obligations of the authority.

§ 2579. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To borrow money and issue bonds for any of its corporate powers, purposes or its projects, and to provide for the rights of the holders thereof;

4. To make bylaws and rules for the management and regulation of its affairs and for the regulation of any project and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title. A copy of such bylaws and rules, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county and shall be published thereafter once in each of two newspapers having a general circulation in the county;

5. To acquire by purchase, grant, lease, gift, or condemnation pursuant to the provisions of the eminent domain procedure law and at

the request of the municipality in which the real property is located, and to hold and use property necessary, convenient or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine;

6. To acquire, construct, reconstruct, lease, expand, improve, maintain, equip, furnish, and operate a project for purposes of professional soccer and, if necessary, to pay or finance the cost thereof, and provided, that any lease, management or operation agreement shall contain a condition that the lessee, manager or operator shall establish a summer soccer program for city youth;

7. To operate and maintain a facility for the purposes of minor league baseball, presently known as Frontier Field;

8. To apply for and to accept gifts, grants, loans, or contributions of funds or property or financial or other aid in any form, from, and enter into contracts or other transactions with, the federal government, the state, any municipality, any public corporation, or any other source, and to use any such gifts, grants, loans or contributions for any of its corporate purposes; provided that in any agreement selling the naming rights to a sports facility constructed for purposes of professional soccer, there shall be a provision requiring that the person purchasing such naming rights shall initiate a youth internship program for city high school students;

9. To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the authority may deem desirable;

10. To designate the depositories of its money;

11. To establish its fiscal year;

12. To enter into contracts, agreements and leases and to execute all instruments necessary or convenient to accomplishing its purposes as

described in this title;

13. To appoint such officers, employees and agents as the authority may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

14. With the consent of the county executive, to use employees, agents, consultants and facilities of the county paying its agreed proportion of the compensation or costs;

15. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

16. To enter upon such lands, waters or premises as in the judgment of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title;

17. To establish, fix, revise, charge, collect and enforce fees and charges for the use of such facilities so as to provide revenues which, together with other earnings of the sports facilities, if any, as the same shall become due, offset the expense of operating and maintaining the sports facility together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority;

18. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title; and

19. To insure or provide for the insurance of the authority's property or operations.

§ 2580. Acquisition of real property for the authority. 1. Notwithstanding the provisions of any general, special or local law or charter, the county is hereby empowered to purchase or lease from the authority for a term not exceeding ninety-nine years, a sports facility, or enter into any other agreement relating to a sports facility, upon such terms and conditions as may be agreed upon by the county and the authority.

2. The county may enter into agreements with the authority for the management or operation, in whole or in part, of a sports facility owned or acquired by the county.

3. The county may enter into agreements with the authority for the operation or maintenance, in whole or in part, of a facility for the purpose of minor league baseball, presently known as Frontier Field.

4. The county may enter into agreements with the authority to pay for planning, design and feasibility studies undertaken, or caused to be undertaken, by the authority.

5. Since the authority's continued discharge of its public and governmental purposes is of benefit to the county, the county may pay, within the appropriations available therefor, if any, the expenses of the establishment and continued operation of the authority.

6. Notwithstanding any other provision of law, the county shall have the power to contract indebtedness and to issue its obligations pursuant to the local finance law for the purpose of financing any payment authorized to be made pursuant to subdivision two, three, four or five of this section. Any such payment shall constitute an object or purpose for which the period of probable usefulness is hereby determined to be five years.

§ 2581. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the county, selected by the authority may, with the consent of the county executive, be transferred to the authority and shall be eligible for such transfer and appointment without further examination, to applicable offices, positions and employment under the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to such same collective bargaining unit if they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed to diminish (a) the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

3. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or system to be paid by the employer on account of such officers or employees shall be paid by the authority.

§ 2582. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other purpose under this title, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed thirty million dollars ($30,000,000), excluding bonds, notes or other obligations issued to refund or repay bonds, notes, or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than thirty million dollars ($30,000,000), only if the present value of the aggregate debt service of the refunding or repayment of bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes of this section, the present value of the aggregate debt service of the refunding or repayment of bonds, notes or other obligations and the aggregate debt service of the bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid shall be calculated by utilizing the effective interest rate of the refunding or repayment of bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment of bonds, notes or other obligations from payment of debts thereof to the date of issue of the refunding or repayment of bonds, notes or other obligations and to the price bid including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee or other subsidy with respect to any bonds.

2. The authority shall have the power from time to time to renew bonds or to issue renewal bonds for the purposes authorized under this title, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other purpose of the authority. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the governing body of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the service area of the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the governing body of the authority, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(d) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(f) The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(g) The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as follows:

(a) pledging all or any part of the revenues, other moneys or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have

power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provisions of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfect against all parties having claims of any kind in tort, contract or otherwise, against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds are of such form and character as to be securities under the terms of the uniform commercial code, the bonds are hereby made securities within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the members of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

12. The authority may request of the state an increase in the aggregate amount of bonds, notes or other obligations established in subdivision one of this section only upon a two-thirds majority vote of the board.

§ 2583. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the authority shall default in the payment of principal or of interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the Monroe county clerk and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding, shall in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be in the county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and operate, maintain and reconstruct such

part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2584. State and county not liable on authority bonds. Neither the state nor the county shall be liable on the bonds of the authority and such bonds shall not be a debt of the state nor the county and such bonds shall contain on the face thereof a statement to such effect.

§ 2585. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by such person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such moneys shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys, may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the controller, the authority shall prescribe a system of accounts.

§ 2586. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now, or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state are now or hereafter may be authorized.

§ 2587. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds. Nothing contained in this title shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter statutes imposing or relating to taxes or fees, or appropriations relating thereto. The authority shall not include within any resolution, contract or agreement with holders of the bonds issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter such taxes, fees, or appropriations. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 2588. Agreement with county. The county is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority, pursuant to the provisions of this title, that the county will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority.

§ 2589. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state of New York and are public purposes. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title. The property of the authority, its income and its operations shall be exempt from taxation, assessments, special assessments and ad valorem levies. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title, their transfer and the income therefrom shall, at all times, be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to pay or to secure the payment of such bonds shall at all times be exempt from taxation.

4. Notwithstanding any provision of this section, the authority shall

be required to pay water and sewer fees or charges imposed by any public corporation.

5. The foregoing shall not, however, limit the county from receiving rentals, fees or other consideration pursuant to agreements negotiated with the authority.

§ 2590. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers, or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by, and as an allegation in the complaint or moving papers, that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the

validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. The venue for all actions or proceedings against the authority of whatever nature shall be laid in supreme court for the county of Monroe.

§ 2591. Contracts. 1. Construction contracts let by the authority shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law.

2. The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. Any construction contract awarded by the authority shall contain such other terms and conditions as the authority may deem desirable. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid, if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

3. All contracts or leases for the construction, reconstruction, rehabilitation or improvement of buildings let by the authority shall comply with the provisions of section two hundred twenty of the labor law.

4. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

5. If after consideration, the authority determines acting within its discretion and proprietary capacity that given the purpose of any project and the impact of delay, the possibility of cost savings advantages, and the local history of labor unrest, if any, its interest in obtaining the best work at the lowest possible price and preventing favoritism, fraud and corruption are best met by requiring a project labor agreement as an incident of any contract let by the authority regarding any project, it may require such a project labor agreement.

§ 2592. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county legislature and the county executive.

§ 2593. Defense and indemnification. The authority shall not execute any of its powers, except as necessary to commence its corporate existence, until it has elected to make the provision of section eighteen of the public officers law applicable to its employees (as such term is defined in section eighteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the authority to extend the provisions of section eighteen of the public officers law upon any independent contractor.

§ 2594. Code of ethics. The authority shall be deemed a state agency for the purposes of section seventy-four of the public officers law.

§ 2595. Equal employment opportunity. The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination on any basis prohibited under subdivision two of section forty-c of the civil rights law.

§ 2596. Transfer of applications, proceedings, approvals and permits. 1. Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the county or by the county with the federal government, the department of environmental conservation, the department of transportation or any other public corporation shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application, review, process or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county to the authority unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits,

determinations, findings, awards and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using or occupying any facility financed in whole or in part by the authority.

§ 2597. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 2598. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county or city charter or any local law, charter, ordinance or resolution of any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

TITLE 28

NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

§ 2605. Short title. This title shall be known and may be cited as the "New York state olympic regional development authority act".

§ 2606. Legislative findings. It is hereby found, determined and declared that there is an immediate need to institute a comprehensive, coordinated program of activities utilizing the olympic facilities in and around Lake Placid, New York, in order to insure optimum year-round use and enjoyment of these facilities to the economic and social benefit of the olympic region and to minimize the financial burden on the state and local governments in the maintenance and operation of these facilities by means of maximizing revenue opportunities for their support; and to take advantage of the opportunity to improve the physical fitness and athletic and recreational education of the people of this state and the United States by assisting in the use and maintenance of these facilities. It is further declared to be desirable to create a state olympic regional development authority to operate, manage and maintain the olympic facilities, develop, implement and supervise the professional management necessary for such a comprehensive, coordinated program and for the management, promotion, scheduling and conduct of an integrated, year-round program and a wide range of national and international athletic training and competitive opportunities and other activities which can effectively utilize the available facilities. The authority shall carry out its purposes and responsibilities and utilize the facilities through agreements with state and local agencies which have jurisdiction over the various olympic facilities in the olympic region. It is further declared to be desirable that the authority develop, construct, operate, manage and maintain facilities, or participate therein, for the training and housing of amateur athletes in connection with the United States olympic committee's training center program and the authority's conduct of national and international sports events. It is further declared that the authority shall be created as a public benefit corporation and that the corporate programs and powers conferred under this title and the expenditures of public moneys pursuant thereto are in furtherance of serving a valid public interest and public purpose.

§ 2607. Definitions. The following terms, whenever used or referred to in this title, unless the context indicates otherwise, have the following meanings:

1. The term "olympic facility" shall mean any publicly owned, administered or supervised facility located in the olympic region and suitable for use in connection with athletic training, housing or competition, or with recreational or physical educational activities. The fact that any such facility is also suitable for other uses in addition to those specified shall not exclude such facility from the scope of this definition.

2. The term "authority" shall mean the New York state olympic regional development authority as created by section twenty-six hundred eight of this title.

3. The term "events" shall mean any organized athletic competition, organized athletic training, recreational activity, educational activity, entertainment activity or other activity suitable to be conducted in any olympic facility.

4. The term "park district" shall mean the town of North Elba, public parks and playgrounds district, a special district created by chapter four hundred seventy-seven of the laws of nineteen hundred twenty-eight.

5. The term "olympic region" shall mean the county of Essex, state of New York.

6. The term "participating olympic facility" shall mean any olympic facility subject to an agreement entered into by the authority pursuant to section twenty-six hundred twelve or twenty-six hundred fourteen of this title.

7. The term "state" shall mean the state of New York.

§ 2608. New York state olympic regional development authority. 1. For the purposes of effectuating the policy declared in section twenty-six hundred six of this title, there is hereby created the "New York state olympic regional development authority", referred to in this title as "the authority", which shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of twelve members who shall be the commissioner of environmental conservation, the commissioner of economic development, the commissioner of parks, recreation and historic preservation and nine persons to be appointed by the governor, by and with the advice and consent of the senate. Of the nine persons appointed by the governor, by and with the advice and consent of the senate, one each shall be appointed upon the recommendation of the temporary president of the senate and the speaker of the assembly. Three of the persons appointed by the governor, by and with the advice and consent of the senate shall be appointed upon the recommendation of the town board of the town of North Elba and shall be residents of the park district. Two persons shall be appointed by the governor, by and with the advice and consent of the senate, one of whom shall reside in Ulster county and the other of whom shall reside in Delaware county. One of the persons appointed by the governor, by and with the advice and consent of the senate, shall be a resident of Warren county. The governor shall appoint a chairperson, a vice-chairperson and a second vice-chairperson from among any of the members of the authority and such chairperson, vice-chairperson and second vice-chairperson shall serve at the pleasure of the governor, provided, however, that the vice-chairperson shall be appointed on the recommendation of the town board of North Elba; and the second vice-chairperson shall be appointed upon the recommendation of the town boards of the town of Shandaken in Ulster county and the town of Middletown in Delaware county; and must be a resident of Ulster or Delaware counties; with a majority vote of the combined two town boards determining who shall be recommended to the governor for appointment of that position. From among any candidates recommended by the chairman, the members shall appoint a president/chief executive officer of the authority.

The members first appointed by the governor shall be appointed within thirty days of the effective date of this title. The members appointed as a result of the enactment of the chapter of the laws of two thousand twelve which amended this section, consisting of the eleventh and twelfth board members, shall be appointed within ninety days of the effective date of such chapter. The first members appointed by the governor upon the recommendation of the temporary president of the senate and the speaker of the assembly shall serve terms of three years respectively from January first next succeeding their appointment. The remaining four members first appointed by the governor shall serve terms of one, two, four and five years respectively from January first next succeeding their appointment. The fifth member appointed by the governor shall serve a term of two years from January first, next succeeding his or her appointment. Each appointment of a member following the expiration of the original terms of the appointment shall be for a term of five years. The members appointed by the governor who are required to reside in either Delaware or Ulster counties shall be appointed for terms of four years. Members shall continue to hold office until their successors have been appointed and qualified. In the event of a vacancy occurring during the term of a member's appointment, by reason of death, resignation, disqualification or otherwise, such vacancy shall be filled for the unexpired term in the same manner as the original appointment.

2. The members of the authority shall not receive a salary or other compensation for their services as members of the authority but each member shall be allowed reimbursement for the necessary and actual expenses which he or she shall incur in the performance of his or her duties under this title.

3. The president/chief executive officer shall serve at the pleasure of the members and shall be responsible for the discharge of the executive and administrative functions and exercise of any power or function of the authority.

4. Seven members of the authority shall constitute a quorum for the transaction of any business or the exercise of any power or function of the authority. The authority may delegate to one or more of its members, officers, agents and employees, such powers and duties as it may deem proper. The commissioner of environmental conservation, the commissioner of economic development, the commissioner of parks and recreation and any other member of the authority who is a full time employee of the state or who holds public office may designate one person from his department or from the public corporation in which he holds a public office to represent him at all meetings of the authority from which such member may be absent. Any representative so designated shall have the power to attend and to vote at any meeting of the authority from which the member so designating him is absent, with the same force and effect as if the member designating him were present and voting. Such designation shall be by written notice filed with the chairman of the authority by the member making the designation and shall be for a term of one year or until such representative shall resign or shall no longer be employed by the department of which such member making the designation is an employee or by the public corporation of which such member making the designation holds a public office or until revoked by the person making such designation. Such designation shall not limit the

power of the member making the designation to attend and vote in person at any meeting of the authority.

5. The authority shall be a "state agency" for the purposes of sections seventy-three and seventy-four of the public officers law.

6. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, as defined in the public officers law, or of the park district shall be deemed to have forfeited or shall forfeit his office of employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his acceptance of membership on or chairmanship of the authority; provided, however, a member or chairman who holds such other public office of employment shall receive no additional compensation for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

7. The governor may remove any member of the authority for cause, other than the commissioner of environmental conservation, the commissioner of economic development and the commissioner of parks and recreation, after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any member shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

8. The principal office of the authority shall be located in the town of North Elba and the authority shall establish a second office at the Belleayre Mountain ski center.

9. Nothing shall preclude the use of meetings and votes by video conference or other conferencing which permits conferees to see the other members during board meetings through television or the internet.

§ 2609. Community advisory panel. 1. Within ninety days following the appointment of the members of the authority, the members shall appoint an advisory panel to act as consultants to the authority for the purpose of advising and assisting the authority in procuring international and national athletic sporting events and competition.

2. The advisory panel shall consist of nineteen persons, ten of whom shall be appointed upon the recommendation of the North Elba sports council, a council created by the park district, two of whom shall be appointed upon the recommendation of the legislature of the county of Delaware and two of whom shall be appointed upon the recommendation of the legislature of the county of Ulster. Such ten members of the panel shall have knowledge of athletic competition and winter and summer sports and recreation events and activities. The members of the panel shall serve for a period of two years. In the event of a vacancy occurring during a panel member's appointment, by reason of death, resignation, disqualification or otherwise, such vacancy shall be filled for the unexpired term in the same manner as the original appointment.

3. The members of the panel shall serve without compensation, except that each member of the panel shall be allowed the necessary and actual expenses which he shall incur in the performance of his duties within the state under this title.

§ 2610. Review of and recommendation on continuation of the authority. 1. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have any outstanding obligations, unless adequate provision has been made for the satisfaction thereof.

2. The authority shall submit on August fifteenth, nineteen hundred ninety, a report to the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee and the park district detailing the accomplishments of the authority since its creation and making recommendations concerning its continuation.

3. The comptroller may conduct periodic financial audits of the authority and report on August fifteenth, nineteen hundred ninety, to the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee and the park district on the appropriateness of the financial practices of the authority.

4. The director of the budget is hereby directed to conduct a survey of the management and operating practices of the authority and report on August fifteenth, nineteen hundred ninety, to the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee and the park district on the appropriateness of the management and operating practices of the authority. The director of the budget shall include in such report his recommendations of whether the authority shall be terminated or whether it shall be changed in any manner, and if the director of the budget shall recommend that the authority be terminated, he shall recommend what functions shall be eliminated and what functions shall be continued by another authority or agency.

5. In the event of termination of the existence of the authority, all of its rights and properties shall pass to and be vested in the state, except the personal property and any replacements and/or substitutions therefor, used solely in connection with a participating olympic facility which is administered, owned or supervised by the park district shall pass to and be vested in the park district. All property which passes to the state or the park district on termination of the authority shall be accepted by the state or the park district, as the case may be, in its condition at the time of such termination.

§ 2611. Powers of the authority. Except as otherwise may be limited by this title, the authority shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To acquire, lease, hold and dispose of real and personal property or any interest therein for its corporate purposes;

4. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title. Such rules and regulations must be filed with the secretary of state and the town clerk of North Elba and the town clerks of the towns of Johnsburg, Shandaken and Middletown;

5. To enter into contracts for employment of such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties and compensation and to retain or employ such personnel as may be required for its corporate purposes and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

6. To schedule and book events at participating olympic facilities, and the facilities of Belleayre Mountain ski center and other properties owned or controlled by the authority with public and private individuals, organizations, groups and other entities desiring to use such facilities for conducting events and activities appropriate to the purposes of the authority;

7. To enter into contracts, leases and subleases and to execute all instruments necessary or convenient for the conduct of authority business, including agreements with the park district and any state agency which administers, owns or supervises any olympic facility or Belleayre Mountain ski center, as provided in sections twenty-six hundred twelve and twenty-six hundred fourteen of this title. This shall include the power to enter into contracts or other agreements to join reciprocal ski pass programs with other ski areas, where the members of such reciprocal pass program are required to defend and/or indemnify one or more other members of such program for claims or causes of action arising out of, or relating to, such contract or agreement. This power shall be limited by the amount of the authority's discretionary funds,

any lawful appropriation, or other funding, up to a limit of two hundred fifty thousand dollars per such claim or cause of action;

8. To undertake or cause to be undertaken plans, surveys, analyses and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

9. To enter into contracts to operate, maintain and manage olympic facilities and the Belleayre Mountain ski center;

10. To fix and collect fees, rents and other charges for the use of olympic facilities and to authorize any other person on its behalf to collect same;

11. To conduct or contract for the conduct of all necessary or convenient services relevant to the publicizing, advertising, marketing and promoting of participating olympic facilities and events scheduled at such facilities, including, without limitation, the sale of media rights;

12. To operate, or contract for the operation of, concession services at any participating olympic facility or the Belleayre Mountain ski center;

13. To contract for and to accept any gifts or grants, subsidies, or loans of funds or property or financial or other aid in any form from the federal or state government or any agency or instrumentality thereof, or from any other source, public or private, and to comply, subject to the provisions of this title, with the terms and conditions thereof; provided however, the authority shall not contract for the payment of debt evidenced by bonds or notes or other evidence of indebtedness issued by any public corporation for capital improvements either directly or through a lease purchase agreement with any public corporation without the prior approval of the public authorities control board;

14. To develop and construct, or participate in the development and construction of, a facility or facilities, whether or not to be owned by the authority, and to operate, maintain and manage any such facilities, for the training and housing of amateur athletes in connection with the United States olympic training center program and the authority's conduct of national and international sports events;

15. To procure insurance against any loss or liability in connection with the use, management, maintenance and operation of the participating olympic facilities and/or Belleayre Mountain ski center, in such amounts and from such insurers, subject to public bidding as it deems desirable; and

16. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 2612. Agreement with the park district. 1. The specific terms of the agreement shall not exceed twenty years and shall be negotiated between the authority and the park district with respect to all participating olympic facilities owned by the park district, and shall include but not be limited to, the ski jump facilities located at Intervale and the speed skating and arena complex located in the village of Lake Placid.

2. The agreement between the authority and the park district shall provide the following:

(a) The authority shall receive the participating olympic facility, including any personal property and equipment owned by the park district and used solely in connection therewith, which is the subject matter of the agreement in its condition at the time of the commencement of the agreement.

(b) The authority shall agree to continue to provide at the participating olympic facility the space, facilities and the level of local recreation, including youth sports training, promotion and programming, as was provided by the park district during the year immediately preceding the execution of the agreement.

(c) The authority shall comply with (1) all agreements existing on the effective date of this title affecting the participating olympic facility, provided such existing agreements are listed in the agreement with the park district, and (2) all agreements entered into by the park district after the effective date of this title which affect the participating olympic facility, provided such agreements are first approved by the director of the budget.

(d) Upon termination of the agreement, the personal property, including replacements and/or substitutions therefor, which is owned by the authority and used solely in connection with the participating olympic facility which is the subject matter of the agreement shall pass to and be vested in the park district. Such personal property shall be accepted by the park district in its condition at the time of such termination.

(e) The authority shall maintain and keep the participating olympic facility, including the personal property and equipment used solely in connection therewith, in good repair, provided that the authority shall not be required to repair any damage to the participating olympic facility, including the personal property and equipment used solely in connection therewith, existing at the time the authority enters into the agreement unless funds are made available to the authority therefor.

(f) The authority may make improvements to the participating olympic facility to the extent that federal funds are made available for such purpose.

(g) The authority may terminate its agreement with the park district if the park district fails to carry out all of the provisions of the agreement or fails to appropriate and pay (1) in the first full fiscal year of the authority following the execution of the agreement an amount to be agreed upon by the park district and the authority, which amount shall be equal to the total cost of operating the participating olympic facility which is the subject matter of the agreement in the first full fiscal year of the park district immediately preceding execution of the agreement, less all income received by the park district from the operation of the participating olympic facility in such year; and (2) in each fiscal year thereafter an amount equal to the appropriation made to the authority as provided in subparagraph one of this paragraph in the first full fiscal year following execution of the agreement, plus such amount multiplied by the percentage increase of the park district's full tax assessment of real property within its taxing district for the fiscal year for which the appropriation is made over the full tax assessment in the first full fiscal year following execution of the agreement.

(h) The park district and the authority shall agree on the dates that the park district shall provide such appropriation to the authority.

(i) The park district may terminate its agreement with the authority if the park district fails to approve the budget of the authority as it pertains to the operation of participating olympic facilities or if the state fails to appropriate and pay funds as provided in paragraph (g) of subdivision two of section twenty-six hundred fourteen of this title.

§ 2613. Appropriations by the park district. 1. On or before August fifteenth, nineteen hundred eighty-one, and on each August fifteenth thereafter, the chairman of the authority, for the approval by the park district, shall make and deliver to the official designated by the park district a budget for the operation of participating olympic facilities by the authority for the forthcoming fiscal year of the state. The budget shall delineate the total amount needed for authority purposes, including the funds required by the authority for operation of the participating olympic facilities pursuant to agreements made in accordance with sections twenty-six hundred twelve and twenty-six hundred fourteen of this title, the source of all funds that the authority expects to receive and such other information as such official of the park district shall require. The park district shall approve the budget for the operation of participating olympic facilities by the authority if the park district determines that the budget demonstrates that the authority, without operating at a deficit, can continue in the forthcoming fiscal year of the state in the exercise of its corporate purposes, powers, duties and functions with the appropriations from the state and the park district in the amounts determined in accordance with sections twenty-six hundred twelve and twenty-six hundred fourteen of this title and income received by the authority from other sources.

2. The park district may appropriate and provide to the authority an amount of money determined in accordance with subparagraphs one and two

of paragraph (g) of subdivision two of section twenty-six hundred twelve of this title. The park district shall notify the state director of the budget not later than October first of each year whether or not it has approved the budget, made an appropriation to the authority and if such appropriation is made, the amount thereof.

§ 2614. Agreements with the state. 1. The specific terms of each agreement shall be negotiated between the authority and any state agency which administers or supervises a participating olympic facility owned by the state of New York.

2. Each such agreement shall provide the following:

(a) The authority shall receive the participating olympic facility, including the personal property and equipment used solely in connection therewith, which is the subject matter of this agreement in its condition at the time of the commencement of the agreement.

(b) The authority shall agree to continue to provide at the participating olympic facility the space, facilities and the level of public recreation, including youth sports training, promotion and programming, as was provided by the state agency operating said facility during the year immediately preceding the execution of the agreement.

(c) The authority shall comply with all agreements executed by the state affecting the participating olympic facility existing at the time the authority enters into the agreement with the state, provided such existing agreements are listed in the agreement with the state.

(d) Upon termination of the agreement, the personal property, including replacements and/or substitutions therefor, which is owned by the authority and used solely in connection with the participating olympic facility which is the subject matter of the agreement shall pass to and be vested in the state. Such personal property shall be accepted by the state in its condition at the time of such termination.

(e) The authority shall maintain and keep the participating olympic facility, including the personal property and equipment used solely in connection therewith, in good repair, provided that the authority shall not be required to repair any damage to the participating olympic facility, including the personal property and equipment used solely in connection therewith, existing at the time the authority enters into the agreement unless funds are made available to the authority therefor.

(f) The authority may make improvements to the participating olympic facility to the extent that federal funds are made available for such purpose.

(g) The authority may terminate its agreement with the state, if the state fails to carry out all of the provisions of the agreement or fails to appropriate and pay in each fiscal year of the state commencing with the fiscal year beginning April first, nineteen hundred eighty-two, the amount expended by the department of environmental conservation for the operation of the olympic facilities in the fiscal year immediately preceding the execution of said agreement, plus an amount supplied by a formula to be agreed upon by the parties which will reflect the legitimate and necessary net cost increases which may occur over the life of such agreement.

(h) The state may terminate its agreement with the authority if the director of the budget shall not approve the budget of the authority or if the park district fails to appropriate and pay funds as provided in subparagraphs one and two of paragraph (g) of subdivision two of section twenty-six hundred twelve of this title.

(i) To the extent the authority is not covered by insurance, the authority shall be held harmless by the state for any and all claims for damages or injuries arising out of the operation by the authority of any participating olympic facility owned by the state.

3. The authority shall enter into an agreement with the department of environmental conservation for the authority to operate, maintain and manage the Gore Mountain ski center located in the town of Johnsburg, county of Warren, state of New York. The specific terms of such agreement shall be negotiated by the authority and the department and shall include those provisions set forth in subdivision two of this section for inclusion in agreements with the state. Such agreement shall also provide that the authority may terminate the agreement if the state fails to appropriate and pay to the olympic regional development authority for the five consecutive fiscal years from April first, nineteen hundred eighty-five, through March thirty-first, nineteen hundred ninety for the operation of Gore Mountain, an amount at least

equal to the amount of funds appropriated and paid to the authority for the operation of Gore Mountain ski center for the fiscal year of the state beginning April first, nineteen hundred eighty-four, plus an amount supplied by the formula agreed to by the parties pursuant to paragraph (g) of subdivision two of this section. All of the powers of the authority provided by this title or any other law, including those pertaining to participating olympic facilities, shall apply in connection with such agreement and the operation and management of the Gore Mountain ski center.

4. The authority shall enter into an agreement with the department of environmental conservation for the authority to operate, maintain and manage the Belleayre Mountain ski center located in Ulster and Delaware counties, state of New York. The specific terms of such agreement shall be negotiated by the authority and the department and shall include those provisions set forth in subdivision two of this section for inclusion in agreements with the state. Such agreement shall include provisions to assure the continued viability of Belleayre as an attractive year-round tourist destination by, at a minimum, maintaining a level of capital investment, maintenance and operating support, consistent with the historical operating support, capital investment and maintenance provided by the department at Belleayre so that Belleayre Mountain ski center may be operated, maintained and improved in a similar manner to that of Whiteface and Gore Mountain ski centers. In addition, such agreement shall include provisions ensuring that the authority dedicate and utilize, for the operation, capital support and maintenance of Belleayre Mountain ski center: funds appropriated for the operation, maintenance and/or improvements of Belleayre Mountain ski center, revenue received as a result of Belleayre Mountain ski center operations, and monies received or intended from other sources and accounts that are intended for Belleayre Mountain ski center. All powers of the authority provided by this title or any other law, including those pertaining to participating olympic facilities, shall apply in connection with the operation and management of the Belleayre Mountain ski center.

5. The authority is hereby authorized to enter into an agreement with

the town of Johnsburg, Warren county to operate and manage town-owned ski and recreational facilities on town property in such town. The specific terms of such agreement shall be negotiated by the authority and the town and shall include those provisions set forth in subdivision two of this section for inclusion in such agreement with the town. All of the powers of the authority provided by this title or any other law, including those pertaining to participating olympic facilities, shall apply in connection with such agreement and the operation and management of such facilities.

§ 2615. Assistance by state officers, departments, boards and commissions. All officers, departments, boards, agencies, divisions and commissions of the state may render any services to the authority as are within the area of their respective governmental functions as fixed by law and as may be requested by the authority, and shall comply promptly with any reasonable request by the authority.

§ 2616. Appropriations by the state. 1. Notwithstanding the provisions of any general or special law, the director of the budget shall transfer to the authority from funds appropriated to the department of environmental conservation for the fiscal year beginning April first, nineteen hundred eighty-one, the amount necessary including an amount for general state charges to provide for the operation of participating olympic facilities pursuant to agreements made with state agencies in accordance with section twenty-six hundred fourteen of this title.

2. On or before August fifteenth, nineteen hundred eighty-one, and on each August fifteenth thereafter the chair of the authority shall make and deliver to the director of the budget for his or her approval and for submission to the legislature a budget for the operation of the authority for the forthcoming fiscal year of the state. The chair of the authority shall deliver a copy of such budget to the chair of the senate finance committee and the chair of the assembly ways and means committee at the same time that the budget is delivered to the director of the budget. The budget shall delineate the total amount needed for authority

purposes, including the funds required by the authority for operation of the olympic facilities, the Gore Mountain ski center and the Belleayre Mountain ski center pursuant to agreements made in accordance with sections twenty-six hundred twelve and twenty-six hundred fourteen of this title, the source of all funds that the authority expects to receive and such other information as the director of the budget shall require. The director of the budget shall approve the budget for the operation of the authority and the governor shall recommend in his or her annual budget appropriations to the authority if the director of the budget determines that the budget demonstrates that the authority, without operating at a deficit, can continue in the forthcoming fiscal year of the state, in the exercise of its corporate purposes, powers, duties and functions with the appropriations from the state and park district in the amounts determined in accordance with sections twenty-six hundred twelve and twenty-six hundred fourteen of this title and income received by the authority from other sources. The director of the budget shall notify the park district, the chair of the senate finance committee and the chair of the assembly ways and means committee not later than October first of each year whether or not he has approved the budget.

3. The state may appropriate and provide to the authority an amount of money determined in accordance with paragraph (g) of subdivision two and with subdivision three of section twenty-six hundred fourteen of this title.

4. To further assist the authority in carrying out its corporate purposes, the governor shall recommend to the legislature in his annual budget appropriation of such funds as may be available for such purposes from the earnings and accumulated income upon the principal of the winter sports education trust fund, pursuant to subdivision four of section four hundred ninety-five-a of the education law.

5. Notwithstanding the provisions of any general or special law, no part of such appropriations shall be available for the purposes designated until a certificate of approval of availability shall have been issued by the director of the budget and a copy of such certificate

is filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such certificate may be amended from time to time, subject to the approval of the director of the budget, and a copy of each such amendment shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

6. Notwithstanding the provisions of section four hundred ninety-five-a of the education law, the sum of seven hundred fifty thousand dollars ($750,000), is hereby appropriated to the authority from the accumulated earnings upon the principal of the winter sports education trust fund.

§ 2617. Moneys of the authority. 1. The moneys of the authority shall be retained by it and deposited in a general account and such other accounts as the authority may deem necessary for the transaction of its business, and shall be paid out on checks signed by the president/chief executive officer of the authority or by such other members or officers as the authority may authorize.

2. The comptroller of the state and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority including its receipts, disbursements, contracts, investments and any other matters relating to its financial standing.

§ 2618. Property and income of the authority. 1. The property of the authority and its income and operations shall be exempt from assessments of every kind and nature.

2. The authority may receive, accept, invest, administer, expend and disburse for its corporate purposes appropriations from the state and the park district, and other revenues and moneys made available or to be made available to it from any or all sources public or private.

3. Any such moneys of the authority not required for immediate use may, at the discretion of the authority, be invested pursuant to the provisions of section ninety-eight-a of the state finance law.

4. The authority shall accept from the New York state urban development corporation, created by chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, constituting the New York state urban development corporation act, all of the personal property acquired by it from Lake Placid nineteen hundred eighty Olympic Organizing Games, Inc.

§ 2619. Capital repair and improvement account. At the end of any authority fiscal year the members of the authority shall deposit not less than twenty-five percent of the profits, if any, of the preceding year's operations into a sinking fund for capital improvements. At the discretion of the members, the authority may undertake capital improvements and major repairs to the participating olympic facilities, to the Belleayre Mountain ski center, and to the Gore Mountain ski center; provided, however, that no such repairs may be undertaken without specific written approval by the entity which contracted with the authority for the operation of said facility. Any such repairs or improvements to real property shall upon completion become the property of and be vested in the owners of said real property. In the event of termination of the authority, the state and the park district each shall receive fifty percent of all moneys in the sinking fund. If an agreement between the authority and the park district or the state shall be terminated, the park district or the state, as the case may be, shall receive that portion of the moneys in the sinking fund it would have received if the authority were terminated as of the date of the termination of the agreement.

§ 2620. Public bidding. 1. Construction contracts let by the authority shall be in conformity with the applicable provisions of sections one hundred thirty-five and one hundred forty-four of the state finance law.

2. The authority may assign contracts for supervisions and coordination to the successful bidder for any subdivision of work for which the authority receives bids. Any construction contract award by the authority shall contain such other terms and conditions as the authority may deem desirable. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it reasonably believes that the public interest will be promoted thereby. The authority may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

§ 2621. Annual report. The authority shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the comptroller, the director of the budget, the supervisor of the town of Johnsburg, the supervisor of the town of Shandaken, the supervisor of the town of Middletown, and the supervisor of the town of North Elba within ninety days after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments and (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the authority for its operating and capital outlay purposes. Such report shall not be required to be submitted in print if the recipient of the report agrees to accept such report in electronic format.

§ 2622. Actions. 1. In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice.

2. Except in an action for wrongful death, no action shall be commenced (a) prior to the expiration of thirty days from the date on which the demand claim or claims upon which the action is founded were presented to a member of the authority or other officer thereof designated for such purpose; nor (b) more than one year and ninety days after the cause of action therefor shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

3. The venue of any action or proceeding against the authority or its members, officers, employees or agents, or in which any question arises as to the validity of any section of this act, shall be laid in the county in which the principal office of the authority is located.

4. Notwithstanding subdivision three of this section, exclusive jurisdiction is hereby conferred upon the court of claims to hear and determine any claim of any person brought hereafter against the authority to recover damages for injuries to property or for personal injury arising out of the operation by the authority of any participating olympic facility owned by the state or of the Belleayre Mountain ski center or of the Gore mountain ski center, in the same manner and to the extent provided and subject to the provisions of the court of claims act with respect to claims against the state, and to make awards and render judgments therefor. The payment of awards and judgments for any such claims brought in the supreme court pursuant to this title or in the court of claims shall be made from appropriations for judgments against the state pursuant to section twenty of the court of claims act.

§ 2623. Limitation of liability. 1. Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from carrying out any of the powers of this title.

2. The provisions of section seventeen of the public officers law

shall apply to members, officers, and employees and agents of the authority in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determination made or actions taken or omitted to be taken in compliance with any obligations under or pursuant to the terms of this title.

§ 2624. Exemption from taxation. 1. It is hereby determined that the creation of the authority and the conduct of its corporate purposes is in all respects for the benefit of the people of this state and the United States, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title.

2. The authority, its operations, property and moneys shall be free from taxation of every kind and nature by a public corporation, the state and any subdivision thereof.

§ 2625. Inconsistent provisions of other laws superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

§ 2626. Construction. This title, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purpose.

§ 2627. Separability. If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 2628. Temporary assignment and transfer of employees. Whenever in the opinion of the authority it would be in the public interest, it may, after prior approval of the director of the budget, request the temporary assignment and transfer of certain employees of any board, commission, agency or department of the state or its political subdivisions, and said board, commission, agency or department shall, if in its opinion such transfer will not interfere with the performance of its duties and functions, make such assignment and transfer of said employees to the authority for a period of up to one year, with one extension of one year permitted if the authority so requests and said board, commission, agency or department which permanently employs such person consents. Such assignment and transfer or extension thereof shall not in any way affect the civil service status, continuity of service, retirement plan status, rights to compensation, grade or compensation or other rights or privileges of any employee so transferred. Any employee transferred under the authority of this section shall be paid as total reimbursement for expenses in the course of their duties incurred only the actual and necessary expenses incurred up to the maximum rates as established by the New York state department of audit and control.

§ 2629. Transfer of officers and employees. 1. Upon execution of the agreements for operation of the olympic facilities and the Gore Mountain ski center made pursuant to sections two thousand six hundred twelve and two thousand six hundred fourteen of this title, those employees of the state and the park district who are determined by the authority to be essential to the operation of the olympic facilities and the Gore Mountain ski center shall, with the approval of the employer and the employee, be transferred to the employment of the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall, after such transfer, be paid by the authority. Notwithstanding the provisions of this act, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers or employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the state civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments.

2. (a) Within thirty days of execution of the agreement, entered into pursuant to subdivision four of section twenty-six hundred fourteen of this title, provision shall be made for the transfer to the olympic regional development authority of all current employees engaged in carrying out such functions with respect to the operation, maintenance and management of the Belleayre Mountain ski center. Such employees shall be transferred without further examination or qualifications and shall retain their respective civil service classifications, status, salary, wages and negotiating unit, if any. No individual who is transferred shall gain any additional rights as a result of such transfer. However, once the employment of any transferred employee who is currently placed within a negotiating unit as defined by article fourteen of the civil service law is terminated or otherwise ceases, by any means, any individual hired to fill such vacancy shall not be placed in the same negotiating unit of the former incumbent but rather shall be placed in the negotiating unit that contains employees of the authority.

(b) The salary or compensation of any such employees, after such transfer, shall be paid by the authority. Notwithstanding the provisions of this section, any such employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such employees, shall be paid by the authority.

TITLE 28-A

HUDSON-MOHAWK URBAN CULTURAL PARK COMMISSION

§ 2630. Short title. This title shall be known and may be cited as the "Hudson-Mohawk urban cultural park commission act."

§ 2631. Definitions. As used in this title, unless the context otherwise requires:

1. "Commission" shall mean the Hudson-Mohawk urban cultural park commission created pursuant to section two thousand six hundred thirty-two of this title.

2. "Board" shall mean the members of the commission.

3. "Municipality" shall mean the cities of Troy, Cohoes and Watervliet, the town of Waterford and the villages of Green Island and Waterford.

4. "Management plan" shall mean the management plan prepared pursuant to section 35.05 of the parks, recreation and historic preservation law.

5. "Urban cultural park" shall mean the Hudson-Mohawk urban cultural park designated pursuant to section 35.03 of the parks, recreation and historic preservation law and recognized pursuant to section 13.27 of such law.

6. "Bonds" shall mean the bonds authorized by this title.

7. "Project" shall mean any land, any building or other improvement, and all real and personal properties located within or partially within and partially without the urban cultural park for whose benefit the commission is created, including but not limited to, facilities deemed necessary or desirable in connection therewith, whether or not now in existence, which may include a recreational, educational or urban cultural facility, a transportation or service facility related to the plans and needs of the urban cultural park or any economic use in a facility, the preservation of which is a feature of the urban cultural park.

8. "Real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interest, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the urban cultural park.

§ 2632. Hudson-Mohawk urban cultural park commission. A commission to be known as the "Hudson-Mohawk urban cultural park commission" is hereby created.

1. Such commission shall be a body corporate and politic, constituting a public benefit corporation.

2. The commission shall have a board of directors which shall consist of ten voting members, as follows:

(a) The mayor of the city of Troy.

(b) The mayor of the village of Waterford.

(c) The supervisor of the town of Waterford.

(d) The mayor of the city of Cohoes.

(e) The mayor of the village of Green Island.

(f) The mayor of the city of Watervliet.

(g) The supervisor of the town of Colonie.

(h) A resident official or employee of Saratoga county appointed by and serving at the pleasure of the board of supervisors of such county.

(i) The county executive of Rensselaer county.

(j) The county executive of Albany county.

The commissioner of the office of parks, recreation and historic preservation shall be a non-voting member of the board. Each member may designate a representative to participate in his place. The members shall choose from their number a chairman, vice-chairman, and secretary-treasurer. Six of the board's voting members shall constitute a quorum. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The voting powers of the commission shall be vested in and exercised by a majority of the members of the board. Such board may delegate to one or more of its members or to its officers, agents and employees such powers and duties as it may deem proper.

§ 2633. Purposes and powers of the commission. The purposes of the commission shall be to undertake the necessary administrative and development activities in furtherance of the management plan; and to carry out the aforesaid purposes, the commission shall have the following powers:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To acquire, hold and dispose of personal property for its corporate purposes;

4. To acquire by purchase, grant, lease, gift, condemnation, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes subject to the local zoning, planning and historic preservation regulations as well as regional and local comprehensive land use plans, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the commission shall determine;

5. To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects;

6. With the consent of the state or municipality, to use agents, employees and facilities of the state or municipality;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the commission;

8. To make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private;

9. To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

10. To administer a preservation revolving fund, including provision for grants and loans therefrom with funds for such purpose from state, municipal, and/or private sources for the preservation of historic properties to private property owners for preservation projects in

furtherance of the public interest in preservation as declared in section 14.01 of the parks, recreation and historic preservation law;

11. To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any commission of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

12. To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the commission may deem desirable;

13. To designate the depositories of its money;

13-a. To make amendments to the Hudson-Mohawk urban cultural park management plan, in lieu of the appropriate local legislative bodies, subject to the approval of the commissioner of parks, recreation and historic preservation pursuant to the provisions of section 35.05 of the parks, recreation and historic preservation law;

14. To establish and re-establish its fiscal year; and

15. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

§ 2634. Cooperation with municipalities. 1. The commission is a cooperative regional organization of six municipalities to implement and manage an urban cultural park encompassing all or part of each of their territory and based upon the mutual assent and participation of each municipality. The activities of the commission shall be coordinated with the local planning, cultural and park activities of each municipality. No real property may be acquired or project undertaken by the commission in a municipality without the written approval for such action of the member of the board from such municipality.

2. Each municipality may provide the commission with the services of its agents, employees and facilities without charge to the corporation. Persons serving as officers or employees of the commission may be employees of a municipality and the commission, in such case, may pay the municipality an agreed portion of the compensation or costs.

3. For purposes of implementing the management plan, any individual municipality may act with the agreement of the commission to carry out an individual project in its own name or acquire real property for a project in the name of the commission at the cost and expense of the commission. In case the commission shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such property was acquired at the cost and expense of a municipality, the commission shall have the power to surrender its use and occupancy thereof to the municipality, or, if such real property was acquired at the cost and expense of the commission, then the commission shall have power to sell, lease or otherwise dispose of said real property at public sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its purposes.

§ 2635. Civil service status of officers and employees. Officers and employees of any board, commission or department of the municipality may be transferred to the commission in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the commission. Officers and employees of the city who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the municipality shall have the same status with respect thereto after transfer to the commission as they had under their original appointments. The appointment and promotion of all employees of the commission shall be made in accordance with the provisions of the civil service law and the rules of the appropriate municipal civil service commission.

§ 2636. Moneys of the commission. All moneys of the commission from whatever source derived shall be paid to the treasurer and shall be deposited forthwith in one or more banks and/or trust companies in the state designated by the commission. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the chairman of the commission or of such other officer or officers as the commission may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of or guaranteed by the United States of America or of the state of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the commission not required for immediate use or disbursement may, at the discretion of the commission, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law.

§ 2637. Tax exemptions. It is hereby determined that the creation of the commission and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state and is a public purpose, and the commission shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

§ 2638. Actions against the commission. 1. In an action against the commission founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the commission and to its secretary or to its chief executive officer, and that the commission has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

2. In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the commission or an officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. No action shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued, except an action against the commission for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 2639. Conflicts of interest. No member of the board of directors or officer or employee of the commission shall have any interest in any contract, or take any action or otherwise involve himself or herself in any activity which, pursuant to article eighteen of the general municipal law, would be deemed a conflict of interest for a municipal officer or employee holding a position with a municipality similar to the position held by the member, officer or employee with the commission.

It shall not be deemed a conflict of interest for a person to simultaneously hold positions as a member and as an officer of the commission.

§ 2640. Construction and purchase contracts. The commission shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three of the general municipal law.

§ 2641. Severability. If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

TITLE 28-AA
CHAUTAUQUA, CATTARAUGUS, ALLEGANY AND STEUBEN SOUTHERN TIER EXTENSION RAILROAD AUTHORITY

§ 2642. Short title. This title may be cited as the "Chautauqua, Cattaraugus, Allegany and Steuben southern tier extension railroad authority act".

§ 2642-a. Legislative findings and intent. The legislature hereby finds and determines that:

1. The continued existence and strengthening of the system of railroads serving Chautauqua, Cattaraugus, Allegany and Steuben counties in New York state and Warren and Erie counties in the Commonwealth of Pennsylvania is essential to the long term viability of the economies, municipalities, and ways of life in these counties.

2. The viability and existence of the system of railroads serving Chautauqua, Cattaraugus, Allegany and Steuben counties in New York state and Warren and Erie counties in the Commonwealth of Pennsylvania is threatened by the dynamic economics of the railroad industry.

3. By creating the Chautauqua, Cattaraugus, Allegany and Steuben southern tier extension railroad authority, it is the intent of the legislature to preserve and enhance the system of railroads serving Chautauqua, Cattaraugus, Allegany and Steuben counties in New York state and Warren and Erie counties in the Commonwealth of Pennsylvania, so as to insure a healthy economy for these counties.

§ 2642-b. Definitions. As used or referred to in this title, unless a different meaning appears from the context:

1. "Authority" shall mean the corporation created by section twenty-six hundred forty-two-c of this title.

2. "Authority facilities" shall mean the authority's railroad facilities and operations pursuant to joint service arrangements as defined in subdivision eight of this section.

3. "Commonwealth" shall mean the Commonwealth of Pennsylvania.

4. "Commonwealth agency" or "agency of the Commonwealth" shall mean any officer, department, board, commissioner, bureau, division, public benefit corporation, agency or instrumentality of the Commonwealth of Pennsylvania.

5. "Comptroller" shall mean the comptroller of the state of New York.

6. "Equipment" shall mean rolling stock, vehicles, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements, materials, supplies, instruments and devices of every nature whatsoever used or useful for railroad and related transportation purposes or for the generation or transmission of motive power including but not limited to all power houses, and all apparatus and all devices for signaling, communications and ventilation as may be necessary, convenient or desirable for the operation of a railroad or related transportation facility.

7. "Federal government" shall mean the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

8. "Joint service arrangements" shall mean agreements between or among the authority and any common carrier or freight forwarder, the state, the Commonwealth, any state agency or agency of the Commonwealth, the federal government, any other state or Commonwealth or agency or instrumentality thereof, any public authority of this or any other state, any participating county, or any political subdivision or municipality of this or any other state, relating to property, buildings, structures, facilities, services, rates, fares, classifications, divisions, allowances or charges, or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part in or upon railroad facilities located within the counties of Chautauqua, Cattaraugus, Allegany and Steuben and in part in or upon railroad facilities located outside said counties.

9. "Legislative body" or "legislative bodies" shall mean any or all of the governing boards of the counties of Chautauqua, Cattaraugus,

Allegany and Steuben.

10. "Municipality" shall mean any county, including the counties of Chautauqua, Cattaraugus, Allegany and Steuben, city, town, village, school district, improvement district, any other such instrumentality, including an agency or public benefit corporation of the state, or any of the foregoing, or any combination thereof.

11. "Participating counties" shall mean those of the counties of Chautauqua, Cattaraugus, Allegany and Steuben that shall have appointed members of the authority.

12. "Railroad facilities" shall mean right-of-way and related trackage, rails, cars, locomotives, other rolling stock, signal, power, fuel, communication and ventilation systems, power plants, stations, terminals, parking lots, garages, warehouses, storage yards, intermodal facilities, repair and maintenance shops, yards, equipment and parts, offices and other real estate or personalty used or held for or incidental to the operation, rehabilitation or improvement of any railroad operating or to operate between points within the counties of Chautauqua, Cattaraugus, Allegany and Steuben or pursuant to joint service arrangements, including but not limited to buildings, structures, and areas notwithstanding that portions thereof may not be devoted to any railroad purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority.

13. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

14. "State" shall mean the state of New York.

15. "State agency" shall mean any officer, department, board, commissioner, bureau, division, public benefit corporation, agency or instrumentality of the state of New York.

16. "Southern tier extension railroad line" shall mean the railroad line generally described as located between the city of Hornell, New York (Cass street interlocking, at approximately milepost 331.8) and the New York-Pennsylvania state line in the county of Chautauqua.

§ 2642-c. Chautauqua, Cattaraugus, Allegany and Steuben southern tier extension railroad authority. 1. There is hereby created the "Chautauqua, Cattaraugus, Allegany and Steuben southern tier extension railroad authority" which shall be a body corporate and politic constituting a public benefit corporation.

2. The authority shall continue for thirty years from the effective date of this title, or so long as it shall have bonds or other obligations outstanding or until its existence shall otherwise be terminated by law. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the participating counties pursuant to any agreements among the participating counties and the authority.

3. The authority shall adopt by-laws governing its operation and keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

4. The authority shall consist of the following fourteen members:
(a) The county legislative bodies of Chautauqua, Cattaraugus, Allegany and Steuben counties each shall appoint three voting members of the authority who shall be residents of such county, upon the recommendation of the chief executive (county executive or chair of the county legislative body) of each such county; and
(b) The southern tier west regional planning and development board, upon the recommendation of the chairperson of such board, shall appoint

one member of the authority, who shall be a resident of one of the counties of Chautauqua, Cattaraugus, Allegany or Steuben.

(c) The Seneca Nation of Indians may appoint a member of such Nation to serve in an advisory non-voting capacity.

5. The term of office of members of the authority shall be three years. Four of the initial members of the authority shall serve a one year term, four shall serve a two year term and six, including the members appointed by the southern tier west regional planning and development board, and the Seneca Nation of Indians shall serve a three year term, provided that at the inception of the authority, each county shall appoint one member to hold office for three years, one for two years and one for one year.

6. All members shall continue to hold office until their successors are appointed and qualified. The resignation of any member shall be filed with the appointing authority and shall be effective when so filed. Vacancies occurring otherwise than by expiration of term of office shall be filled for the unexpired term in the same manner as provided for the original appointment.

7. The chairperson, vice-chairperson, secretary, and other necessary officers shall be named by a majority vote of all the voting members to serve for such period as the members shall decide. The chairperson shall preside over the meetings of the authority and shall appoint members of the authority to committees established by the authority to assist the authority in carrying out its duties.

8. Any member of the authority may be removed by resolution of the entity which appointed such member either for cause or for non-compliance with minimum requirements relating to meeting attendance and other criteria as may be established by resolution of such entity.

9. No person shall be precluded from serving as a member of the authority as appointed by a county legislative body, the southern tier west regional planning and development board or the Seneca Nation of Indians pursuant to this section because such member is an elected or

appointed official of a municipality, except that no member of the authority shall vote on any matter before the authority which has been the subject of a proposal, application or vote before the municipality where he or she serves in such elected or appointed capacity.

10. The members of the authority shall receive no salary or compensation for their services, but may be reimbursed for authorized, actual and necessary travel and expenditures.

11. A majority of the whole number of voting members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Notwithstanding any provision of statute or law to the contrary and except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the authority, the authority shall have power to act by a majority of the whole number of voting members of the authority.

12. The authority shall be deemed a state agency for purposes of section seventy-four of the public officers law, provided, however, that no non-voting member of the authority shall be deemed an officer or employee of a state agency.

§ 2642-d. Purposes of the authority. 1. The purposes of the authority shall be the continuance, further development and improvement of railroad transportation and other services related thereto within the counties of Chautauqua, Cattaraugus, Allegany and Steuben, in accordance with the provisions of this title. It shall be the further purpose of the authority to develop and implement a unified railroad transportation policy and strategy for such counties.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state and the authority shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

§ 2642-e. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To borrow money;

4. To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement, at the discretion of the authority, in obligations in which the state comptroller may invest pursuant to section ninety-eight or ninety-eight-a of the state finance law;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

6. To enter into contracts and leases and to execute all instruments necessary or convenient;

7. To acquire, hold and dispose of real or personal property in the exercise of its powers for its corporate purposes;

8. The authority may, whenever it shall determine that it is not in conflict with the interests or purposes of the authority, rent, lease or grant easements or other rights in, any land or property of the authority, including the granting of municipal utility easements;

9. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and

advice; such counsel, auditors, engineers, and private consultants, officers and employees may not be a member of the authority;

10. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

11. To contract for and accept any gifts or grants, subsidies or loans of funds or property or financial or other aid in any form from the federal or state government or Commonwealth government or any agency or instrumentality thereof, or from any other source, public or private, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

12. To designate the depositories of its money;

13. To establish its fiscal year; and

14. To do all things necessary or convenient or desirable to carry out its purposes and exercise the powers expressly given in this title.

§ 2642-f. Special powers of the authority. In order to effectuate the purposes of this title: 1. The authority may acquire, by purchase, gift, grant, transfer, contract or lease, any railroad facility, wholly or partially within the counties of Chautauqua, Cattaraugus, Allegany and Steuben or any part thereof, or the use thereof, and may enter into any joint service arrangements as provided in this section. Any such acquisition or joint service arrangement shall be authorized only by resolution of the authority approved by not less than a majority of the whole number of voting members of the authority. In addition to and not in limitation of any other power conferred upon the authority by the provisions of this title, the authority is hereby empowered and authorized in respect of any property and assets at any time owned or held by, or under the jurisdiction of, the state, the Commonwealth, any political subdivision thereof, or any private or other public concern, to accept and receive any such interest therein as it may have been or may hereafter be designated by the state, the Commonwealth, any political subdivision thereof, or any other public or private concern, by law or other lawful means to receive, and in respect thereof, except as otherwise provided by the designating statute or contractual instrument, it shall have and exercise all of the powers and jurisdiction herein conferred upon it in respect of any other property, rights, assets, facilities and projects in any other manner acquired or from any other source received by it pursuant to the provisions of this title.

2. The authority may on such terms and conditions as the authority may determine necessary, convenient or desirable itself establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any such railroad facility, or may provide for such establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair by contract, lease, or other arrangement on such terms as the authority may deem necessary, convenient or desirable with any person, including, but not limited to, any common carrier or freight forwarder or other private for-profit firm, the state, the Commonwealth, any agency or the state or Commonwealth, the federal government, any other state or agency or instrumentality thereof, any non-profit corporation, any public authority of this or any other state or any political subdivision or municipality of the state. In connection with the operation of any such railroad facility, the authority may establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair or may provide by contract, lease or other arrangement for the establishment, construction, effectuation, operation, maintenance, renovation, improvement, extension or repair of any related services and activities it deems necessary, convenient or desirable, including, but not limited to, the transportation and storage of freight and the United States mail, feeder and connecting transportation, parking areas, transportation centers, stations and related facilities.

3. The authority may establish, levy and collect or cause to be established, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, levy and collection

of such fares, tolls, rentals, rates, charges and other fees as it may deem necessary, convenient or desirable for the use and operation of any railroad facility and related services operated by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct and safety of the public as it may deem necessary, convenient or desirable for the use and operation of any railroad facility and related services operated by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority.

5. The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities.

6. The authority, in its own name, may apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person, government or agency which it may use to meet capital or operating expenses and for any other use within the scope of its powers, and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable.

7. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of railroad facilities, equipment or real property operated by or under contract, lease or other arrangement with the authority. Except as hereinafter specially provided, no municipality or political subdivision, including but not limited to a county, city, village, town or school or other district shall have jurisdiction over any facilities of the authority or any of its activities or operations. The local laws, resolutions, ordinances, rules and regulations of a municipality or political subdivision in the state conflicting with this title or any

rule or regulation of the authority, shall not be applicable to the activities or operations of the authority, or the facilities of the authority, except such facilities that are devoted to purposes other than transportation purposes. The authority may agree with the New York state department of transportation for the execution by such department of any grade crossing elimination project or any grade crossing separation reconstruction project along any railroad facility operated by the authority or under contract, lease or other arrangement with the authority. Any such project shall be executed as provided in article ten of the transportation law and the railroad law, respectively, and the costs of any such project shall be borne as provided in such laws.

§ 2642-g. Cooperation and assistance of other agencies. 1. To avoid duplication of effort and in the interests of economy, the authority may make use of existing studies, surveys, plans, data and other materials in the possession of any state agency or any municipality or political subdivision of the state. Each such agency, municipality or subdivision located in or serving some portion of the state is hereby authorized to make the same available to the authority and otherwise to assist it in the performance of its functions. At the request of the authority, each such agency, municipality or subdivision located in or serving some portion of the state which is engaged in railroad or other transportation activities or in land use or development planning, or which is charged with the duty of providing or regulating any transportation facility or any other public facility, is further authorized to provide the authority with information regarding its plans and programs affecting railroad transportation within the participating counties so that the authority may have available to it current information with respect thereto. The officers and personnel of such agencies, municipalities or subdivisions, and of any other government or agency whatever, may serve at the request of the authority upon such advisory committees as the authority shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

2. Notwithstanding any contrary provision of law, every municipality located in the counties of Chautauqua, Cattaraugus, Allegany or Steuben is authorized and empowered to consent to the use by the authority of any real or personal property owned by any such municipality and necessary, convenient or desirable in the opinion of the authority for any of the facilities or projects authorized under this title, including such real property as has already been devoted to a public use, and as an incident to such consent, to lease or otherwise transfer and convey to the authority any such real or personal property upon such terms as may be determined by the authority and any such municipality. Every such municipality also is authorized and empowered, as an incident to such consent, to vest in the authority the control, possession, operation, maintenance, rents, charges and any and all other revenues of any facilities now owned by any such municipality, the title to such facilities remaining in such municipality.

§ 2642-h. Exemption from taxation. 1. It is hereby determined that the creation of the authority and the carrying out of its purposes under this title are in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Notwithstanding subdivision one of this section, the authority or any lessees of the authority shall be required to pay water and sewer fees, water and sewer assessments or water and sewer special ad valorem

levies.

3. The authority may pay, or may enter into agreements with any municipality, including school districts, to pay, a sum or sums annually or otherwise or to provide other considerations with respect to real property owned by the authority located within such municipality.

§ 2642-i. Advances on behalf of authority; transfer of property to authority; acquisition of property for authority. 1. In addition to any powers granted to it by law, any participating county may by resolution advance sums of money to or on behalf of the authority to defray costs or expenses of the authority to be incurred prior to the first issuance of bonds. Subject to the rights of any bondholders, the moneys so appropriated may be repaid by the authority to the participating county at such time and in such manner as may be agreed upon between the authority and the participating county.

2. Any participating county or any municipality along the southern tier extension railroad line may by resolution give, grant, sell, convey, lend, or license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of any bondholders, as the authority and the participating county or the municipality may agree.

3. Notwithstanding the provisions of any other law, general, special, or local, real property acquired by the authority or any participating county from the state may be used for any corporate purpose of the authority.

§ 2642-j. New York state and local employees' retirement system rights of employees; civil service. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of a municipality transferred to the authority shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law.

2. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 2642-k. Equal employment opportunity. The authority shall ensure that all employees or applicants for employment are afforded equal opportunity employment without discrimination on any basis prohibited under subdivision two of section forty-c of the civil rights law.

§ 2642-l. Monies of the authority. All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in an interest-bearing account in a bank or banks designated by the authority. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest-bearing accounts. Any monies of the authority not required for immediate use or disbursement may, be invested in accordance with section ninety-eight or ninety-eight-a of the state finance law.

§ 2642-m. Contracts. 1. All contracts for the construction, reconstruction, rehabilitation or improvement of buildings let by the authority shall comply with the provisions of section two hundred twenty of the labor law and shall also be subject to the provisions of law applicable to contracts let by a municipal corporation, except as otherwise provided herein.

2. All contracts for the construction, reconstruction, rehabilitation or improvement of buildings let by the authority shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law.

3. The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. Any construction contract awarded by the authority shall contain such other terms and conditions as the authority may deem desirable. The authority shall award any construction contract involving an expenditure of more than five thousand dollars to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid, if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

4. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 2642-n. Annual report and audit. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The authority shall annually submit to the county legislatures, county executives, governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county legislature and the county executives; provided further that a copy of such report shall be submitted to the southern tier west regional planning and development board.

§ 2642-o. Defense and indemnification. 1. The authority shall not execute any of its powers except as necessary to commence its corporate existence, until it has elected to make the provision of section eighteen of the public officers law applicable to its employees (as such term is defined in section eighteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the authority to extend the provisions of section eighteen of the public officers law upon any independent contractor.

2. Neither the members of the authority, nor any participating county, municipality, officer or employee acting on the authority's behalf, while acting within the scope of his, her or its authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this shall not be held to apply to any independent contractor.

§ 2642-p. Action by or against the authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of any of the participating counties.

5. The rate of interest to be paid by the authority upon any judgment

for which it is liable, shall be the rate prescribed by section five thousand four of the civil practice law and rules.

6. All actions or proceedings against the authority of whatever nature shall be brought in a supreme court in any of the participating counties.

§ 2642-q. Track, bridge, signal, station and other facility operation and maintenance. The operation, maintenance and use of track, bridges, signals, freight stations, passenger stations and other facilities shall be public purposes of the authority and the participating counties. The total cost to the authority of operation, maintenance and use of each track, bridge, signal, freight station, passenger station and other facility within the counties of the district located in the state and serviced by one or more railroad facilities of the authority or corporations, including the buildings, appurtenances, platforms, lands and approaches incidental or adjacent thereto, shall be borne by the authority.

§ 2642-r. State, participating counties, and municipalities not liable for obligations of authority. 1. Neither the state, the participating counties, nor any municipality or public corporation shall be liable on any bond, note or other obligation of the authority, and such bonds, notes or other obligations shall not be debts of the state, the participating counties, nor any municipality or public corporation, and such bonds, notes or other obligations shall contain a statement to such effect.

2. Nothing in this title shall be construed to obligate the state in any way in connection with the operations and obligations of the authority.

§ 2642-s. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of a county charter, any local law, ordinance or resolution of a municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

TITLE 28-B

SCHENECTADY METROPLEX DEVELOPMENT AUTHORITY

§ 2650. Short title. This title shall be known and may be cited as the "Schenectady Metroplex Development Authority Act".

§ 2651. Statement of legislative findings. It is hereby found, determined and declared that there is an immediate need to institute a comprehensive, coordinated program of economic development activities in the Route 5 and Route 7 corridors of Schenectady county, especially in the downtown region of the city of Schenectady.

It is further found, determined and declared to be desirable to create a Schenectady metroplex development authority to provide the state of New York, and the county of Schenectady, with the capability to effectively and efficiently develop, renovate and optimize the economic and social activities of the Route 5 and Route 7 corridors of Schenectady county.

It is also hereby found, determined and declared that existing facilities in the Route 5 and Route 7 corridors of Schenectady county, for conventions, trade exhibitions, public shows, public entertainment, hotel accommodations, transportation, historic preservation, tourism, sporting events, social and educational centers, and retail, business, commercial and government office space, including services for the operation and maintenance thereof, are inadequate.

It is further found, determined and declared that the construction and operation of such new facilities to adequately accommodate such activities would generate new business, create employment opportunities, provide new sources of tax revenue, and promote effective and orderly redevelopment in the vicinity of the Route 5 and Route 7 corridors of

Schenectady county, all of which would serve the interests of the state of New York, and the county of Schenectady.

It is also found, determined and declared that the area in the vicinity of the Route 5 and Route 7 corridors of Schenectady county is an area characterized by deteriorated industrial and commercial structures, uncoordinated and incompatible commercial uses, inadequate public facilities, and substandard conditions, all of which are detrimental to the economic and social well-being of residents of the state of New York and the county of Schenectady, and that the construction and operation of such new facilities in such area will serve as a catalyst for redevelopment, and a rejuvenation of civic pride and accomplishment.

It is further found, determined and declared that the construction and operation of such new facilities will provide significant economic and social benefits to the state of New York, the county of Schenectady, and the entire capital district region, and that, consistent with social, economic, environmental and other essential considerations of state policy, locating these new facilities in the Route 5 and Route 7 corridors of Schenectady county is in the public interest, given the convenience and accessibility of the location, the elimination of substandard conditions, the nature and economic characteristics of various other sites considered, and the immediacy of the needs of the people of the state for the realization of the significant economic and social benefits to be derived from this development.

It is also found, determined and declared that the development of the Route 5 and Route 7 corridors of Schenectady county is a matter of essential state and county concern, and that the establishment and creation of a Schenectady metroplex development authority is necessary to provide for the economic prosperity, health, safety and general welfare of the people of the county of Schenectady and the state of New York, through the construction, development, location and operation of these new facilities.

It is further found, determined and declared that is the intent of the legislature that the Schenectady metroplex development authority shall carry out its purposes and responsibilities directly and through agreements with federal, state and local entities and authorities, and that the Schenectady metroplex development authority shall be created as a public benefit corporation and that the corporate programs and powers conferred under this title and the expenditures of public moneys pursuant thereto, are in furtherance of a valid public interest and public purpose.

§ 2652. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the public benefit corporation created by section twenty-six hundred fifty-three of this title.

2. The term "board" shall mean the members of the authority created in section twenty-six hundred fifty-three of this title.

3. The term "person" shall mean any natural person, partnership, limited liability company, association, joint venture or corporation, exclusive of a public corporation.

4. The term "service district" shall mean the Schenectady metroplex service district created by section twenty-six hundred fifty-four of this title.

5. The term "bonds" shall mean bonds and notes issued by the authority pursuant to this title.

6. The term "state" shall mean the state of New York.

7. The term "governor" shall mean the governor of the state of New York.

8. The term "comptroller" shall mean the comptroller of the state of New York.

9. The term "director of the budget" shall mean the director of the budget of the state of New York.

10. The term "municipality" shall mean a county, town, city, or village.

11. The term "county" shall mean the county of Schenectady.

12. The term "county legislature" shall mean the Schenectady county legislature.

13. The term "city" shall mean the city of Schenectady.

14. The term "mayor" shall mean the mayor of the city of Schenectady.

15. The term "city council" shall mean the city council of the city of Schenectady.

16. The term "metroplex facility" shall mean any facility, building, structure, park or other real property owned, leased, constructed, created, designed, developed, planned, financed, operated, renovated, administered, managed and/or maintained by the authority.

17. The term "park district" shall mean any area designated by the authority, within the service district, to be an historic preservation district, a special entertainment district, an educational entertainment district, or a recreational park district.

18. The term "construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of any project financed under the provisions of this title; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

19. The term "real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including lands under water, riparian rights, property rights in air space and/or subsurface space and any and all other things and rights usually included within such term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right legal or equitable.

20. The term "personal property" shall mean chattels and other tangible things of a movable or removable nature.

21. The term "cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, rights in property, rights-of-way, easements, franchises, and interests, including real property and other property, both real, personal and mixed, improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of guarantee, bond insurance or other credit support devices and the cost of other expenses necessary or incidental to the construction of any such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special funds from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

22. The term "project" shall mean a facility, building, structure, park or other real property, or any portion thereof, which the ownership, lease, transfer, design, development, planning, financing, creation, siting, construction, renovation, administration, operation, management and/or maintenance is authorized to be undertaken, in whole or in part, by the authority pursuant to this title.

23. The term "revenues" shall mean all monies, funds, rates, fees, tolls, rents, charges or other income derived by the authority from its planning, development, financing, construction, operation, management, or maintenance functions, or any monies or funds appropriated to the authority from the state or a municipality, or any monies or funds obtained from public or private donations to the authority or the tax revenues payable to the authority pursuant to section twelve hundred ten-C of the tax law.

24. The term "United States" shall mean the United States of America or any department, agency or instrumentality thereof acting on behalf of the United States of America.

§ 2653. Schenectady metroplex development authority. 1. The Schenectady metroplex development authority is hereby created. Such authority shall be a body corporate and politic constituting a public benefit corporation. The governing body of the authority shall be a board. The authority shall consist of eleven members who are residents of Schenectady county, appointed by a majority vote of the county legislature. Nominations for appointment by the county legislature shall be submitted as follows: one upon the recommendation of the mayor of the city of Schenectady, one upon the recommendation of the city council; one upon the recommendation of the supervisor of the town of Niskayuna, one upon the recommendation of the supervisor of the town of Glenville, one upon the joint recommendation of the supervisors of the towns of Princetown and Duanesburg, one upon the recommendation of the supervisor of the town of Rotterdam, one upon the recommendation of the minority leader of the county legislature, two upon the recommendation of the chairman of the county legislature and two by the joint recommendation of the county legislature. The members appointed upon the recommendation of the chair of the county legislature, the minority leader of the county legislature and the joint recommendation of the county legislature shall serve for a term of five years each, and the members appointed by the county legislature upon the recommendation of the city or town officers shall serve for a term of four years each, respectively, with each term commencing from the first day of January next succeeding their appointment. Each member unless removed for good cause by a two-thirds vote of the county legislature shall hold office until a successor has been appointed and qualified.

2. No person holding an elected or management/confidential-exempt position in any county government may be appointed to the authority except for the Schenectady county commissioner of economic development and planning. No member of the state legislature may be appointed to the authority. No person holding, or who has held within the previous four years, the position of chairperson of a village, town, city or county political party as defined by article two of the election law shall be appointed to the authority.

3. A member of the board shall be designated as chairman by a majority vote of all the members of the county legislature and shall be chairman of such board until his or her term as member expires. A member of the board shall also be so designated as vice-chairman of the board until his or her term as member expires. The chairman shall be the chief executive officer of the authority and shall be primarily responsible for the discharge of the administrative functions of the authority. The chairman may appoint an executive director of the authority, upon advice and consent of the board, to which such administrative functions may be delegated. The executive director shall be deemed an employee of the authority, and as such be an exempt management confidential employee, who is a public officer and entitled to an annual salary as established by the authority board.

4. The power of such corporation shall be vested in and exercised by the board. Such board may delegate to one or more of its members or its officers, agents and employees such powers and duties as it may deem

proper.

5. Such board and its corporate existence shall continue until its existence shall be terminated by law. Upon the termination of the existence of the authority all its rights and properties shall pass to and be vested in the county of Schenectady.

6. Six members of the board shall constitute a quorum for the transaction of business. A majority of the members of the board present at any meeting at which a quorum shall be present, shall be sufficient to pass any resolution, except as otherwise specified in this title. All propositions requiring the expenditure of money or affecting contract rights or property, shall be presented to the board in writing. No resolution containing such a proposition shall pass unless it receives approval of at least six board members in office.

7. The board shall hold at least one regular meeting every month. The chairman, or in his absence the vice-chairman, or any five members, may call a special meeting by notice as specified by the board. All meetings of the board shall be subject to article seven of the public officers law.

8. Members of the board shall be entitled to no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

9. Notwithstanding any inconsistent provision of any general, special or local law, no officer or employee of the state, or of any municipality, as defined in the public officers law, the county law or the town law, shall be deemed to have forfeited or shall forfeit his public office or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his acceptance of membership on or chairmanship or vice-chairmanship of the authority; provided, however, a member or chairman who holds such other public office shall receive no additional compensation for services rendered pursuant to this title, but shall be entitled to reimbursement for

actual and necessary expenses incurred in the performance of such services.

10. The principal office of the authority shall be located in the county of Schenectady.

11. The comptroller may conduct periodic audits of the authority and report the results of such audits to the governor, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

12. Subject to the provisions of this title, members of the authority may engage in private employment, or in a profession or business.

§ 2654. Schenectady metroplex service district. 1. The Schenectady metroplex service district shall include all real property within the county of Schenectady, from the Albany county/Schenectady county border to the Montgomery county/Schenectady county border, and within thirty-five hundred feet of Route 5, except from the intersection of Route 5/State Street and Brandywine Avenue to the intersection of Route 5/Mohawk Avenue and Route 147/Sacandaga Road, whereupon the Schenectady metroplex service district shall include all real property within eighty-seven hundred fifty feet of Route 5. The service district shall also include all real property within Schenectady county from the town of Rotterdam/city of Schenectady border to the Schoharie county/Schenectady county border and within the boundaries and accompanying right of way of state Route 7; and all real property within two hundred feet of Chrisler Avenue in the city of Schenectady except as excluded by subdivision two of this section.

2. Notwithstanding any other provision of law, unless amended pursuant to local law, the Schenectady metroplex service district shall not include any parcel of real property upon which a non-multiple dwelling residence is located in the city of Schenectady and within the boundaries of the historic GE realty plot district, the Union College Triangle, the Mont Pleasant neighborhood association, or any defined

neighborhood within the Schenectady united neighborhood associations.

3. The Stockade Historic District shall be included within the Schenectady Metroplex Service District for the purposes of the design, development, planning, financing, creation, siting, construction, renovation, administration, operation, management, and/or maintenance of facilities, structures or parks as defined in paragraphs (e), (f), (g), (h), (i), (j), (k) and (l) of subdivision eight of section twenty-six hundred fifty-five of this title.

4. Any municipality located within the county shall have the power to increase the boundaries of the Schenectady metroplex service district within the municipality. To increase the boundaries of the service district within a municipality, the municipality must conduct a public hearing and enact by a two-thirds vote a local law defining the additional boundaries of such district. In the event a municipality elects to increase the boundaries of the service district, two certified copies of the local law increasing the service district, together with two certified maps designating such increased boundaries shall be filed with the office of the chairman of the Schenectady metroplex development authority. Within ten days of the filing of such certified copies and maps with the office of the chairman of the Schenectady metroplex development authority, such chairman shall file one certified copy of such local law and one certified copy of such map with the commissioner of the New York state department of taxation and finance. The territory and boundaries of the Schenectady metroplex development service district shall not be required to be contiguous.

§ 2655. General purposes and powers of the authority. The general purposes of the authority shall be to design, develop, plan, finance, create, site, construct, renovate, administer, operate, manage, and maintain all metroplex facilities and metroplex parks within the service district defined in section twenty-six hundred fifty-four of this title. To carry out such purposes the authority shall have the power:

1. To sue and be sued;

2. To acquire, hold and dispose of real and personal property for its corporate purposes;

3. To have a seal and alter the same at pleasure;

4. To borrow money and issue bonds for any of its corporate purposes or its projects, or to refund the same, and to provide for the rights of the holders thereof;

5. To make, subject to the provisions of section twenty-six hundred fifty-five-a of this title, by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the design, development, planning, construction, financing, operation, management, siting and maintenance of all metroplex facilities and metroplex parks within the service district;

6. To appoint officers, agents and employees; and to describe their qualifications and fix their compensation; subject, however, to the provisions of the civil service law as provided in this title;

7. To make contracts and leases, and to execute all instruments necessary or convenient;

8. To design, develop, plan, finance, create, site, construct, renovate, administer, operate, manage and/or maintain such buildings, parks, structures, and other facilities as may be necessary or convenient, specifically, but not limited to:
(a) trade exhibition facilities;
(b) public show facilities;
(c) public entertainment facilities and parks;
(d) hotel and overnight accommodation facilities;
(e) transportation and parking facilities;
(f) historic preservation facilities and parks;
(g) tourism facilities and parks;
(h) sporting event facilities and parks;
(i) special entertainment facilities and parks;

(j) educational facilities and parks;
(k) cultural and social facilities and parks;
(l) infrastructure facilities;
(m) industrial and manufacturing facilities and parks; and/or
(n) business, commercial, retail, and/or government office space, buildings and/or facilities;

9. To collect revenues, dues, costs, assessments, rentals, fees and other charges for the use of real or personal property and/or facilities and parks of the authority subject to and in accordance with such agreements with bondholders as may be provided in this title;

10. To contract for the services of architects, engineers, consultants, lawyers, financial and other professional advisors, developers, contractors, vendors, concessioners, tenants, facility and/or park users, occupants and managers and other professional consultants and service providers, and to fix their compensation;

11. To declare, designate, establish, design, create, site, construct, develop, plan, finance, operate, renovate, administer, manage and/or maintain parks and park districts within the service district so as to establish parks and/or park districts for historic preservation, educational entertainment, and/or recreation;

12. Upon the resolution of a municipality, to avoid, and be exempt from, zoning and/or planning requirements, laws and/or regulations established, created or enacted by the municipality;

13. To designate the depositories of its money;

14. To establish its fiscal year;

15. To appoint such officers, employees and agents as the authority may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers and

private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

16. To receive and consider reports and recommendations from any advisory councils or boards as may be established by local law, ordinance, or resolution; and

17. To do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 2655-a. Bylaws of the authority. 1. The board shall draft proposed bylaws for the organization and procedure of the authority. Such bylaws shall be consistent with the provisions of this title and all other state and federal laws, and shall contain a provision that such bylaws may only be amended after final adoption by a two-thirds vote of all the voting members of the board. Upon the drafting of such proposed bylaws, the board shall conduct a public hearing on such proposed bylaws and solicit public comment on the same. After the public hearing and comment has been conducted and solicited, the board shall adopt such proposed bylaws, with any amendments made thereto in response to the public hearing and comment, and shall thereafter file the adopted proposed bylaws with the clerk of the county legislature.

2. Within thirty days of the filing of such adopted proposed bylaws with the clerk of the county legislature, the county legislature may, by a two-thirds vote of all the members of the county legislature, reject the proposed bylaws so filed and return them to the authority for possible amendment and redrafting. If the county legislature does not reject the proposed bylaws by such two-thirds vote within thirty days of the filing of the same, then such proposed bylaws so filed shall be deemed adopted and in full force and effect. If the county legislature rejects the proposed bylaws by such two-thirds vote, then the authority shall amend the proposed bylaws as deemed appropriate. Such amended bylaws shall be filed with the clerk of the county legislature, whereupon the county legislature may again consider the amended bylaws

as in the same manner as if such bylaws had been originally filed pursuant to subdivision one of this section.

3. In the absence of bylaws which are deemed adopted and in full force and effect, the authority shall operate and be governed by the provisions of this title and the most recently revised edition of Roberts Rules of Order.

§ 2655-b. Public hearings of the authority. Prior to the adoption of any project where the authority would:

1. expend more than five hundred thousand dollars;

2. borrow money or issue bonds pursuant to subdivision four of section twenty-six hundred fifty-five of this title; or

3. condemn real property pursuant to section twenty-six hundred fifty-nine of this title;

the board shall schedule and hold a public hearing and solicit public comment on such project. After the conclusion of the public hearing and comment, the board shall consider the results of the public hearing and comments with respect to the adoption of the proposed project. Such consideration by the board shall include the accommodation of the public interest with respect to such project, if such accommodation is deemed in the best interest of the community and the authority's purposes as expressed in section twenty-six hundred fifty-five of this title, the proposal and resolution may be amended.

§ 2655-c. Capital plan of the authority. On or before the first day of March, the authority shall annually produce, and present at a public hearing for public comment, a five-year capital projects plan, outlining the vision of its intended capital projects for the next five years. With respect to each project proposed in the plan, the authority shall provide a detailed description of the:

1. overall nature, purpose and extent of the project;

2. proposed amount and sources of capital funding to complete the project;

3. proposed amount and sources of operating funding necessary to operate the project;

4. urban and community planning performed or which needs to be performed;

5. economic development potential of the project;

6. financial feasibility of the project;

7. geographic location and impact of the project;

8. impact of the project on the community's natural resources;

9. tourism, entertainment and arts development potential of the project;

10. human and physical infrastructure requirements and impact of the project; and

11. other factors which have been considered for the purpose of enhancing the viability of the county.

An annual presentation of this five-year capital plan shall further be made to the county legislature. After the presentation of the first five-year capital plan, any subsequent plan presented shall describe any changes from, modifications to, and the current status of, projects included in the previous plans. In developing and maintaining such plan, the authority shall, from time to time, enter into contracts with any and all outside experts it may deem necessary for the plan's successful production, presentation and development.

§ 2655-d. Reports of the authority. 1. In addition to any other report required by this title, the authority, through its chairman, shall annually deliver, in oral and written form, a report to the county legislature. Such report shall be presented by March fifteenth of each year to the county legislature's standing committee on economic development. The report shall describe in detail the projects undertaken by the authority during the past year, the monies expended by the authority during the past year, the administrative activities of the authority during the past year, and the authority's compliance with the provisions of subdivision three of section twenty-six hundred fifty-six of this title. At the conclusion of the report, the chairman of the authority board shall be prepared to answer the questions of the county legislators with respect to the projects undertaken by the authority during the past year, the monies expended by the authority during the past year, and the administrative activities of the authority during the past year.

2. In addition to any other report required by this title, each board member appointed upon the recommendation of a municipality other than the county, shall annually deliver, in oral and written form, a report to the municipality from which such board member was appointed. In the case of the city of Schenectady, both members so appointed shall jointly deliver such report. Such report shall be presented at a meeting as designated by the municipality's town board or city council. The report shall describe in detail the projects undertaken by the authority during the past year, the monies expended by the authority during the past year, and the administrative activities of the authority during the past year. At the conclusion of the report, the board member or members shall be prepared to answer the questions of the supervisor, mayor, town board and/or city council with respect to the projects undertaken by the authority during the past year, the monies expended by the authority during the past year, and the administrative activities of the authority during the past year, or any other activities of the authority which have been conducted or which may be proposed for performance with the municipality.

§ 2656. Contracts. 1. Construction contracts let by the authority shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law.

2. The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. Any construction contract awarded by the authority shall contain such other terms and conditions as the authority may deem desirable. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid, if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

3. Each contract to which the authority is a party including, but not limited to, any contract, lease, grant, bond, covenant, or other debt agreement entered into directly or indirectly by the authority financing in whole or in part, the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation or alteration of a building or an improvement to property shall require that employers, contractors and sub-contractors shall comply with the provisions of section two hundred twenty of the labor law.

4. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article;

§ 2657. Employees, civil service. 1. The appointment and promotion of all non-exempt/non-management confidential employees of the authority shall be made in accordance with the civil service law and the rules of the Schenectady county civil service commission.

2. In accordance with the provisions of section seventy of the civil service law, any officer or employee of a municipality, school district or special district in the service area, may, at the request of the authority, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

3. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer. Successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 2658. Code of ethics. 1. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. No authority employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. (a) No authority employee shall accept other employment, which will impair his or her independence of judgment in the exercise of his or her official duties.

(b) No authority employee shall accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority employee shall disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for him or herself or others.

(e) No authority employee shall engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority employee shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee shall abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

(j) If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she shall file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

5. The authority shall ensure that all employees or applicants for employment are afforded equal employment opportunity without discrimination.

6. All board members and employees of the authority shall be deemed to be public officers and shall, notwithstanding any other ethical requirements established by state or local law, and when not inconsistent with the provisions of this title, comply with sections seventy-three, seventy-three-a and seventy-four of the public officers law. Notwithstanding any other provision of law, the filing of a Schenectady county financial disclosure statement with the Schenectady county board of ethics by a board member shall constitute and be deemed in compliance with the financial disclosure requirements imposed by this section and section seventy-three-a of the public officers law.

§ 2659. Acquisition of land. The authority, upon the terms and conditions approved by resolution of the authority, shall have the power to acquire real property located within the service district by purchase, lease or condemnation to accomplish its lawful purposes. It shall also have the power to sell, lease or otherwise dispose of real property and shall retain and have the power to use the proceeds of such sale, rentals or other monies derived from the disposition thereof for its lawful purposes. A resolution of the authority to condemn real property shall require a two-thirds majority of the board for approval.

Claims for the value of the real property condemned and for legal damages caused by any such condemnation shall be adjusted and determined by the chairman with the approval of the board, or by the supreme court of Schenectady county as provided in section twenty-six hundred seventy of this title. When a claim has been filed with the supreme court, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before said court. All awards and judgments arising from such claims shall be paid out of moneys of the authority.

§ 2660. Request for state assistance. 1. Should the chairman of the authority determine that state assistance is necessary for the authority to achieve its lawful goals, powers and purposes, the chairman may annually may make and deliver to the director of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a request for financial support for the operation of the authority for the forthcoming fiscal year of the state. The request for financial support shall delineate the total amount needed by the authority from the state to achieve its lawful goals, powers and purposes, the source of all funds that the authority expects to receive from all other sources, and such other information as the director of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee shall require.

2. The state may appropriate and provide to the authority an amount of money it deems necessary to provide the authority to assist it in its successful operation and achievement of its lawful goals, powers and

purposes.

3. Notwithstanding the provisions of any general or special law to the contrary, no part of such appropriations shall be available for the purposes designated until a certificate of approval of availability shall have been issued by the director of the budget and a copy of such certificate is filed with the comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such certificate may be amended from time to time, subject to the approval of the director of the budget, and a copy of each such amendment shall be filed with the comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

§ 2661. Request for municipal assistance. 1. Notwithstanding the provisions of any general or special law to the contrary, the county of Schenectady may transfer to the authority from funds appropriated by the county legislature for the fiscal year beginning nineteen hundred ninety-eight, and each fiscal year thereafter, the amount the county deems necessary to assist the authority in its successful operation and achievement of its lawful goals, powers and purposes.

2. On or before August fifteenth, nineteen hundred ninety-nine, and on each August fifteenth thereafter, the chairman of the authority shall make and deliver to the chairman of the county legislature's ways and means committee for his approval and for submission to the county legislature a request for financial support for the operation to the authority for the forthcoming fiscal year of the county. The request for financial support shall delineate the total amount needed by the authority from the county to achieve its lawful goals, powers and purposes, the source of all funds that the authority expects to receive from all other sources, and such other information as the chairman of the county legislature's ways and means committee shall require. The chairman of the county legislature's ways and means committee may recommend the request for financial support by the authority for the annual county budget appropriations to the authority if the chairman of

the county legislature's ways and means committee determines that the request for financial support will assist the authority to achieve its lawful goals, powers and purposes for the upcoming year. The chairman of the county legislature's ways and means committee shall notify the chairman of the authority not later than October first of each year whether or not he has recommended to the county legislature the request for financial support to the authority.

3. The county may appropriate and provide to the authority an amount of money it deems necessary to provide the authority to assist it in its successful operation and achievement of its lawful goals, powers and purposes.

4. Notwithstanding the provisions of any general or special law to the contrary, no part of such county appropriations shall be available for the purposes designated until a certificate of approval of availability shall have been issued by the chairman of the county legislature's ways and means committee and a copy of such certificate is filed with the county director of finance. Such certificate may be amended from time to time, subject to the approval of the chairman of the county legislature's ways and means committee, and a copy of each such amendment shall be filed with the county director of finance.

5. Notwithstanding the provisions of any general or special law to the contrary, a town, city or village of Schenectady county may transfer to the authority from funds appropriated by the town, city or village for the fiscal year beginning nineteen hundred ninety-eight, and each fiscal year thereafter, the amount the town, city or village deems necessary to assist the authority in its successful operation and achievement of its lawful goals, powers and purposes.

6. On or before August fifteenth, nineteen hundred ninety-nine, and on each August fifteenth thereafter, the chairman of the authority shall make and deliver to the supervisor or mayor of such town, city or village for his approval and for submission to the town board, city council or village board a request for financial support for the operation of the authority for the forthcoming fiscal year of the town,

city or village. The request for financial support shall delineate the total amount needed by the authority from the town, city or village to achieve its lawful goals, powers and purposes, the source of all funds that the authority expects to receive from all other sources, and such other information as the supervisor or mayor shall require. The supervisor or mayor may recommend the request for financial support by the authority for the annual town, city or village budget appropriations to the authority if the supervisor or mayor determines that the request for financial support will assist the authority to achieve its lawful goals, powers and purposes for the upcoming year. The supervisor or mayor shall notify the chairman of the authority not later than October first of each year whether or not he has recommenced to the town board, city council or village board the request for financial support to the authority.

7. A town, city or village of Schenectady county may appropriate and provide to the authority an amount of money it deems necessary to provide the authority to assist it in its successful operation and achievement of its lawful goals, powers and purposes.

8. Notwithstanding the provisions of any general or special law to the contrary, no part of such town, city or village appropriations shall be available for the purposes designated until a certificate of approval of availability shall have been issued by the supervisor or mayor of the town, city or village and a copy of such certificate is filed with the town, city or village's director of finance. Such certificate may be amended from time to time, subject to the approval of the supervisor or mayor, and a copy of each such amendment shall be filed with the town, city or village's director of finance.

9. The county of Schenectady shall dedicate net collections from sales and compensating use taxes imposed pursuant to the authority of section twelve hundred ten-C of the tax law at the rate of one-half of one percent, during the period beginning September first, nineteen hundred ninety-eight, and ending August thirty-first, two thousand thirty-eight, or, if the county does not impose taxes pursuant to the authority of section twelve hundred ten-C of the tax law, the county shall dedicate

net collections from sales and compensating use taxes imposed during such period at the rate of one-half of one percent pursuant to the authority of section twelve hundred ten of the tax law, and shall quarterly deposit such net collections in the Schenectady metroplex development authority support fund established in accordance with subdivision (b) of section twelve hundred ten-C of the tax law. On January first, nineteen hundred ninety-nine, and then quarterly thereafter, the director of finance of Schenectady county shall transfer seventy percent of such net collections deposited in the Schenectady metroplex development authority support fund to the authority for deposit in the authority's general fund. The authority may use such portion of such dedicated net collections received for any lawful purpose or power of the authority. On January first, nineteen hundred ninety-nine, and then quarterly thereafter, the director of finance of Schenectady county, after transferring seventy percent of such net collections to the authority for deposit in the authority's general fund, shall transfer all remaining monies in the Schenectady metroplex development authority support fund to the Schenectady county real property tax abatement and economic development fund.

§ 2662. Private donations. Notwithstanding the provisions of any general or special law to the contrary, any person may donate, give, tender or provide, and the authority may receive, private monies to assist the authority in its successful operation and achievement of its lawful goals, powers and purposes.

§ 2663. Monies of the authority. 1. All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the authority or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the authority and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested pursuant to section ninety-eight-a of the state finance law in accordance with guidelines established by the authority's board and amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

2. Tax revenues received by the authority pursuant to section twelve hundred ten-C of the tax law, shall be applied in the following order of priority: first pursuant to the authority's contracts with bondholders, then to pay the authority's operating expense not otherwise provided for, and then the balance of such taxes not required to meet contractual or other obligations of the authority shall be deposited in the general fund of the authority.

§ 2664. Return of moneys to the county of Schenectady. 1. In the event that the revenues of the authority exceed its current liabilities by more than fifty percent at the end of its first fiscal year, or by more than ten percent at the end of its fiscal year of each fiscal year after its first fiscal year, after a lawful deposit in its reserve fund of not less than five percent of its revenues, and after a lawful deposit into its construction and development account in the amount necessary to provide payment for the anticipated projects of the next fiscal year, then the authority shall return to the county of Schenectady seventy-five percent of such surplus amount.

2. In the event that the revenues of the authority do not exceed its current liabilities by more than fifty percent at the end of its first fiscal year, or by more than ten percent at the end of its fiscal year of each fiscal year after its first fiscal year, after a lawful deposit in its reserve fund of not less than five percent of its revenues and after a lawful deposit into its construction and development account in the amount necessary to provide payment for the anticipated projects of the next fiscal year, or that sufficient funds are not available for the authority to make a lawful deposit in its reserve fund of not less than five percent of its revenues, and a lawful deposit into its construction and development account, then the authority shall not be required to return any funds to the county of Schenectady for that fiscal year.

3. The authority shall not return any funds to the county of Schenectady that have been received by the authority from sources other than the dedicated one-half of one percent of the sales tax.

§ 2665. Bonds or notes of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in conformity with applicable provisions of the uniform commercial code to pay the cost of any project, the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds or notes of the authority shall not exceed one hundred million dollars ($100,000,000), excluding bonds or notes issued to refund or repay bonds or notes therefore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds or notes may be greater than one hundred million dollars ($100,000,000), only if the present value of the aggregate debt service of the refunding or repayment of bonds or notes to be issued shall not exceed the present value of the aggregate debt service of the bonds or notes so to be refunded or repaid. For the purpose of this section, the present value of the aggregate debt service of the refunding or repayment bonds or notes and the aggregate debt service of the bonds or notes refunded or repaid shall be calculated by utilizing the effective interest rate of the refunding or repayment of bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment of bonds or notes from payment of dates thereof to the date of issue of the refunding or repayment of bonds or notes and to the price bid including estimated accrued interest from the sale thereof. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee to any bonds.

2. The authority shall have the power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other purpose of the authority. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(d) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(f) The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(g) The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds by the authority may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) Pledging all or part of the revenues, together with any other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

(b) The setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) Limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) The rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) Limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto, and the manner in which such consent may be given;

(h) The creation of special funds into which any revenues or monies may be deposited;

(i) The terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) Vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties and powers of such trustee;

(k) Defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right appointment of a receiver, provided, however, that such acts or omissions to act which may constitute a default and such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) Limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof or other property;

(m) Limitations on the amount of revenues and other monies to be expended or operating, administrative or other expenses of the authority;

(n) The payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) Any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments within the powers granted to the authority by this title and to perform such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security

interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds of the authority are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the members nor the officers of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and in accordance with section 21.00 of the local finance law, as amended from time to time.

§ 2666. Bonds; legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2667. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title. The property of the authority, its income and operations shall be exempt from taxation, assessments, special assessments and special ad valorem levies; the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to pay or to secure the payment of such bonds shall at all times be free from taxation.

4. The authority may pay, or may enter into agreements with the county or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to the real property owned by the authority located within the county or such municipality.

5. Notwithstanding subdivision four of this section, any project authorized by paragraphs (d), (m) and (n) of subdivision eight of section twenty-six hundred fifty-five of this title except government office space, building or facilities shall be exempt from real property taxation, calculated not to exceed the following: ten years of full exemption followed by one year of exemption from eighty percent of such taxation, followed by one year of exemption from sixty percent of such taxation, followed by one year of exemption from forty percent of such taxation, followed by one year of exemption from twenty percent of such taxation.

§ 2668. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by

instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding shall, in its own name:

(a) By action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) Bring an action or proceeding upon such bonds;

(c) By action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) By action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) Declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable, the

trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of any receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all monies and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 2669. State, county and municipalities not liable on bonds. Neither the state, the county nor any municipality therein shall be liable on the bonds or notes of the authority and such bonds or notes shall not be a debt of the state, the county or of any municipality therein and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 2669-a. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and secured by a pledge, and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public authority with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds. Nothing contained in this title shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter statutes imposing or relating to taxes or fees or appropriations relating thereto. The authority shall not include in any resolution, contract or agreement with the holders of its bonds, or such persons or public authorities who may enter into contracts with the authority, any provision stating that, as a result of the state exercising its right to amend, repeal, modify or otherwise alter any such tax, fee or appropriation a default will occur. Nothing in this title shall be deemed to obligate the state to make additional payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 2669-b. Agreement with county. 1. The county is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and secured by such a pledge, and with those persons or public authorities who may enter into contracts with the authority pursuant to the provisions of this title that the county will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish, collect and adjust rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public authority or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority.

2. (a) Nothing contained in this title shall be deemed to restrict the right of the county to repeal the sales and compensating use taxes imposed pursuant to the authority of section twelve hundred ten-C of the tax law, provided such county imposes sales and compensating use taxes pursuant to the authority of section twelve hundred ten of the tax law at a rate not less than one-half of one percent, or, if the county does not impose such taxes pursuant to the authority of section twelve hundred ten-C of the tax law, to reduce the rate of such taxes imposed pursuant to the authority of such section twelve hundred ten of the tax law to a rate not less than one-half of one percent, or to amend, modify or otherwise alter such taxes or appropriations relating thereto or to amend, modify, repeal or otherwise alter other taxes or fees or appropriations relating thereto.

(b) The authority shall not include in any resolution, contract or agreement with the holders of its bonds, or such persons or public authorities who may enter into contracts with the authority, any provision stating that, as a result of the county exercising its right to reduce, as described in paragraph (a) of this subdivision, the rate of, amend, modify or otherwise alter such sales and compensating use taxes or related appropriations, or its right to amend, repeal, modify or otherwise alter any such other tax, fee or appropriation a default will occur.

3. Nothing in this title shall be deemed to obligate the county to make additional payments or impose any taxes to satisfy the debt service

obligations of the authority.

§ 2670. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and (d) an action, against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatsoever against the authority to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the

validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same performance shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the authority of whatever nature shall be brought in the supreme court of Schenectady county.

§ 2671. Limitation of liability; indemnification. 1. Neither the members of the authority nor any person acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from carrying out any of the powers expressly given in or authorized by this title.

2. The board shall elect the provisions of section eighteen of the public officers law to apply to the members, officers, employees and agents of the authority in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or failed to be taken in compliance with any obligations under or pursuant to the terms of this title.

§ 2672. Assistance by state officers, departments, boards and

commissions. The department of audit and control, department of law, and all other state officers, agencies, departments, boards, divisions offices, and commissions may render such services to the authority within their respective functions as may be requested by the authority.

Notwithstanding the provisions of any other law to the contrary, the commissioner of the office of general services is authorized to enter into a contract, from time to time, on behalf of and in the name of the state of New York, upon terms and conditions which are fair and equitable, for the conveyance of unappropriated state lands and lands under water which the authority shall certify to be necessary or desirable for the corporate purposes of the authority.

§ 2673. Audit, annual report, county approval of certain projects. 1. The accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The authority shall annually submit to the county legislature, governor, state comptroller, chairperson of the senate finance committee, and chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county legislature.

2. The authority shall not undertake any project unless it shall have first been approved by a majority vote of the county legislature. The provisions of this subdivision shall not apply, and no approval of the county legislature shall be necessary, when: (a) the direct expenditure of funds used to complete such project is not anticipated to exceed ten million dollars in funds derived from the authority's share of the dedicated net collections described in subdivision nine of section twenty-six hundred sixty-one of this title, and the interest on one-third or less of bonds or notes that shall be issued for such project pursuant to this title shall be includable, under the United States Internal Revenue Code of 1986, as amended, or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same

manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders thereof under the code or any of the subsequent laws; or (b) notwithstanding the provisions of paragraph (a) of this subdivision, no bonding is necessary; or (c) notwithstanding the provisions of paragraph (a) of this subdivision, solely where the action of the authority is site acquisition, site preparation or infrastructure development.

§ 2674. Separability. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.

Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling.

TITLE 28-BB

ALBANY CONVENTION CENTER AUTHORITY

§ 2675-a. Short title. This title shall be known and may be cited as the "Albany convention center authority act".

§ 2675-b. Statement of legislative findings. It is hereby found, determined and declared that there is an immediate need to institute a comprehensive, coordinated program of convention activities in the city of Albany. It is further found, determined and declared to be desirable to create an Albany convention center authority to provide the city of Albany with the capability to effectively and efficiently develop, renovate and undertake certain transformational economic developmental projects in the historic downtown area to optimize the economic and social activities of the city and its environs. It is further found, determined and declared that the construction, transformation and improvement of new and existing facilities for a convention center consisting of trade exhibition, hotel accommodations, transportation infrastructure, tourism, theatre facilities, retail business, commercial office space facilities, including services for the operation and maintenance thereof, will provide significant economic and social benefits to the city and county of Albany and the entire capital district region and, that, consistent with social, economic, environmental and other essential considerations of state policy, locating and renovating these new and improved facilities in the historic downtown area of the city of Albany is in the public interest, given the convenience and accessibility of the city, its significance in the history of the state and nation, its designation as a heritage area, its stature as the capital city of the state and the seat of state government, and the immediacy of the needs of the people of the state for the realization of the significant economic and social benefits to be derived from this convention center.

It is further found, determined and declared that the development of the area is a matter of essential state and city concern, and that the establishment and creation of an Albany convention center authority is necessary to provide for the economic prosperity and general welfare of the people of the city of Albany and the state of New York for the construction, development, location and operation of a convention center consisting of these facilities.

It is further found, determined and declared to be the intent of the legislature that the Albany convention center authority shall carry out its purposes and responsibilities directly and through agreements with local entities, and that the Albany convention center authority shall be created as a public benefit corporation and that the corporate programs and powers conferred under this title and the expenditure of public monies pursuant thereto, are in furtherance of a valid public interest and public purpose.

§ 2675-c. Definitions. As used or referred to in this title, unless a different meaning appears from the context:

1. "Authority" shall mean the public benefit corporation created by section twenty-six hundred seventy-five-d of this title.

2. "Board" shall mean the members of the authority created in section twenty-six hundred seventy-five-d of this title.

3. "Bonds" shall mean hotel revenue bonds, notes, and other evidence of indebtedness issued by the authority pursuant to this title.

4. "City" shall mean the city of Albany.

5. "Common council" shall mean the common council of the city of

Albany.

6. "Comptroller" shall mean the comptroller of the state of New York.

7. "Convention facility" shall mean a convention center complex comprised of facilities for trade exhibition, hotel accommodations, transportation infrastructure, tourism, retail business, commercial office space and/or parking of which the ownership, lease, transfer, design, development, planning, financing, creation, siting, construction, renovation, administration, operation, management and/or maintenance is authorized to be undertaken, in whole or part, by the authority pursuant to this title.

8. "County executive" shall mean the county executive of the county of Albany.

9. "County legislature" shall mean the county legislature of the county of Albany.

10. "Director of the budget" shall mean the director of the budget for the state of New York.

11. "Downtown" shall mean the area within the boundaries of the city of Albany located within one mile of the State Capitol or Empire State Plaza.

12. "Governor" shall mean the governor of the state of New York.

13. "Mayor" shall mean the mayor of the city of Albany.

14. "Municipality" shall mean a county, town, city or village.

15. "Person" shall mean any natural person, partnership, limited liability company, association, joint venture or corporation, exclusive of a public corporation.

16. "Personal property" shall mean chattels and other tangible things

of a moveable or removable nature.

17. "Property" shall mean both real and personal property.

18. "Real property" shall mean lands, structures, franchises and interests in land, airspace, waters, lands under water, riparian rights, air rights, any fixtures, equipment and articles of personal property affixed to or used in connection therewith, and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

19. "State" shall mean the state of New York.

20. "Theatre facilities" shall mean a building or part of a building with one or more performance areas and one or more audience seating areas used primarily for the presentation of dramatic or musical theatre.

§ 2675-d. Albany convention center authority. 1. A corporation known as the Albany convention center authority is hereby created for the public purpose and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. The governing body of the authority shall be a board. The authority shall consist of nine members. Three members shall be appointed by the governor. One member shall be appointed by the temporary president of the senate. One member shall be appointed by the speaker of the assembly. Two members shall be appointed by the mayor with the advice and consent of the common council. Two members shall be appointed by the county executive with the advice and consent of the county legislature. All members of the board shall serve at the pleasure of their appointing authority.

2. A member of the board shall be designated as chairperson by a majority vote of all the members of the board, provided that the initial chairperson must be one of the members appointed by the governor. A member of the board shall also be so designated as vice-chairperson of the board. The chairperson may appoint an executive director of the authority, upon advice and consent of the board, who shall be primarily responsible for the discharge of the administrative functions of the authority. The executive director shall be deemed an employee of the authority, and, as such, be an exempt management confidential employee, who is a public officer and entitled to an annual salary as established by the authority board, such salary not to exceed the salary of the mayor or county executive, whichever is higher.

3. The powers of such corporation shall be vested in and exercised by the board.

4. The authority and its corporate existence shall continue until its existence shall be terminated by law, provided, however, that no such termination shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof.

5. Five members of the board shall constitute a quorum for the transaction of business. At least four of the members of the board present at any meeting at which a quorum shall be present, shall be necessary to pass any resolution, except as otherwise specified in this title. All propositions requiring the expenditure of money or affecting contract rights or property, shall be presented to the board in writing. No resolution containing such a proposition shall pass unless it receives approval of at least a majority of the whole board.

6. The board shall hold at least one regular meeting quarterly. The chairperson, or in his or her absence the vice-chairperson, or any four members, may call a special meeting by notice as specified by the board. All meetings of the board shall be subject to article seven of the public officers law.

7. Members of the board shall be entitled to no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

8. Notwithstanding any inconsistent provision of any general, special or local law, no officer or employee of the state or of any municipality, as defined in the public officers law, the second class cities law, or the general city law, shall be deemed to have forfeited or shall forfeit his or her public office or any benefits provided under the retirement or social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his or her acceptance of membership on or chairpersonship or vice-chairpersonship of the authority.

9. The principal office of the authority shall be located in the city of Albany.

10. Subject to the provisions of this title, members of the authority may engage in private employment, or in a profession or business.

§ 2675-e. General purposes and powers of the authority. The general purposes of the authority shall be to design, develop, plan, finance, create, site, construct, renovate, administer, operate, manage, and maintain the convention facility of the authority. To carry out such purposes the authority shall have the following powers:

1. To sue and be sued;

2. To have a seal and alter the same at its pleasure;

3. To acquire by purchase or condemnation, real property within the city of Albany necessary, desirable or convenient for its corporate purposes and hold, use, develop and dispose of the same in connection therewith;

4. To borrow money and issue bonds of the authority for any of its

corporate purposes, to secure the same with its revenues or other funds and otherwise to provide for and secure the payment thereof and to provide for the rights of holders thereof and to fund or refund the same;

5. To acquire, hold, use and dispose of personal property for its corporate purposes;

6. To make by-laws for the regulation of its affairs and the conduct of its business;

7. To appoint officers, agents and employees; and to describe their qualifications and fix their compensation subject, however, to the provisions of the civil service law;

8. To make contracts and leases and to execute all instruments necessary or convenient for its corporate purposes;

9. To accept grants, loans, funding or other contributions from the United States, the state of New York, the county of Albany, or any agency or instrumentality of them, or the city of Albany or any of its agencies or instrumentalities, or any privately endowed foundation, organization or individual, including gifts, grants, loans or contributions of real or personal property and to expend the proceeds for any purposes of the authority;

10. To fix and collect revenues, dues, costs, assessments, rentals, fees and other charges for the use of real or personal property and/or facilities comprising the convention facility subject to and in accordance with such agreements with bondholders as may be provided in this title;

11. To contract for the services of architects, engineers, consultants, lawyers, financial and other professional consultants and advisors, developers, contractors, vendors, concessionaires, tenants, and/or convention facility users, occupant managers and service providers and to fix their compensation;

12. To design, develop, own, plan, finance, create, site, construct, renovate, administer, operate, manage and/or maintain such buildings, structures and other improvements and facilities comprising such convention facility;

13. To designate the depositories of its money;

14. To establish its fiscal year;

15. To enter into any lease of or to mortgage any property, and the site thereof;

16. To enter into agreements, in its discretion, to pay annual sums in lieu of taxes to the city of Albany, the Albany city school district, the Albany public library, the county of Albany, or any other political subdivision or taxing district within the county of Albany in respect of any real property which is owned by the authority and located in any such municipality, political subdivision or taxing district;

17. With the consent of the city, to use agents, employees and facilities thereof; paying to the city an agreed proportion of the compensation or cost thereof; and

18. To do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 2675-f. Preliminary study of the authority. Prior to commencing any purchase, lease or transfer of any real property, in whole or part, the authority shall formulate a plan for the creation and development of the convention facility. After passage of a resolution approving such plan, it shall be submitted to the governor, comptroller, temporary president of the senate, speaker of the assembly, county executive and mayor. Such resolution shall require at least six affirmative votes of the board for passage. Any plan submitted will include, but not be limited to: a detailed accounting of expected revenues and financing; an estimate of expenditures necessary for construction and maintenance; a description of the geographic location of anticipated construction sites, with supporting information on the impact such construction would have on existing structures in the vicinity; a depiction of any and all structures anticipated for construction; an assessment of anticipated environmental impacts; a plan for inclusion of historic preservation measures to be undertaken; a structure for involvement of the community; the report of results from public hearings held, pursuant to section twenty-six hundred seventy-five-g of this title; and, a timeline for expected development.

§ 2675-g. Public hearings of the authority. 1. The authority shall hold public hearings prior to:

(a) the adoption of the preliminary report pursuant to section twenty-six hundred seventy-five-f of this title;

(b) the adoption of any project where the authority would condemn real property pursuant to subdivision three of section twenty-six hundred seventy-five-e of this title;

2. The board shall schedule and hold two or more public hearings to solicit public comments. Notice of such hearings shall, not less than two weeks prior to the scheduled date, be posted conspicuously and printed in a newspaper or newspapers having general circulation within the county of Albany. Provision shall be made for the solicitation of comments from interested parties not able to attend the hearing(s). After the conclusion of the public hearing and comment period, the board shall consider the results of the public hearing and comments submitted with respect to the adoption of the preliminary report or proposed project and issue a report summarizing the comments received.

§ 2675-h. Contracts. 1. Construction contracts let by the authority shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law.

2. The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. Any construction contract awarded by the authority shall contain such other terms and conditions as the authority may deem desirable. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid, if, in its judgement, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

3. All contracts or leases for the construction, reconstruction, rehabilitation or improvement of buildings let by the authority shall comply with the provisions of section two hundred twenty of the labor law.

4. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services and materials shall be deemed state contracts, within the meaning of that term as set forth in such article.

§ 2675-i. Monies of the authority. 1. All monies of the authority from whatever source derived, except as otherwise authorized or provided in this title, shall be paid to the authority and shall be deposited forthwith in a bank or banks in the state designated by the authority. The monies in such accounts shall be withdrawn on the order of such person or persons as the authority may authorize. All deposits of such monies shall, if required by the authority, be secured in such manner as the authority may determine. The comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. Such examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the authority, in lieu of such an examination, an external examination of its books and accounts made at the request of the authority. The results of any such examinations shall be reported to the governor, the chairperson of the senate finance committee, the chairperson of the assembly ways and means committee, the mayor and the county executive.

2. Notwithstanding any other provisions of this title related to the investments of monies of the authority, the authority shall have power to contract with holders of any of its bonds, as to the custody, collection, securing, investment, and payment of monies of the authority, of any monies held in trust or otherwise for the payment of bonds, and to carry out such contract. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in such manner as shall be set forth in such contract or agreement, and all banks and trust companies are authorized to give such security for such deposits. The authority shall establish and may amend from time to time, guidelines for the investment of its monies, including those held in trust for the benefit of the holders of bonds, and shall file such guidelines in the authority's public records within sixty days after the adoption of such guidelines or amendments thereto.

3. The authority shall submit to the comptroller, within thirty days of the receipt thereof by the authority, a copy of the report of every external examination of the books and accounts of the authority.

§ 2675-ii. State aid revenues. 1. With respect to each issue of outstanding hotel revenue bonds, the chairperson of the authority shall certify at least semi-annually, or in the case of the first such certificate within thirty days after the sale of an issue of hotel revenue bonds, to the comptroller and the director of the budget, with a copy to the mayor, a schedule setting forth the amount of state aid revenue payable to the city pursuant to section nineteen-a of the public lands law, if any, necessary for payment of any amounts required to be deposited in any debt service reserve fund with respect to such hotel revenue bonds to make up any deficiency in such fund in accordance with the provisions of the resolution or indenture pursuant for which such hotel revenue bonds were issued (all such payments, "eligible obligations").

2. The certification may be amended and, in the event of a bond sale, shall be amended no later than thirty days after such sale. The schedule accompanying such certification shall provide for such payment dates as the authority deems appropriate to ensure that sufficient funds will be available to meet its eligible obligations relating to such hotel revenue bonds as they come due.

§ 2675-j. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue hotel revenue bonds. The authority shall further have power from time to time and whenever it deems refunding expedient, to refund any hotel revenue bonds by the issuance of new hotel revenue bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. Hotel revenue bonds of the authority shall be revenue obligations payable from and secured by hotel revenues and state aid revenues, as defined pursuant to section twenty-six hundred seventy-five-ii of this title, as the authority determines are available therefor and upon such terms and conditions as specified by the authority in the resolution under which the bonds are issued.

2. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for

or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

3. (a) Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds. Any and all such resolutions shall require at least six affirmative votes of the board for passage. Any such resolution may delegate to an officer or committee of the authority, and any such committee may delegate to an officer, the power to issue such bonds from time to time and to fix the details of any such issues of bonds by an appropriate certificate of such authorized officer.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(d) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(f) The authority shall annually submit its bond sale report to the director of the budget, state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(g) The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

4. Any resolution or resolutions authorizing bonds or any issue of bonds by the authority may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) Pledging all or part of the revenues, together with any other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

(b) The setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) Limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) The rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) Limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto, and the manner in which such consent may be given;

(h) The creation of special funds into which any revenues or monies may be deposited;

(i) The terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) Vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties and powers of such trustee;

(k) Defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right appointment of a receiver, provided, however, that such acts or omissions to act which may constitute a default and such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) Limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof or other property;

(m) Limitations on the amount of revenues and other monies to be expended or operating, administrative or other expenses of the authority;

(n) The payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) Any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust

indentures, agreements or other instruments within the powers granted to the authority by this title and to perform such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

7. Whether or not the bonds of the authority are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

8. Neither the members nor the officers of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

9. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject

to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and in accordance with section 21.00 of the local finance law, as amended from time to time.

§ 2675-k. Agreements of the state. The state of New York does hereby pledge to and agree with the holders of the bonds that the state will not limit or impair the rights hereby vested in the authority to acquire, construct, maintain, reconstruct and operate its convention facility, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, including interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

§ 2675-l. State, county and city not liable on bonds. The bonds and other obligations of the authority shall not be a debt of the state of New York, the county of Albany or the city of Albany, and neither the state, the county nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority. All such bonds and notes of the authority shall contain on the face thereof a statement to that effect.

§ 2675-m. Bonds; legal investment for fiduciaries. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 2675-n. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by the title, or upon or with respect to any rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

3. The state hereby covenants with the purchasers and with all

subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to pay or to secure the payment of such bonds shall at all times be free from taxation.

4. The authority may pay, or may enter into agreements with the county or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to real property owned by the authority located within the county or such municipality.

§ 2675-o. Remedies for bond holders. 1. In the event that the authority shall default in the payment of principal or interest on any issue of bonds after the same shall become due, whether at maturity or upon call redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his, her or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the holders of the authority's bonds, and include the right to require the authority to collect fees and charges and interest adequate to carry out any agreements as to, or pledge or assignment of or lien upon, such fees and charges and interest, on properties and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary and appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the holders of the authority's bonds in the enforcement and protection of their rights.

4. The Supreme Court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such holders of the authority's bonds. The venue of any such suit, action or proceeding shall be laid in the city in which the principal office of the authority is located.

§ 2675-p. Actions against authority. 1. Except in an action for wrongful death, no action for special proceeding shall be prosecuted or maintained against the authority, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and (d) an action against the authority for wrongful death shall be commenced in accordance with the applicable notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatsoever against the authority to be sworn before a member, counsel, or an attorney, officer or employee of the authority designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same performance shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the Supreme Court of Albany county.

5. The rate of interest to be paid by the authority upon any judgement for which it is liable, other than a judgement on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the authority of whatever nature shall be brought in the Supreme Court of Albany county.

§ 2675-q. Annual reports. The accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The authority shall annually submit to the mayor, county executive, governor, state comptroller, chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a copy of said report which shall also be filed with the clerk of the common council.

§ 2675-r. Severability. If any provision of any section of this title or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgement shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.

TITLE 28-C

ALBANY COUNTY PINE HILLS LAND AUTHORITY

§ 2676. Short title. This title may be cited as the "Albany county pine hills land authority act".

§ 2676-a. Statement of legislative findings and purpose. The legislature hereby finds and declares as follows:

1. The economic well-being of the county and the general welfare of its people require adequate, and accessible performing arts centers, athletic fields, educational facilities, and residential facilities.

2. The preservation and safeguarding of facilities at risk of being underutilized and becoming blighted is a matter of vital importance not only to the residents of the capital district but to all the state's residents and is, therefore, a matter of state concern.

3. In order to ensure a healthy economy for such area and to promote

the general welfare of its residents, it is necessary to maintain and improve the college of Saint Rose facilities and services in the county of Albany in such a manner as to stimulate and promote a healthy economy.

4. The general health and welfare of the state's residents requires coordinated operation of the college of Saint Rose facilities and services in the county of Albany by a public benefit authority.

5. The purposes of such authority shall be: (a) to promote accessible, efficient and economically productive use of the facilities; (b) to acquire, construct, reconstruct, continue, develop, equip, expand, improve, maintain, finance, and operate the college of Saint Rose facilities and services within the county of Albany; (c) to stimulate and promote economic development; and (d) to make contracts and leases and to execute all instruments necessary or convenient for its corporate purposes.

6. Such purposes are in all respects public purposes for the benefit of the people of the state of New York and for which public funds may be expended and both the county and the authority in carrying out their respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The acquisition, construction, reconstruction, development, expansion, improvement, equipping, operation and maintenance of any project financed or undertaken by the authority or the county shall be deemed to be the performance of an essential governmental function by the authority or the county acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or public corporation.

7. It is hereby found and declared that it has been and remains the policy of the state of New York to promote equal opportunity in employment for all persons, without discrimination on account of race, creed, color, national origin, sex, age, disability or marital status, to promote equality of economic opportunity for minority group members and women, and minority and women-owned business enterprises.

§ 2676-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the Albany county pine hills land authority created by this title.

2. "City" shall mean the city of Albany.

3. "The college of Saint Rose facilities" shall mean any facility or land including but not limited to any athletic facility, educational facility, performing arts facility, or residential facility owned or operated by the college of Saint Rose, and shall include such other facilities, equipment, property, structures and appurtenances as may be necessary or convenient in the operation, maintenance, development or improvement of, leased by the authority to persons, engaged in the production or development of the facilities or land.

4. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bond holders which shall apply with equal force and effect to notes and note holders unless the context otherwise clearly requires.

5. "Construction" shall mean the acquisition, erection, building, alteration, repair, improvement, increase, enlargement, extension, installation, reconstruction, renovation or rehabilitation of a project including any appurtenances thereto which may be necessary or desirable to promote the efficiency or effectiveness of such project; the inspection and supervision thereof; and the engineering, consulting, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto and claims arising therefrom.

6. "Cost", as applied to any project, shall include the cost of the acquisition of all property both real and personal, improved and

unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land and the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants and legal services, the cost of lease, guarantees, credit enhancement or bond insurance, other expenses necessary or incidental to the construction of such project, and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement, to any public corporation, the state, the federal government, or any other person for expenditures, that would be costs of such project had they been made directly by the authority.

7. "County" shall mean the county of Albany.

8. "Facility" shall include, but not be limited to, properties, structures, appurtenances, utilities, and such other works.

9. "Federal government" shall mean the United States of America, and any department, board, commission, bureau, division, corporation, agency, or instrumentality thereof.

10. "Joint service arrangements" shall mean agreements between or among the authority and any person, the state, the county, any other public corporation including the advance Albany county alliance, the federal government, any other state or agency or instrumentality thereof, relating to property, buildings, structures, facilities, services, rates, classification, divisions, allowances or charges, or rules or regulations pertaining thereto.

11. "Minority and women-owned business enterprise" or "minority or women-owned business enterprise" shall mean a minority-owned business enterprise and/or a women-owned business enterprise, as such terms are defined by section three hundred ten of the executive law.

12. "Municipality" shall mean a county, city, town, village, or school district.

13. "Person" shall mean any natural person, firm, partnership association, joint venture, or corporation, exclusive of a public corporation.

14. "Personal property" shall mean chattels and other tangible things of a moveable or removable nature.

15. "Property" shall mean both real and/or personal property.

16. "Project" shall mean any property or improvements located within the state of New York and within or outside or partially outside the county of Albany, including, but not limited to, machinery, equipment, and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not in existence or under construction upon the effective date of this title, which shall be necessary or suitable for purposes and redevelopment of the college of Saint Rose facilities provided, however, the authority shall not use its funds in respect of any part of a project located wholly or partially outside the county without the prior consent thereto by the governing body of any other county in which a part or parts of such project is, or is to be located.

17. "Public corporation" shall mean a county, city, town, village, school district or special district, any public benefit corporation, agency or instrumentality of the state or of any municipality, or two or more of any of the foregoing acting jointly.

18. "Real property" shall mean lands, structures, franchises and

interests in land, airspace, waters, lands under water, riparian rights, rights, any fixtures, equipment and articles of personal property affixed to or used in connection therewith, and any and all things and rights included within such term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

19. "Revenues" shall mean all rates, fees, rents, revenues, charges, and other income derived by the authority from the operation, leasing, sale, or other disposition of the college of Saint Rose related facilities.

20. "State" shall mean the state of New York.

§ 2676-c. Albany county pine hills land authority. 1. There is hereby created the Albany county pine hills land authority. The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of seven members who shall be residents of the county of Albany. Such members shall be appointed in the following manner: four shall be appointed by the county executive, two shall be appointed by the chairperson of the county legislature, and one shall be appointed by the mayor of the city of Albany. Of the members of the authority initially appointed by the county executive, two shall serve for a term ending December thirty-first, two thousand twenty-eight and two shall serve for a term ending December thirty-first, two thousand twenty-nine. Of the members of the authority initially appointed by the chairperson of the county legislature, one shall serve for a term ending December thirty-first, two thousand twenty-eight and one shall serve for a term ending December thirty-first, two thousand twenty-nine. The member of the authority initially appointed by the mayor of the city of Albany shall serve for a term ending December thirty-first, two thousand twenty-eight. Thereafter, each member of the authority shall serve a term of four years. The members of the authority, once appointed, shall designate one of the seven members of the authority to serve as the chairperson of the authority. The authority may provide for such officers as may be determined necessary and the same need not be members of the authority.

2. All members of the authority shall continue to hold office until their successors are appointed and qualify. Except as otherwise provided in subdivision three of this section, vacancies of members of the authority shall be filled in the manner provided for original appointment. Such vacancies, occurring otherwise than by expiration of term of office, shall be filled for the unexpired terms. Members of the authority may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers as set forth in the by-laws of the authority shall be established and vested in and be exercised by the members of the authority at an initial meeting duly called and held and four members of the authority shall constitute a quorum. No action shall be taken at the initial meeting of the authority or any adjournment thereof except pursuant to the favorable vote of at least four members of the authority. Any amendment to the powers of the authority as set forth in the by-laws of the authority shall only become effective upon the favorable vote of at least four members of the authority.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member, or employee of the state or of any public corporation shall forfeit such officer's, member's, or employee's office or employment by reason of such officers', member's, or employee's acceptance of appointment as a member, officer, or employee of the authority, nor shall service as such member, officer, or employee be deemed incompatible or in conflict with such office, membership, or employment.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution, or charter, no officer, member,

elected official or employee of the county of Albany or the city of Albany shall be eligible to serve as a member of the authority.

5. All members of the authority shall be required to comply with the Albany county code of ethics and to complete all disclosure forms required by such code of ethics.

6. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such termination shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county of Albany in such a manner as prescribed by law.

§ 2676-d. Advances on behalf of the authority; transfer of property to the authority; acquisition of property by county for the authority. 1. In addition to any powers granted to it by law, the county may, from time to time, appropriate by resolution sums of money to defray project costs or any other costs and expenses of the authority including operating expenses. Subject to the rights of bond holders, the county may determine if the monies so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, any public corporation may, by a majority vote of its governing body and the approval of its chief executive officer, give, grant, sell, convey, loan, license the use of, or lease to the authority any property or facilities, including the college of Saint Rose facilities, which are useful in connection with the exercise by the authority of its powers under this title. Any such gift, grant, sale, conveyance, loan, license, or lease shall be upon such terms and conditions, and for such term or terms of years, subject to the rights of the holders of any bonds, as the authority and

such public corporation may agree. Any such gift, grant, sale, conveyance, lease, loan, or license shall not be subject to referendum, permissive or mandatory. In the event that any public corporation gives, grants, sells, conveys, loans, licenses, or leases any of the college of Saint Rose facilities to the authority, such public corporation may contract with the authority to lease, borrow, license, operate, maintain, manage, and provide services for such facilities upon such terms and conditions and for such term or terms of years, subject to the rights of holders of bonds, as the authority and such public corporation may agree. The authority, in furtherance of any purchase, conveyance, or lease of any property or facility from any public corporation, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by such public corporation for such property or facility. For purposes of section 136.00 of the local finance law, any agreement by the authority to assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by any such public corporation shall, so long as such agreement shall continue to be honored by the authority, cause such bonds or notes to be deemed to have been refunded and any such public corporation may deduct from its gross indebtedness any outstanding indebtedness contracted for such property or facility to be acquired by the authority.

3. The county may acquire by purchase, grant, lease, gift, or condemnation pursuant to the eminent domain procedure law, real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special, or local, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority provided, however, no non-hazardous solid waste, toxic, or hazardous waste site, center, consolidated collection, or transfer area, shall be located or maintained at the college of Saint Rose facilities or lands adjacent thereto that are used in support of the college of Saint Rose operations as contained in any layout plan in existence upon the effective date of this title or in the future.

§ 2676-e. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the county, may, at the request of the authority and with the consent of the county executive, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions, and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any pension or retirement fund or system under the laws of the state, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to such employee's transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as such employee's predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as such employees would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement; or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 2676-f. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To borrow money and issue bonds for any of its corporate purposes or its projects and to provide for the rights of the holders thereof;

4. To make and alter by-laws for its organization and management, and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

5. To acquire by purchase, grant, lease, gift, or otherwise and to hold and use property necessary, convenient, or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange, or otherwise dispose of any such property in such manner as the authority shall determine;

6. To acquire, construct, reconstruct, lease, expand, improve, maintain, equip, furnish, or operate one or more projects and, if necessary, to pay or finance the cost thereof;

7. To accept gifts, grants, loans, or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state, the county of Albany, or any public corporation or any other source, and to use any such gifts, grants, loans, or contributions for any of its corporate purposes;

8. To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the authority may deem desirable;

9. To designate the depositories of its money;

10. To establish its fiscal year;

11. To enter into contracts, agreements and leases with the federal government, the state, the county, any person or other public

corporation and to execute all instruments necessary or convenient to accomplishing its corporate purposes;

12. To appoint such officers, employees, and agents as the authority may require for the performance of its duties, in coordination with the advance Albany county alliance, and to fix and determine their qualifications, duties, and compensation subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional, management, or technical services and advice;

13. With the consent of the county executive, and in coordination with the advance Albany county alliance, to use employees, agents, consultants, and facilities of the county, paying the county its agreed proportion of the compensation or costs;

14. To make and adopt plans, surveys, and studies necessary, convenient, or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

15. To enter upon such lands, waters, or premises as in the judgment of the authority may be necessary, convenient, or desirable for the purpose of making surveys, soundings, borings, and examinations to accomplish any purpose authorized by this title, the authority being liable for any actual damage done;

16. To covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includable, under the United States Internal Revenue Code of 1986, as amended or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders thereof under such code or any such subsequent law; and

17. To insure or provide for the insurance of the authority's property

or operations as required by law and also against such other risks as the authority may deem advisable.

§ 2676-g. Special powers of the authority. In order to effectuate the purpose of this title:

1. The authority may enter into any joint service arrangements as hereinafter provided.

2. The authority may, on such terms and conditions as the authority may determine necessary, convenient, or desirable establish, construct, effectuate, operate, manage, maintain, renovate, improve, extend, or repair any of the college of Saint Rose facilities, or may provide for such establishment, construction, effectuation, operation, management, maintenance, renovation, improvement, extension, or repair by contract, lease, or other arrangement on such terms as the authority may deem necessary, convenient, or desirable with the federal government, any state or agency or instrumentality thereof, any person, or public corporation. In connection with the operation of any such facilities, the authority may establish, construct, effectuate, operate, manage, maintain, renovate, improve, extend, or repair, or may provide by contract, lease, or other arrangement for the establishment, construction, effectuation, operation, management, maintenance, renovation, improvement, extension, or repair of any related services and activities it deems necessary, convenient, or desirable.

3. The authority may establish, fix, revise, levy, and collect or cause to be established, fixed, revised, levied, and collected and, in the case of a joint service arrangement, join with others in the establishment, fixing, revision, levy and collection of such rentals, rates, charges, concession fees and other fees as it may deem necessary, convenient, or desirable for the use and operation of any of the college of Saint Rose facilities, and related services operated or managed by the authority or under contract, lease, or other arrangement, including joint service arrangements, with the authority. Such rentals, rates, charges, concession fees, or other fees shall be at least sufficient at

all times in the judgment of the authority to establish and maintain the operations of the authority on a self-sustaining basis. Such operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or fund or cause to be paid or funded from revenues and any other funds actually available to the authority: (a) the principal of, premium, if any, and the interest on outstanding bonds of the authority as the same shall become due and payable and any capital or debt service reserve therefor and, to the extent required by an agreement between the county and the authority, the principal of and interest on any general obligations bonds, notes, or other evidence of indebtedness of the county issued for or allocable to any project of the authority as the same shall become due and payable and any reserves therefor; (b) the cost of administering, maintaining, repairing and operating any project of the authority; (c) the cost of constructing capital improvements thereto pursuant to any agreement between the county and the authority; (d) any liabilities incurred for or allocable to any project of the authority including any liabilities of the county assumed by the authority pursuant to any agreement between the county and the authority, as the same become due and payable; (e) any requirements of any agreement including those relating to the establishment of reserves for renewal and replacement and for uncollected rentals, rates, charges, and fees and covenants respecting rates and debt service and earnings coverage ratios; (f) all other reasonable and necessary expenses of the authority; and (g) the cost of such additional projects as may be at the time of the effective date of this title or thereafter authorized, by law and agreed to by the authority.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct, safety, and security of the public as it may deem necessary, convenient, or desirable for the use, operation, and management of any project and related services operated or managed by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing

the conduct, safety, and security of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct, safety, and security of the public and any local law, ordinance, rule, or regulation, such rule or regulation of the authority shall prevail.

5. The authority may do all things it deems necessary, convenient, or desirable to manage, control, and direct the maintenance and operation of the college of Saint Rose facilities, equipment, or property operated by or under contract, lease, or other arrangement with the authority. Except as agreed to pursuant to any agreement between the authority and any public corporation and except as hereinafter specially provided, no municipality except for the county, shall have jurisdiction over any facilities of the authority or any of its activities or operations. The authority shall provide for such facilities police, fire, and health protection services.

6. The authority may accept unconditional grants of money or property from any municipality where the whole or any part of such municipality is served or is to be served by a facility operated by the authority. Such grants of money or property shall be for the purpose of assisting the authority in meeting its capital or operating expenses. The acceptance of any such grant shall not operate to make the authority an agency of the municipality making such grant.

7. In any instance where the county is required by law, with respect to any of the college of Saint Rose facilities, to conduct a public hearing in connection with a contract, lease, joint service arrangement, charge, rental, or fee, the authority shall not enter into such contract, lease, joint service arrangement, or establish, fix, revise, or levy any charge, rental, concession fee, or other fee unless and until the authority has held a public hearing at which interested persons have had an opportunity to be heard concerning the same, provided, however, if the county has conducted a public hearing in connection with such contract, lease, joint service agreement, charge, rental, or fee, the authority shall not be required to hold a public

hearing. Notice of such public hearing shall be published by the authority at least ten days before the date set therefor, in at least one newspaper of general circulation in the county. Such notice shall set forth the date, time, and place of such hearing and shall include a brief description of the matters to be considered at such meeting. At all such hearings, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision of the authority on matters considered at such public hearing shall be in writing and be made available in the office of the authority for public inspection during regular office hours.

§ 2676-h. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes, or other obligations outstanding shall not exceed eighty million dollars, excluding bonds, notes, or other obligations issued to refund or otherwise repay bonds, notes, or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes, or other obligations may be greater than eighty million dollars only if the present value of the aggregate debt service of the refunding or repayment bonds, notes, or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes, or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes, or other obligations and of the aggregate debt service of the bonds, notes, or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes, or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes, or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes, or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds, other than notes or other evidence of indebtedness, issued for refunding purposes, which have a final maturity date longer than the maturity of the bonds being refunded, shall be approved by a resolution of the county legislature adopted by a majority vote and approved by the county executive. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues, or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees, or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the authority, be in

such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale shall not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding paragraph (b) of this subdivision, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(d) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller and the county comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(f) The authority shall annually submit its bond sale report to the state comptroller and the county comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(g) The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the revenues, other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to any contracts, earnings, or proceeds of any grant to the authority received from any private or public source subject to such agreements with bond holders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees, and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bond holders shall be amended or abrogated, the amount of bonds the holders of which shall consent thereto, and the manner in which such consent shall be given;

(h) the creation of special funds into which any revenues or monies shall be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bond shall be issued;

(j) vesting in a trustee or trustees such properties, rights, powers, and duties in trust as the authority may determine which may include any or all of the rights, powers, and duties of the trustees appointed by the bond holders to appoint a trustee pursuant to this title or limiting the rights, duties, and powers of such trustee;

(k) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the bond holders and providing for the rights and remedies of the bond holders in the event of such default, including as a matter of right appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions

of this title;
(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;
(m) limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;
(n) the payment of the proceeds of bonds, revenues, and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and
(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers conferred upon the authority to secure its bonds under this section, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging, or creation of any other security interest in any such revenues, monies, or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements, or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements, or other instruments. The provisions of any such resolutions, trust indentures, agreements, or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Notwithstanding any provision of the uniform commercial code to the contrary, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles, or other personal property made or created by the authority shall be valid, binding, and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or

further act, and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created, nor any financing statement need be recorded or filed.

8. Regardless of whether the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the members of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date; or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

§ 2676-i. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the authority shall default in the payment of principal or of interest on any issue of bonds, after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this

title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose provided under this section.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding shall, in such trustee's own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees, and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees, and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the provisions of subdivisions one and two of this section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth under this section or incident to the general representation of bond holders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bond holders. The venue of

any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable the trustee shall first give thirty days notice in writing to the authority.

6. (a) Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of any receiver of any part or parts of the project, the revenues of which are pledged for the security of bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all monies and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and operate, maintain, and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising there from subject to any pledge or agreement with bond holders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court.

(b) In any suit, action or proceeding by the trustee, the fees, council fees, and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2676-j. State and county not liable on authority bonds. Neither the state, the county, nor the city shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the county or the city, and such bonds shall contain on the face thereof a statement to such effect.

§ 2676-k. Monies of the authority. All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The monies in such accounts shall be paid out on check of the treasurer upon requisition by such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit, and all banks and trust companies shall be authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the authority or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the authority and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provision of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bond holders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

§ 2676-l. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever, who are upon the effective date of this title, or thereafter, authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding other provisions of law, the bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is upon the effective date of this title, or thereafter authorized.

§ 2676-m. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees, and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 2676-n. Agreement with county. The county is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the county will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all cost and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority.

§ 2676-o. Exemption from taxes, assessments and certain fees. 1. The authority shall not be required to pay any fees, taxes, special ad valorem levies, or assessments, whether state or local, including but not limited to fees, taxes, special ad valorem levies, or assessments on real property, franchise taxes, sales taxes, or other excise taxes, upon any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities or any rentals, rates, charges, fees, revenues, or other income received by the authority. Notwithstanding the previous sentence, the authority shall be required to pay water and pure water fees or charges as may be negotiated by any public corporation. The authority shall at all times be exempt from any filing, mortgage recording, or transfer fees or taxes in relation to instruments filed, recorded, or transferred by it or on its behalf. The construction, use, occupation, or possession of any property owned by the authority or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease, or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant, or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall at all times be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2676-p. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers, or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort, or wrongful act of the authority or of any member, officer, agent, or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law; (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based; and (d) an action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an

account or claim for any cause whatever against the authority to be sworn before a member, counsel, or an attorney, officer, or employee of the authority designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2676-q. Contracts. 1. All contracts for construction shall be let by the authority in conformity with the applicable provisions of section one hundred thirty-five of the state finance law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards, and working hours.

2. The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. The authority shall not award any construction contract except to the lowest bidder

who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

§ 2676-r. Code of ethics. 1. Definition. As used in this section the term "authority employee" shall mean any member, officer, or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of such authority employee's duties in the public interest.

3. Standards. (a) No authority employee shall accept other employment which will impair such authority employee's independence of judgment in the exercise of such authority employee's official duties.

(b) No authority employee shall accept employment or engage in any business or professional activity which will require such authority employee to disclose confidential information which such authority employee has gained by reason of such authority employee's official position or authority.

(c) No authority employee shall disclose confidential information acquired by such authority employee in the course of such authority employee's official duties nor use such information to further such authority employee's personal interests.

(d) No authority employee shall use or attempt to use such authority employee's official position to secure unwarranted privileges or exemptions for such authority employee or others.

(e) No authority employee shall engage in any transaction as representative or agent of the authority with any business entity in which such authority employee has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of such authority employee's official duties.

(f) An authority employee shall not by such authority employee's conduct give reasonable basis for the impression that any person can improperly influence such authority employee or unduly enjoy such authority employee's favor in the performance of such authority employee's official duties, or that such authority employee is affected by the kinship, rank, position or influence of any party or person.

(g) An authority employee shall abstain from making personal investments in enterprises which such authority employee has reason to believe may be directly involved in decisions to be made by such authority employee or which will otherwise create substantial conflict between such authority employee's duty in the public interest and such authority employee's private interest.

(h) An authority employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that such authority employee is likely to be engaged in acts that are in violation of such authority employee's trust.

(i) No authority employee employed on a full-time basis nor any firm or association of which such authority employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such authority employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such authority employee serves or is employed.

(j) If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, such authority employee shall file with the secretary of state a written statement that such authority employee has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended, or removed from office or employment.

§ 2676-s. Agreements relating to payment in lieu of taxes. 1. In order to assure that municipalities shall not suffer undue loss of taxes or assessments in the event that the authority acquires any facility from the county, any person paying real property taxes or assessments as of the date of the transfer of title from the county to the authority on any property located within any such facility shall make payments in lieu of taxes in an amount equal to the sums which would ordinarily be imposed as taxes by any municipality in which such property is located, pursuant to the prevailing method of determining taxes and assessments.

2. Subject to any agreement with bond holders, the authority may, with the approval of the county, but shall not be required to, enter into agreements with any municipality of the state to pay annual sums in lieu of taxes to any such municipality in respect of any real property which is owned by the authority is located in such municipality and is used for public purposes. For the purposes of this section, such public purposes shall include without limitation athletic facilities, educational facilities, performing arts facilities, or residential facilities.

3. (a) In the event that any real property owned by the authority is used by the authority or a lessee thereof for purposes other than public purposes, the authority, or lessee thereof, as the case may be, may, with the approval of the county, enter into agreements with any municipality of the state to pay annual sums in lieu of taxes in respect of such real property located in such municipality. For the purposes of this section, such purposes other than public purposes shall include without limitation, athletic facilities, educational facilities, performing arts facilities, residential facilities, or office buildings to the extent not used by the authority or any other public corporation for its own corporate purposes, and such other buildings and improvements as determined by the authority to be not exclusively for public purposes.

(b) The authority shall determine (i) the amount of such annual payments in lieu of taxes; (ii) whether the use of such property is for purposes other than public purposes; and (iii) the extent to which such property is used for purposes other than public purposes. In making such determinations the authority shall take into consideration the recommendations, if any, of the county.

§ 2676-t. Audit and annual report. In conformity with the provisions of section five of article ten of the state constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the county comptroller, county legislature, county executive, governor, the state comptroller, the chairperson of the senate finance committee, and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county legislature and the county executive.

§ 2676-u. Limited liability. Neither members, officers, or employees of the authority, nor any municipality, or an officer or employee thereof acting on behalf of the authority, shall be subject to any personal liability resulting from the construction, maintenance, or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title provided, however, that this section shall not be held to apply to any independent contractor.

§ 2676-v. Transfer of applications, proceedings, approvals, and permits. 1. Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the county or by the county with the federal government, or any other public corporation shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority has been a party to such application, review, process, or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award, or decision heretofore or thereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county to the authority unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits, determinations, findings, awards, and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using, or occupying any facility financed in whole or in part by the authority.

§ 2676-w. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 2676-x. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter or any local law, charter, ordinance or resolution of the county or another municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

TITLE 29

DEVELOPMENT AUTHORITY OF THE NORTH COUNTRY ACT

§ 2700. Short title. This title shall be known and may be cited as the "development authority of the north country act".

§ 2701. Statement of legislative findings and purposes. It is hereby found, determined and declared that there is an immediate need to institute a comprehensive, coordinated program of economic development activities in the three county area comprised of the counties of Jefferson, Lewis and St. Lawrence which surround the United States Army base at Fort Drum in order to provide the region with the capability to effectively plan and develop the infrastructure needs of the region required by the population increase forecast due to the expansion of the United States Army facilities at Fort Drum. It is further declared to be desirable to create a regional development authority of the north county to provide the region with the capability to effectively and efficiently communicate with the United States Army to optimize the economic and social impact on the region of the Army's plans to locate the 10th Mountain Division at Fort Drum. It is further found and declared that such needs are a matter of essential state concern and that such authority is necessary to provide for the health, safety and welfare of the people of the participating counties and the state. The authority shall carry out its purposes and responsibilities directly and through agreements with state and local entities, authorities and the United States Department of the Army. It is further declared that the authority shall be created as a public benefit corporation and that the corporate programs and powers conferred under this title and the expenditures of public moneys pursuant thereto are in furtherance of a valid public interest and public purpose.

§ 2702. Definitions. As used in this title, the following words and terms shall have the following meanings unless the context indicates another or different meaning or intent:

1. "Authority" shall mean the public benefit corporation created by section twenty-seven hundred three of this title, known as the development authority of the north country.

2. "Bonds" shall means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the

provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of any project financed under the provisions of this title; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

4. "Cost" as applied to a project or any portion thereof financed under the provisions of this title embraces all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the costs of relocating tenants or other occupants of the building or structures on such land and the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project and such other expenses as may be necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition and the placing of the project in operation, including all costs relating to the refinancing or satisfaction of existing indebtedness; and any reimbursements to any municipality, state agency, the state, the United States or any other person or public corporation for expenditures that would be costs of any project hereunder had they been made directly by the authority.

5. "Existing sewer system" shall mean all sewers, including, without limitation, trunk, intercepting, connecting, lateral and other sewers, storm water drains, pumping stations, disposal or treatment plants or works, structures, appliances, equipment and other adjuncts thereto, comprising the portion of the system of sewerage owned by any participating county or municipality within a participating county, as delineated on a map filed by the governing body of such county or municipality with the secretary of the state of New York pursuant to this title.

6. "Municipality" shall mean any county, city, town, village, refuse district under the county law, improvement district under the town law, any other such instrumentality, including any agency, authority or public corporation of the state, or any of the foregoing, or any combination thereof.

7. "Participating counties" shall mean the counties of Jefferson, St. Lawrence and Lewis.

8. "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

9. "Project" shall mean a sewerage facility, solid waste management facility, water facility, or any portion of which, the planning, development, financing, acquisition, construction, operation or maintenance is authorized to be undertaken in whole or in part by the authority pursuant to this title.

10. "Real property" shall mean lands, structures, improvements franchises and interests in land, including lands under water, waterfront property, marginal streets and riparian rights, space rights and air rights and any and all other things and rights usually included within said term and any fixtures, equipment and articles of personal property affixed to or used in connection therewith. Real property shall also mean and include any and all interests in such property less than full title, such as easements, incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years

and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages for such real estate.

11. "Resource recovery" shall mean the separation, extraction or recovery of usable materials, energy or heat from solid waste through source separation, incineration, recycling centers or other programs, projects or facilities.

12. "Revenues" shall mean all rates, fees, rents, charges and other income derived by the authority from its operations.

13. "Sewerage facility" shall mean a system of trunk, intercepting and connecting, lateral and outlet sewers, storm water drains, pumping and ventilating stations, disposal or treatment plants or works, and other appliances and structures, which in the judgment of the authority will provide an effectual and advantageous means for relieving the participating counties and municipalities within the participating counties from pollution created by the sewage and waste and relieving the participating counties and municipalities within the participating counties from inadequate sanitary and storm water drainage by providing for the sanitary disposal or treatment of the sewage thereof, or such sections or parts of such systems as the authority may from time to time deem it proper or convenient to construct, consistent with purpose of this title.

14. "Solid waste" shall mean all putrescible and non-putrescible solid wastes, including, but not limited to, materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded, has served its intended use, or is a manufacturing or mining by-product, including, but not limited to, garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, mining and agricultural operations and from community activities, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material,

incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law.

15. "Solid waste management facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for or is incidental to the collecting, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, shredding or baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, leachate treatment facilities, plants and facilities for compacting, composting or pyrolization of solid wastes, secure land burial facilities, landspreading facilities, surface impoundments and waste oil storage, reprocessing and refining facilities, incinerators and other solid waste disposal, reduction or conversion facilities, and "resource recovery equipment" and "disposal equipment" as such terms are defined in subdivisions four and five of section 51-0903 of the environmental conservation law. Any such facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in subdivision two-a of section two of the public service law.

16. "Source separation" shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

17. "State" shall mean the state of New York.

18. "United States" shall mean the United States of America or any department, agency or instrumentality thereof acting on behalf of the United States of America.

19. "Water facility" shall mean any water supply or distribution system or systems, including any plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, right-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments.

20. "Community facility" shall mean any facility in the participating counties that provides for the health, education and welfare of the residents of the region within such participating counties, including but not limited to medical facilities, housing facilities, educational facilities, transportation facilities, municipal service facilities, and cultural and social facilities.

§ 2703. Development authority of the north county. 1. A corporation known as the development authority of the north country is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. Its membership shall consist of a board of thirteen members chosen as follows: five non-voting members appointed by the governor, one of whom shall be upon the recommendation of the temporary president of the senate, and one of whom shall be upon the recommendation of the speaker of the assembly; two members, who shall be residents of the county of Jefferson, shall be appointed by the board of supervisors of such county; two members, who shall be residents of the county of Lewis, shall be appointed by the county legislature of such county; two members who shall be residents of the county of St. Lawrence, shall be appointed by the county legislature of such county; and two members, who shall be residents of the city of Watertown, shall be appointed by the common council of the city of Watertown. The local governing bodies of each of the participating counties and the city of Watertown shall adopt resolutions providing for the appointments of such members and shall transmit copies of such resolutions to the governor, the temporary president of the senate and the speaker of the assembly before such members take office. The first members of the authority shall be appointed for the following terms from the effective date of their appointment: one member to be appointed by the county legislatures of each of the counties of Lewis and St. Lawrence, the two members appointed by the governor upon the recommendation of the temporary president of the senate and the speaker of the assembly and one member to be appointed by the common council of the city of Watertown for a term of four years; one member to be appointed by the board of supervisors or county legislature of each of the counties of Lewis, Jefferson and St. Lawrence, and three members appointed by the governor for a term of two years; one member to be appointed by the board of supervisors of the county of Jefferson and one member to be appointed by the common council of the city of Watertown for a term of two years. The voting members of the authority shall choose from their number a chairman by majority vote of such members then in office. Each member shall continue in office until such member's successor has been appointed and qualifies. Each appointment following the expiration of the original terms of appointment shall be for a term of four years. In the event of a vacancy occurring in the office of any member, other than by the expiration of a member's term, such vacancy shall be filled for the balance of the unexpired term, if applicable, in the same manner as the original appointment.

2. The powers of the authority shall be vested in the voting members thereof in office from time to time and a majority of voting members and a majority of non-voting members shall constitute a quorum at any meeting of the authority. In cases of a tie vote, the chairman shall cast an additional vote. No vacancy in the membership of the authority shall impair the right of such members to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of this title may be authorized at a

meeting of the authority by resolution approved by a majority of the total number of voting members then in office, which resolution shall take effect immediately, or, unless inconsistent with the provisions of article seven of the public officers law, any action may be taken by a resolution circulated or sent to each member of the authority, which shall take effect at such time as all of the voting members then in office shall have signed an assent to such resolution and such assents are filed with the minutes of the proceedings. Any non-voting member who serves as an officer or employee of the state, or any political subdivision thereof, shall be entitled to designate a representative to attend, in his or her place, meetings of the board and to act in his or her behalf. Written notice of such designation shall be furnished to the board by the designating member prior to any meeting attended by his representative. Any representative shall serve at the pleasure of the designating member. No representative shall be authorized to delegate any of his duties or functions to any other person. The authority may delegate by resolution to one or more of its members, officers, agents and employees such powers and duties as the voting members may deem proper.

3. The members of the authority shall serve without salary or other compensation but each member shall be entitled to reimbursement for actual and necessary expenses incurred by such member in the performance of the official duties as a member.

4. Subject to the provisions of this subdivision, members of the authority may engage in private employment, or in a profession or business. The members, officers and employees of the authority shall be deemed to be state officers or employees and the authority shall be deemed to be a state agency solely for the purposes of sections seventy-three and seventy-four of the public officers law, which sections are hereby made applicable to the authority and its members, officers and employees.

5. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any political subdivision thereof, shall be deemed to have forfeited

or shall forfeit any public office or employment by reason of such person's acceptance of a membership on the authority; provided, however, a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for the actual and necessary expenses incurred in the performance of such services.

6. A member may be removed from office by the board for inefficiency, neglect of duty, conflict of interest or misconduct in office after the authority has given such member a copy of the charges against him or her and an opportunity to be heard in person, or by counsel in his defense, upon not less than ten days notice. If any member shall be so removed, there shall be filed with the chairman of the authority a complete statement of the charges made against such member and the finding of such board thereon, together with a complete record of the proceeding.

7. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds, notes or other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and be vested in the counties in accordance with such law.

§ 2704. Powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. to make and alter by-laws for the regulation of its affairs and the conduct of its business;

2. to adopt an official seal and alter the same at pleasure;

3. to maintain a principal office in the city of Watertown, and regional offices at such place or places as it may designate within the participating counties;

4. to sue and be sued;

5. to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this title;

6. pursuant to a plan approved, or amended and approved, pursuant to section twenty-seven hundred five of this title, in connection with any project, to determine the feasibility, location and character of such project and to acquire, construct, or to acquire any interest in or right to capacity in, and to reconstruct, renovate, replace, maintain, repair, enlarge, extend, operate, lease, as lessee or lessor, and regulate such project, to enter into contracts for any or all of such purposes, to enter into contracts for the management and operation of a project and, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project and to sell, lease, mortgage or otherwise dispose of any project or part thereof to the state, any person, public corporation or municipality;

7. to borrow money and to issue bonds of the authority for any of its corporate purposes, to secure the same with its revenues or other funds and otherwise to provide for and secure the payment thereof and to provide for the rights of holders thereof and to fund or refund the same.

8. to make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or nonnegotiable in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay;

9. subject to any limitation imposed or authorized by law, to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association or authority or other body public or private including a public corporation in respect thereof provided, however, that the authority shall not have the power, within any city, to collect

rentals, charges, rates or fees from the owners of real estate, or the occupants of real estate (other than the occupants of premises owned or controlled by such authority, or by the state or any civil division thereof), for services or facilities furnished or supplied in connection with such real estate, if such services or facilities are of a character or nature that as of the enactment of this act or formerly were furnished or supplied by the city, unless the electors of the city shall approve the granting to such authority of such powers by a majority vote at a general or special election in such city;

10. pursuant to a plan approved, or amended and approved, pursuant to section twenty-seven hundred five of this title and upon approval by resolution of the governing body of the county in which such property is located, to condemn, in the name of the authority, pursuant to the eminent domain procedure law, any real property within the participating counties required by the authority for any project to carry out the powers granted by this title;

11. to employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other agents as may be necessary in its judgment, and to fix their compensation;

12. pursuant to a plan approved, or amended and approved, pursuant to section twenty-seven hundred five of this title, to assist in the planning, development and construction of and the financing of, the cost of any project whether or not such project is to be owned or operated by the authority, including any project as defined in title one of article eighteen-A of the general municipal law, provided, however, that the authority shall not assist in the construction of or financing of the cost of a project as defined in title one of article eighteen-A of the general municipal law unless such project has first been approved by resolution of the governing body of each municipality in which such project is located;

13. to receive and accept loans, grants, aid in any form, gifts or contributions from any source of either money, property, labor or other

things of value and, subject to the provisions of this title, to comply with the terms and conditions thereof;

14. to enter into any lease of or to mortgage any property, project and the site thereof;

15. subject to any agreement with the holders of its bonds, to invest moneys of the authority not required for immediate use in obligations of the state or the United States or obligations the principal and interest of which are guaranteed by the state or the United States or in certificates of deposit or time deposits secured in such manner as the authority shall determine, or in obligations of any agency of the state or the United States which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control, or in any other obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight of the state finance law or any successor provision of law;

16. subject to any agreement with the holders of its bonds, to purchase bonds, of the authority out of any funds or moneys of the authority available therefore, and to hold, cancel or resell the bonds;

17. to contract to render and to render such services to the United States, or any public agency, public authority, municipality or political subdivision of the state, as the United States, such public agency, public authority, municipality or political subdivision shall request, with respect to the custody, administration, management or servicing of obligations, projects and property of such entity, including but not limited to the use of the premises, personnel and property of the authority, and may provide for reimbursement to the authority for any expenses necessarily incurred by the authority in rendering such services;

18. to appoint such officers, employees and agents as it may require, prescribe their duties and qualifications and fix their compensation;

19. to establish such reserves as the authority deems necessary or

appropriate;

20. to acquire by lease, purchase or gift, hold and dispose of real and personal property (whether tangible or intangible), which are located within the state, or any interest therein, for its corporate purposes, and, subject to any agreement with the holders of its bonds, to sell any mortgage or loan or other personal property acquired by the authority, at a public or private sale and at such price or prices as it shall determine;

21. to enter into agreements, in its discretion, to pay annual sums in lieu of taxes to any municipality, political subdivision or taxing district of the state in respect of any real property which is owned by the authority and located in such municipality, political subdivision or taxing district;

22. to contract with persons, municipalities and the United States for the use of projects and for the fixing and collection of rates, rentals, fees and other charges for the use of such projects, or services rendered by, or any commodities furnished by the authority so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds, notes or other obligations of the authority together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the authority, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority;

23. to coordinate the activities of state agencies and authorities to provide community facilities in the region;

24. to participate in federal programs for the insurance of loans including programs which require the authority to share any loss arising out of any loan insured by the federal government; and

25. to do all things necessary or convenient to carry out the purposes

of the authority.

§ 2705. Special powers with regard to planning. The authority shall prepare or cause to be prepared a report on the impact of the expansion of the Fort Drum Military Reservation on existing projects and community facilities within the participating counties. Based upon the findings of such report, the authority shall prepare or cause to be prepared a plan for the development or construction of projects, including projects defined in title one of article eighteen-A of the general municipal law which the authority intends to finance or assist in the financing of, and community facilities necessary to meet the needs of individuals, business enterprises, and governmental facilities, including military facilities within the participating counties. In formulating such plan or plans, the authority shall consult and cooperate with the planning authorities in the area of its operations. The authority may request and use existing studies, plans, surveys, data and other materials completed by or under development by any state agency or municipality. The authority shall file copies of such plan with the common council of the city of Watertown and the county legislatures or board of supervisors of the participating counties and the governing body of any municipality within the participating counties affected by such plan and any authorities or industrial development agencies within the participating county if such entity is substantially affected by the plan in relation to its property or projects. The plan or plans shall contain information regarding the facilities that the authority intends to provide or proposes be provided by other means and information regarding the services the authority contemplates providing or proposes be provided by other means and the estimated costs and the proposed method of financing. During sixty days after the filing of any plan, said plan shall be available for public inspection at the office or offices of the authority and at such other places in the areas affected, within the participating counties, as the authority may designate. Not earlier than thirty days after the filing of said plan, a public hearing on said plan shall be held by the authority. Notice of such a hearing shall be given to the legislative bodies and affected entities aforesaid by publication once a week for two weeks prior to the said hearing at the time and place fixed by the authority in newspapers of general circulation within the areas affected, to be selected by the authority. The last publication date shall not be less than five days before said hearing. Any amendments that the authority may adopt to the plan shall be adopted only after complying with the filing notice and hearing requirements provided for in this section. Within thirty days following the adoption of any plan or amendments, the authority shall provide a copy of such plan or amendments of such hearing to the legislative bodies and affected entities as aforesaid.

§ 2706. Special powers of participating counties and municipalities with respect to certain facilities. 1. Any participating county and one or more municipalities within the participating county, shall have the power to enter into contracts, leases or agreements from time to time between or among themselves and with the United States, or between and among themselves and the United States and with the authority in connection with a solid waste management facility in relation to the collecting, receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any such solid waste management facility; in connection with a sewer facility in relation to the collection, receiving, transporting, storage, processing or disposal of sewage or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any such sewer facility; in connection with a water facility in relation to the supplying, providing, storage, processing, purification, transportation, distribution and sale of water resulting from or used in connection with any such water facility. Any such contract, lease or agreement to which any participating county or any municipality is a party may include provisions stipulating the minimum rates, rentals, fees and other charges to be collected for the use of any such services, the availability of such services, including demand charges, and for the use and availability of such facilities and to pay all amounts due under the contracts, which may be amounts calculated to provide for payment and security for any bonds including, without limitation, such debt service coverage as the authority deems adequate for the bonds. Any such contract lease or agreement to which the authority or any participating county or any municipality are parties may include provisions (i) in connection with a solid waste management-resource recovery facility obligating such participating county or municipality to deliver or cause to be delivered, periodically to a solid waste management facility all or any portion of the solid waste generated in such participating county or municipality for processing or disposal and to make periodic payments for such processing or disposal whether or not delivery of any such solid waste shall be made, subject only to such exceptions, terms and conditions as may be provided therein; (ii) in connection with a sewer facility obligating such participating county or municipality to transport or cause to be transported to a sewer facility all or any portion of the sewage generated in such participating county or municipality for processing or disposal and to make periodic payments for such processing and disposal whether or not any sewer is transported to the sewer facility for such processing or disposal, subject only to such exceptions, terms and conditions as may be provided therein; (iii) in connection with a water facility obligating such participating county or municipality to obtain or cause to be obtained from a water facility all or any portion of the water used or consumed in such participating county or municipality and to make periodic payments for the supply of such water whether or not any water is used or consumed from such facility, subject only to such exceptions, terms and conditions as may be provided therein. To further the governmental and public purposes of the authority, including the implementation of any contract or proposed contract contemplated by this title, any participating county and all municipalities within any participating county shall have power to adopt and amend local laws imposing appropriate and reasonable limitations on competition including, without limiting the generality of the foregoing, local laws requiring that all solid waste generated or originated within their respective boundaries or portions thereof, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified solid waste management facility or facilities; that all sewage generated or originated within their respective boundaries or portions thereof, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified sewage facility or facilities; that all water used or consumed within their respective boundaries or portion thereof, subject to such exceptions as may be determined to be in the public interest, shall be supplied, transported or distributed by a specified water facility or facilities. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law. Nothing contained in this title shall be deemed or construed to alter the power granted under section twenty hundred forty-eight-s of this chapter.

2. Each participating county and each such municipality is hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased, received or obtained from the authority pursuant to subdivision one of this section. Any resale or other disposition may be made in such manner as such participating county or such municipality may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

3. Each participating county and each such municipality shall have the power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the authority.

4. Notwithstanding any other law, general, special or local, any contract entered into by a participating county or municipality in connection with, or in any manner relating to any project may be for such term or duration as may be agreed upon by the parties thereto, including that any such contract may provide that the same shall remain in full force and effect so long as the bonds issued for or in connection with such project, including any renewals thereof, shall remain outstanding or until adequate provision has been made for the payment or satisfaction thereof.

5. Any contract entered into pursuant to this section to which the authority shall be a party may be pledged by the authority as security

for any issue of bonds, and may be assigned, in whole or in part, by the authority to any public corporation or person which shall construct, purchase, lease or otherwise acquire any project, or part thereof, financed in whole or in part by the authority.

§ 2707. Special powers with regard to solid waste management facilities. The authority shall have power:

1. to collect, receive, extract, transport, process, dispose of, sell, store, convey, recycle and deal with, in any lawful manner an way, solid waste or by-products thereof now or hereafter developed or discovered, including any energy or steam generated by the operation of any facility on such terms and in such manner as the authority may deem proper;

2. to collect or receive from the United States, the state, any municipality or public corporation or person solid waste for the purpose of treatment or disposal thereof, with the right of the authority to sell and dispose of any by-products, including energy or steam, of such process of treatment or disposal, as the authority may deem proper; and

3. to contract with counties, municipalities, state agencies, public corporations, or persons and the United States for the purpose of collecting, receiving, treating and disposing of solid waste, including, without limitation, to contract with counties, municipalities, state agencies, public corporations the United States or persons for the delivery of solid waste generated within a stated area to a specific facility.

§ 2708. Environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title, or any proceeding commenced by any participating county or any municipality, with the department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the town to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any project financed in whole or in part by the authority.

§ 2709. Special powers with regard to sewerage facilities. The authority shall have power:

1. to acquire, construct, purchase or lease, in the name of the authority, any sewerage facility, sewer system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections and pipe lines, pumping stations and equipment or any other property incidental to and included in such sewerage facility system or part thereof, and any improvements, extensions and betterments, situated within the participating counties for the purpose providing adequate sanitary and storm water drainage to users, including the United States, within the participating counties; and as a means of so acquiring for such purposes, the authority may purchase all of the assets of any existing privately owned sewerage corporation or company;

2. to have and take ownership, jurisdiction, control, possession and supervision of any existing sewer system and any sewer facility financed, constructed or acquired pursuant to this title; to maintain,

operate, reconstruct and improve the same as a comprehensive sewerage system and to make additions, betterments and extensions thereto, and to have all the rights, privileges and jurisdiction necessary or proper for carrying such power into execution. No enumeration of powers in this or any other general, special or local law shall operate to restrict the meaning of this general grant of power or to exclude other powers comprehended within this general grant;

3. to dispose of the sewage and waste of all persons, public corporations, the state, and the United States in the participating counties;

4. upon the filing by the governing body of any municipality within a participating county with the secretary of state of the state of New York, of its certificate delineating the existing sewer system and such municipality's intention and desire to transfer the existing sewer system to the authority, thereupon, and by virtue of this title, the existing sewer system, together with all contracts, books, maps, plans, papers and records of whatever description pertaining to subjects or matters relating to the design, construction, operation and affairs of the existing sewer system shall be assigned, transferred and dedicated to the use of and be in the possession of and under the jurisdiction, control and supervision of the authority and the authority is empowered to take possession thereof for its uses and purposes. The authority shall thereafter have complete jurisdiction, control, possession and supervision of the existing sewer system and of all the facilities in the municipality for the disposal of sewerage and storm water, and shall continue to exercise such power for a period not to exceed thirty years as contained in such certificate and so long thereafter as any of the bonds and liabilities of the authority shall remain unpaid or shall not have otherwise been discharged. When all of the bonds and liabilities of the authority shall have been paid in full or shall have otherwise been discharged and the authority shall have ceased to exist, the powers, jurisdiction and duty of the authority shall cease and the property and assets acquired or held by it pursuant to this section, together with any additions within the boundaries of such municipality shall thereafter become the property of, and shall be under the jurisdiction,

control, possession and supervision of such municipality;

5. to establish a schedule of rates, rentals or charges, to be called "sewer rents," to be collected from all real property served by its sewerage facilities, and to prescribe the manner in which and the time at which such sewer rents are to be paid, provided that in no event shall the authority collect rents within any city within a participating county, and to change such schedule from time to time as may be deemed advisable. Such sewer rents may be determined by the authority on any equitable basis. Prior to the final adoption or modification of such schedule of sewer rents, the authority shall adopt a proposed schedule of such sewer rents and publish notice thereof once a week for three successive weeks in each participating county served by the authority's sewer facilities. The notice so published shall be dated as of the date of first publication thereof and shall state that the proposed schedule of sewer rents will remain open for inspection in the office of the authority for thirty days from the date of such notice, and that objections thereto may be filed during said period with the authority by any person conceiving himself aggrieved thereby. The authority shall hear and examine any such complaints and may modify the proposed schedule and shall adopt a final schedule of sewer rents within sixty days after the date of said notice. The schedule of sewer rents so adopted shall thereafter be the sewer rents to be charged all real property served by the sewer facilities of the authority. From and after the due date thereof, such sewer rents shall constitute a lien upon the real property served by the facilities. In the event that any such sewer rent shall remain unpaid for a period of ninety days, the authority, or for property within any city within a participating county, such city, may bring and maintain an action in the supreme court for the foreclosure of such lien;

6. to adopt regulations in accordance with law providing that the authority shall shut off the supply of water to any premises upon which sewer rents have not been paid until the sewer rents are paid, together with provision for an equitable charge for restoring water service to said premises.

§ 2710. Special powers with regard to water facilities. The authority shall have power:

1. to acquire, construct, purchase or lease, in the name of the authority, any water facility, water supply system, water distribution system, including plants, works, instrumentalities or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, wells or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments, situated within the participating counties for the purpose of supplying water for domestic, commercial and public purposes within the participating counties to any person, the state, any public corporation or the United States; and as a means of so acquiring for such purposes, the authority may purchase all of the assets of any existing privately owned water corporation or company;

2. to have and take ownership, jurisdiction, control, possession and supervision of any existing water system and to construct and develop any water facility including any water supply system or water distribution system, including plants, works, instrumentalities, or parts thereof, and appurtenances thereto, dams, reservoirs, water mains, pipe lines, pumping stations and equipment, wells, or any other property incidental to or included in such system or part thereof within the participating counties and to acquire, by condemnation, as provided in this section or otherwise lands, easements, rights of land, and water rights and rights-of-way within the participating counties; or to purchase or lease lands, easements, rights in land, and water rights and rights-of-way in connection therewith within the participating counties and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its properties acquired or constructed under this title, all of which, together with the acquisition of such properties are hereby declared to be public purposes;

3. to establish a schedule of rates, rentals or charges, to be called "water rents," to be collected from all real property served by its water facilities, and to prescribe the manner in which and the time at which such water rents are to be paid, provided that in no event shall the authority collect rents within any city within a participating county, and to change such schedule from time to time as may be deemed advisable. Such water rents may be determined by the authority on any equitable basis. Prior to the final adoption or modification of such schedule of water rents, the authority shall adopt a proposed schedule of such water rents and publish notice thereof once a week for three successive weeks in each participating county served by the authority's water facilities. The notice so published shall be dated as of the date of first publication thereof and shall state that the proposed schedule of water rents will remain open for inspection in the office of the authority for thirty days from the date of such notice, and that objections thereto may be filed during said period with the authority by any person conceiving himself aggrieved thereby. The authority shall hear and examine any such complaints and may modify the proposed schedule and shall adopt a final schedule of water rents within sixty days after the date of said notice. The schedule of water rents so adopted shall thereafter be the water rents to be charged all real property served by the sewer facilities of the authority. From and after the due date thereof, such water rents shall constitute a lien upon the real property served by the facilities. In the event that any such water rent shall remain unpaid for a period of ninety days, the authority, or for property within any city within a participating county, such city, may bring and maintain an action in the supreme court for the foreclosure of such lien;

4. to adopt regulations in accordance with law providing that the authority shall shut off the supply of water to any premises upon which water rents have not been paid until the water rents are paid, together with provision for an equitable charge for restoring water service to said premises;

5. to sell water, however acquired, by volume and at retail to consumers including the United States within the participating counties

for domestic, commercial, industrial and public purposes, or by volume or in bulk and at wholesale to any or all persons, public corporations, the United States or any privately owned public water supply and distribution systems in the participating counties. To sell any water not needed in such participating counties by volume and at retail to consumers without the participating counties for domestic, commercial, industrial and public purposes, or by volume or in bulk and at wholesale to any municipality, public corporation or privately owned public water supply and distribution system outside of the participating counties, provided that the authority shall not sell water in any area outside of the participating counties unless the governing board of the municipality wherein such area is located shall enter into an agreement with the authority for service or sale of water by it in such area or shall by resolution request the authority to sell water within such area. Any agreement between a municipality outside of the participating counties and the authority for the sale of water to or within such municipality shall be subject to the approval of the legislative body of the participating county or counties wherein the water facility supplying such water is located. In addition to the powers hereinbefore granted the authority may develop and provide a sufficient amount of water so as to supply water outside of the participating counties to sell such water to consumers, any person, public corporation or privately owned public water supply and distribution system provided however, that no such sale shall be made without the approval of the legislative body of the county in which the water facility supplying such water is located;

6. to purchase water in bulk or by volume from any person, private corporation or municipality when necessary or convenient for the operation of any water supply and distribution system developed by it, or when necessary or convenient for resale under the authority and provisions of subdivision three of this section; and

7. to enter into cooperative agreements with other water authorities, municipalities, persons, or public benefit corporations, for the interconnection of facilities, the exchange or inter-change of services and commodities, and to enter into contracts for the construction of

water supply and distribution systems by the authority for any municipality upon such terms and conditions as shall be determined to be reasonable including, but not limited to, the reimbursement of all costs of such construction provided, however, that any such agreement with a municipality located in a county, shall be subject to the approval of the legislative body of such county; and

8. to enter into a contract or contracts with the board of supervisors or county legislatures of each participating county for the acquisition, construction and development of a water supply and distribution system, or any part or parts thereof and to contract for the operation and management of such water supply and distribution system.

§ 2711. Bonds of the authority. 1. (a) The authority shall have power and is hereby authorized from time to time to issue its bonds in such principal amount as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving its corporate purposes, including the construction, acquisition, reconstruction, rehabilitation, improvement or refinancing of projects and subject to the provision of this title, any project as defined in title one of article eighteen-A of the general municipal law, the payment of interest on bonds of the authority, establishment of reserves to secure such bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. In addition, the authority may, in anticipation of the issuance of bonds or the receipt of appropriations, grants, reimbursements, revenues or other funds, issue notes the principal of or interest on which or both shall be payable out of the proceeds of bonds of the authority or appropriations, grants, reimbursements, revenues or other funds of the authority. The authority may also enter into bank loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

(b) The authority shall have power, from time to time, to issue renewal notes, to issue bonds or other obligations to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds, including any interest thereon, to be refunded.

2. Except as may otherwise be expressly provided by the authority, every issue of its bonds shall be general obligations of the authority payable out of any moneys, assets or revenues of the authority, subject as to priority only to any agreements with the holders of particular bonds theretofore or thereafter made pledging, assigning or creating a lien upon any particular moneys, assets or revenues. The authority may provide by agreement with the holders of its bonds that such bonds shall be payable solely from and secured by particular revenues and property of the authority.

3. The bonds shall be authorized by a resolution or resolutions of the authority adopted as provided by this title; provided, however, that any such resolution authorizing the issuance of bonds may delegate to one or more members or to an officer of the authority the power to issue such bonds from time to time and to fix the details of any such issue of bonds by an appropriate certificate of such member, members or officer.

4. The bonds of the authority shall bear such date or dates, mature at such time or times, bear interest at such rate or rates (simple or compounded), if any, be of such denominations, be in such form, be executed in such manner, be payable in such medium of payment, at such place or places within or without the state, and be subject to such terms of redemption prior to maturity, as may be provided by such resolution or resolutions or such certificate with respect to such bonds, as the case may be; provided, however, that no bond or other obligations shall mature more than forty years after the date of issue thereof and no notes or renewal thereof shall mature more than five years after the date of issue of the original notes.

5. The bonds of the authority may be sold by the authority at such

price or prices, at public or private sale, provided that no issue of bonds may be sold at private sale unless the terms of such sale shall have been approved in writing by (i) the state comptroller, where such sale is not to such comptroller, or (ii) the director of the state division of the budget, where such sale is to such comptroller, in such manner and from time to time as may be determined by the authority, and the authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof.

6. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

7. Any resolution or resolutions authorizing any bonds or any issue thereof or any trust indenture or indentures relating to such bonds may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging, assigning or creating a lien on all or any part of the rates, rentals, fees and charges made or received by the authority, and all or any part of the moneys received or to be received as repayment of loans, to secure the payment of the bonds or of any issue thereof, subject to such agreement with the holders of the authority's bonds as may then exist;

(b) pledging, assigning or creating a lien on all or any part of the assets of the authority, including mortgages and obligations securing the same, to secure the payment of the bonds, subject to such agreements with the holders of the authority's bonds as may then exist;

(c) the establishment and maintenance of reserves or sinking funds and the regulation and disposition thereof;

(d) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue thereof;

(e) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(f) the procedure, if any, by which the terms of any contract with the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) limitations on the amount of moneys to be expended by the authority for operating, administrative or other expenses of the authority;

(h) the creation of special funds into which any moneys of the authority may be deposited;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to this title, and limiting or abrogating the right of the holders of bonds to appoint a trustee pursuant to this title or limiting the rights, powers and duties of such trustee;

(j) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority and providing for the rights and remedies of the holders of bonds in the event of such default, providing, however, that such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this title; and

(k) any other matters, of like or different character, which in any way affect the security or protection of the bonds and the rights of the holders thereof.

8. Any pledge or assignment made or lien created by the authority shall be valid and binding from the time when the pledge or assignment is made or the lien is created; the moneys or property so pledged, assigned or encumbered by the authority shall immediately be subject to such pledge, assignment or lien without any physical delivery thereof or further act; and such pledge, assignment or lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge, assignment or lien is made or created need

be recorded or filed.

9. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. The authority, subject to such agreements with the holders of the authority's bonds as may then exist, shall have power out of any funds available therefor to purchase bonds of the authority.

11. The state shall not be liable on bonds of the authority and such bonds shall not be a debt of the state, and such bonds shall contain on the face thereof a statement to such effect.

§ 2712. Bonds as legal investments. The bonds of the authority are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds of this state is now or may hereafter be authorized.

§ 2713. Exemption from taxation of bonds. It is hereby determined that the creation of the authority is in all respects for the benefit of the people of the state and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. The state covenants with the purchasers and all subsequent holders and transferees of bonds issued by the authority, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority, issued pursuant to this title and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such bonds shall at all times be free from taxation except for estate or gift taxes and taxes on transfers.

§ 2714. Moneys of the authority. 1. All moneys of the authority from whatever source derived, except as otherwise authorized or provided in this title, shall be paid to the authority and shall be deposited forthwith in a bank or banks in the state designated by the authority. The moneys in such accounts shall be withdrawn on the order of such person or persons as the authority may authorize. All deposits of such moneys shall, if required by the authority, be secured in such manner as the authority may determine. The state comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. Such an examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the authority, in lieu of such an examination, an external examination of its books and accounts made at the request of the authority.

2. Notwithstanding any other provisions of this title related to the investment of moneys of the authority, the authority shall have power to contract with holders of any of its bonds, as to the custody, collection, securing, investment, and payment of any moneys of the authority, of any moneys held in trust or otherwise for the payment of bonds, and to carry out such contract. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of

such moneys may be invested, secured in such manner as shall be set forth in such contract or agreement, and all banks and trust companies are authorized to give such security for such deposits. The authority shall establish and may amend from time to time, guidelines for the investment of its moneys, including those held in trust for the benefit of the holders of bonds, and shall file such guidelines in the authority's public records within sixty days after the adoption of such guidelines or amendments thereto.

3. Subject to the provisions of any agreement with the holders of bonds and to the approval of the comptroller, the authority shall prescribe a system of accounts.

4. The authority shall submit to the comptroller, within thirty days of the receipt thereof by the authority, a copy of the report of every external examination of the books and accounts of the authority.

§ 2715. Agreement of the state. The participating counties and any municipalities within their boundaries are authorized to and the state does hereby pledge to and agree with the owners of any bonds issued by the authority, that they will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds.

§ 2716. Remedies of holders of bonds. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the holders of the authority's bonds, including the right to require the authority to collect fees and charges and interest adequate to carry out any agreement as to, or pledge or assignment of or lien upon, such fees and charges and interest, on properties and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

(c) by action or suit, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;

(e) declare all such bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the holders of the authority's bonds in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or

proceeding by the trustee on behalf of such holders of the authority's bonds. The venue of any such suit, action or proceeding shall be laid in the county in which the principal office of the authority is located.

§ 2717. Actions against the authority; court proceedings; preferences; venue. 1. In any case founded upon death, personal injury, property damage or tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any member, officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. No action or proceeding of any kind shall be commenced (i) prior to the expiration of thirty days from the date on which the demand, claim or claims upon which the action is founded were presented to a member of the authority or other officer thereof designated for such purpose nor (ii) more than one year and ninety days after the cause of action therefor shall have accrued, except that an action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases except election causes of action or cases in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county in which the principal office of the authority is located.

§ 2718. Limitation of liability; indemnification. 1. Neither the members of the authority nor any person acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from carrying out any of the powers expressly given in or authorized by this title.

2. The provisions of section eighteen of the public officers law shall apply to members, officers, employees and agents of the authority in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any obligations under or pursuant to the terms of this title.

§ 2719. Exemption from taxation of property and income. The property of the authority, and its income and operations shall be exempt from taxation or assessments of every kind and nature; nor shall the authority be required to pay any filing or recording fee or transfer tax of any kind on account of instruments filed or recorded by it or on its behalf. Mortgages made or financed (directly or indirectly) by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

§ 2720. Assistance by state officers, departments, boards and commissions. The department of audit and control, department of law, and all other state officers, agencies, departments, boards, divisions and commissions may render such services to the authority within their respective functions as may be requested by the authority.

§ 2721. State, counties and municipalities not liable on bonds. Neither the state, the counties nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the counties, any other municipality or public corporation, and such bonds shall contain on the face thereof, a statement to such effect.

§ 2722. Contracts of the authority. 1. Construction contracts let by the authority shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law, provided, however, that in the case of industrial projects, whenever the authority determines that trade secrets or other confidential information about the prospective project occupant's business operations, products, processes or designs would be revealed by public bidding, the requirements of section one hundred thirty-five of the state finance law with respect to public bidding may be waived. In such event, separate specifications shall be prepared for, and separate and independent contracts shall be entered into, for the following three subdivisions of work to be performed: (a) plumbing and gas fitting; (b) steam heating, hot water heating, ventilating and air conditioning apparatus; and (c) electric wiring and standard illuminating fixtures.

2. The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. Any construction contract awarded by the authority shall contain such other terms and conditions as the authority may deem desirable. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid, if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

3. Personal service contracts entered into by the authority shall be subject to the provisions of section twenty-eight hundred seventy-nine of this chapter.

§ 2723. Annual reports. The authority shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the state comptroller and the state director of the division of the budget within ninety days after the end of its fiscal year, a complete and detailed report setting forth: (i) its operations and accomplishments; (ii) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the authority for its operating and capital outlay purposes, including a listing of all private consultants engaged by the authority on a contract basis and a statement of the total amount paid to each such private consultant; (iii) its assets and liabilities at the end of its fiscal year, including a schedule of its loans and commitments; and (iv) a schedule of its bonds outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

§ 2724. Separability. If any clause, sentence, paragraph, action or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof involved in the controversy in which such judgment shall have been rendered.

TITLE 31

MONROE COUNTY AIRPORT AUTHORITY

§ 2750. Short title. This title may be cited as the "Monroe County Airport Authority Act".

§ 2751. Statement of legislative findings and purpose. The legislature hereby finds and declares as follows:

1. The economic well-being of the state and the general welfare of its people require adequate, safe, secure and efficient aviation and transportation facilities at a reasonable cost to the people.

2. The strengthening and improvement of aviation facilities and related services for the western part of the state is a matter of vital importance not only to the residents of western New York but to all the state's residents and is therefore a matter of state concern.

3. In order to insure a healthy economy for such area and to promote the general welfare of its residents, it is necessary to expand and

improve the existing aviation facilities and services in Monroe county in such a manner as to stimulate and promote increased local, state, national and international air travel and commerce through western New York.

4. The health, welfare, safety and security of the state's residents and of those passengers using air transportation requires coordinated operation of aviation facilities and services in Monroe county by a public benefit airport authority.

5. The purposes of such authority shall be (i) to stimulate and promote economic development, trade and tourism (ii) to acquire, construct, reconstruct, continue, develop, equip, expand, improve, maintain, finance and operate aviation and other related facilities and services within Monroe county (iii) to promote safe, secure, efficient and economical air transportation by preserving and enhancing airport capacity (iv) to form an integral part of a safe and effective nationwide system of airports to meet the present and future needs of civil aeronautics and national defense and to assure inclusion of the authority's facilities in state, national and international programs for air transportation and for airport or airway capital improvement, all in accordance with the provisions of this title (v) to insure that aviation facilities authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the state and the western New York area.

6. Such purposes are in all respects public purposes for the benefit of the people of the State of New York and for which public funds may be expended and both the county and the authority in carrying out their respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The acquisition, construction, reconstruction, development, expansion, improvement, equipping, operation and maintenance of any project financed or undertaken by the authority or the county shall be deemed to be the performance of an essential governmental function by the authority or the county acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or public corporation.

§ 2752. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Airport" (a) shall mean any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon; and (b) includes any heliport.

2. "Airport hazard" shall mean any structure or object of natural growth located on or in the vicinity of an airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

3. "Authority" shall mean the corporation created by this title.

4. "Aviation facilities" shall mean any airport facility or terminal including but not limited to any facility, property or equipment necessary, convenient or desirable for the landing, taking off, accommodation or servicing of aircraft of all types, and shall include such other facilities, equipment, property, structures and appurtenances as may be necessary or convenient in the operation, maintenance, development or improvement of an airport including facilities, equipment, property, structures, and appurtenances, leased by the authority to persons, engaged in air transportation or the production or development of materials, goods or equipment for an airport or air transportation or in providing facilities or equipment for the accommodation, safety, security or comfort of the traveling public and for purposes related or incidental to one or more of the foregoing purposes. It shall include, without limitation, runways, aprons, hangars, control towers, ramps, taxiways, navigation aids, warehouses, office and service buildings, structures, parking facilities, concession facilities, maintenance facilities, fuel facilities, facilities for the

overnight accommodation of passengers and carrier employees, including hotels and motels located at an authority's airport, and facilities for the loading, unloading, holding, interchange or transfer of such passengers, freight, baggage or cargo. It shall also mean any property necessary to remove, mitigate, prevent or limit airport hazards. It shall also mean facilities and equipment providing access to an airport facility or terminal, including appropriate mass transportation terminal facilities at and within the airport facility or terminal itself. It shall also mean highways, access roads, driveways and approaches in the vicinity of an airport facility or terminal providing improved access to such airport facility or terminal. Notwithstanding any contrary provision of law, general, special or local, it shall also mean railroad freight projects related or of benefit to an airport facility or terminal consisting of railroad freight transportation facilities or railroad freight terminal facilities; and any equipment, improvement, structure or facility or any land, and any building, structure, facility or other improvement thereon, or any combination thereof, and all property in connection therewith or incidental thereto, deemed necessary or desirable in the opinion of the authority, whether or not now in existence or under construction, for the undertaking of such railroad freight projects.

5. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders which shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

6. "Construction" shall mean the acquisition, erection, building, alteration, repair, improvement, increase, enlargement, extension, installation, reconstruction, renovation or rehabilitation of a project including any appurtenances thereto which may be necessary or desirable to promote the efficiency or effectiveness of such project; the inspection and supervision thereof; and the engineering, consulting, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto and

claims arising therefrom.

7. "Cost", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, both real and personal, improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land and the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantees, credit enhancement or bond insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to any public corporation, the state, the federal government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

8. "County" shall mean Monroe county.

9. "Equipment" shall mean snow removal vehicles, fire fighting and rescue vehicle, passenger and freight vehicles, aircraft, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements, materials, supplies, instruments and devices of every nature whatsoever used or useful for aviation and transportation purposes or for the generation or transmission of motive power including but not limited to all power houses, and all apparatus and all devices for navigation, security, safety, signalling, communications and ventilation as may be necessary, convenient or desirable for the operation of aviation facilities and pollution control facilities.

10. "Facility" shall mean, among other things, such properties, structures, appurtenances, utilities, terminals, railroad trackage, warehouses, elevators and such other works, properties, buildings or allied items necessary or desirable in connection with development, operation, maintenance or improvement of airport and public transportation needs and for the accommodation, safety, security or comfort of the public and of commercial enterprise.

11. "Federal government" shall mean the United States of America, and any department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

12. "Joint service arrangement" shall mean agreements between or among the authority and any person, the state, the county, any other public corporation, the federal government, any other state or agency or instrumentality thereof, relating to property, buildings, structures, facilities, services, rates, fares, classification, divisions, allowances or charges (including charges between operators of railroad, omnibus and aviation facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part in or upon railroad, omnibus or aviation facilities located within the county and in part in or upon railroad, omnibus or aviation facilities located outside the county.

13. "Municipality" shall mean a county, city, town, village or school district.

14. "Person" shall mean any natural person, firm, partnership, association, joint venture or corporation, exclusive of a public corporation.

15. "Personal property" shall mean chattels and other tangible things of a movable or removable nature.

16. "Pollution control facilities" shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination

thereof, and all property deemed necessary therewith, which if within any city are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of aviation facilities, including, but not limited to any air pollution control facility, noise abatement or suppression facility (including physical barriers, landscaping and sound proofing for the purpose of diminishing the effect of aircraft noise on any area adjacent to an airport), water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, or sewage treatment system or site.

17. "Property" shall mean both real and personal property.

18. "Project" shall mean any property or improvements located within the state of New York and within or outside or partially within and partially outside Monroe county, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be necessary or suitable for aviation purposes and airport development and which may include or mean aviation facilities and pollution control facilities; provided, however, the authority shall not use its funds in respect of any part of a project located wholly or partially outside the county without the prior consent thereto by the governing body of any other county in which a part or parts of the project is, or is to be located. It shall also mean any property necessary to remove, mitigate, prevent or limit airport hazards.

19. "Public corporation" shall mean a county, city, town, village, school district or special district, any public benefit corporation, agency or instrumentality of the state or of any municipality, or two or more of any of the foregoing acting jointly.

20. "Real property" shall mean lands, structures, franchises and interests in land, airspace, waters, lands under water, riparian rights,

air rights, any fixtures, equipment and articles of personal property affixed to or used in connection therewith, and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

21. "Revenues" shall mean all rates, fees, rents, revenues, charges and other income derived by the authority from the operation, leasing, sale or other disposition of a project or projects.

22. "State" shall mean the state of New York.

§ 2753. Monroe county airport authority. 1. There is hereby created the Monroe county airport authority. The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of seven members appointed by the county executive, provided that two of such members shall be appointed upon the written recommendation of the president of the county legislature and one of such members shall be appointed upon the written recommendation of the minority leader of the county legislature. No more than five members may be registered members of the same political party. All appointments by the county executive shall be confirmed by a majority vote of the county legislature. The county executive shall designate the chairperson of the authority who shall serve at the pleasure of the county executive. The member initially appointed upon the written recommendation of the minority leader of the county legislature shall serve for a term ending December thirty-first, nineteen hundred ninety-one. Of the members initially appointed upon the written recommendation of the president of the county legislature, one shall serve for a term ending December thirty-first, nineteen hundred ninety-two; and one shall serve for a term ending December thirty-first, nineteen hundred ninety-three. Of the remaining members initially appointed by the county executive other than the chairperson, one shall serve for a term ending December thirty-first, nineteen hundred ninety-one; one shall serve for a term ending December thirty-first, nineteen hundred ninety-two; and one shall serve for a term ending December thirty-first, nineteen hundred ninety-three. Thereafter each member, other than the chairperson, shall serve a term of four years.

2. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the members of the authority at a meeting duly called and held and a majority of directors shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least a majority of directors. The members of the authority may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer or employee of the authority, nor shall service as such member, officer or employee be deemed incompatible or in conflict with such office, membership or employment.

4. The authority shall continue for a term of one year after all its bonds have been fully paid and discharged. Upon termination of the existence of the authority, all of its rights and property shall pass to and be vested in the county.

§ 2754. Advances on behalf of the authority; transfer of property to authority; acquisition of property by county for authority. 1. In addition to any powers granted to it by law, the county may, from time to time, appropriate by resolution sums of money to defray project costs or any other costs and expenses of the authority including operating expenses. Subject to the rights of bondholders, the county may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, any public corporation may, by a majority vote of its governing body and the approval of its chief executive officer, give, grant, sell, convey, loan, license the use of or lease to the authority any property or facilities, including aviation facilities and pollution control facilities, which are useful in connection with the exercise by the authority of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, and for such term or terms of years, subject to the rights of the holders of any bonds, as the authority and such public corporation may agree. Any such gift, grant, sale, conveyance, lease, loan or license shall not be subject to referendum, permissive or mandatory. In the event that any public corporation gives, grants, sells, conveys, loans, licenses or leases any aviation facilities or pollution control facilities to the authority, such public corporation may contract with the authority to lease, borrow, license, operate, maintain, manage and provide services for such facilities upon such terms and conditions and for such term or terms of years, subject to the rights of holders of bonds, as the authority and such public corporation may agree. The authority, in furtherance of any purchase, conveyance or lease of any property or facility from any public corporation, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by such public corporation for such property or facility. For purposes of section 136.00 of the local finance law, any agreement by the authority to assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by any such public corporation

shall, so long as such agreement shall continue to be honored by the authority, cause such bonds or notes to be deemed to have been refunded and any such public corporation may deduct from its gross indebtedness any outstanding indebtedness contracted for such property or facility to be acquired by the authority.

3. The county may acquire by purchase, grant, lease, gift or condemnation pursuant to the eminent domain procedure law real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

§ 2755. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the county, selected by the authority may, with the consent of the county executive, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to such same collective bargaining unit if they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed to diminish (a) the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 2756. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to borrow money and issue bonds for any of its corporate purposes or its projects and to provide for the rights of the holders thereof;

4. to make and alter by-laws for its organization and management, and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

5. to acquire by purchase, grant, lease, gift, condemnation pursuant to the provisions of the eminent domain procedure law with the approval of the county, or otherwise and to hold and use property necessary, convenient or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine;

6. to acquire, construct, reconstruct, lease, expand, improve, maintain, equip, furnish, operate one or more projects and, if necessary, to pay or finance the cost thereof;

7. to apply for and to accept gifts, grants, loans, or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state or any public corporation or any other source, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

8. to grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the authority may deem desirable;

9. to designate the depositories of its money;

10. to establish its fiscal year;

11. to enter into contracts, agreements and leases with the federal government, the state, the county, any person or other public corporation and to execute all instruments necessary or convenient to accomplishing its corporate purposes;

12. to appoint such officers, employees and agents as the authority may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

13. with the consent of the county executive to use employees, agents, consultants and facilities of the county, paying the county its agreed proportion of the compensation or costs;

14. to make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

15. to enter upon such lands, waters or premises as in the judgment of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

16. the authority may covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includible, under the United States Internal Revenue Code of 1986, or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of

the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law;

17. to do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title;

18. to insure or provide for the insurance of the authority's property or operations as required by law and also against such other risks as the authority may deem advisable.

§ 2757. Special powers of the authority. In order to effectuate the purpose of this title:

1. The authority may enter into any joint service arrangements as hereinafter provided.

2. The authority may, on such terms and conditions as the authority may determine necessary, convenient or desirable, establish, construct, effectuate, operate, manage, maintain, renovate, improve, extend or repair any aviation facilities or pollution control facilities, or may provide for such establishment, construction, effectuation, operation, management, maintenance, renovation, improvement, extension or repair by contract, lease, or other arrangement on such terms as the authority may deem necessary, convenient or desirable with the federal government, any state or agency or instrumentality thereof, any person or public corporation. In connection with the operation of any such facilities, the authority may establish, construct, effectuate, operate, manage, maintain, renovate, improve, extend or repair or may provide by contract, lease or other arrangement for the establishment, construction, effectuation, operation, management, maintenance, renovation, improvement, extension or repair of any related services and activities it deems necessary, convenient or desirable.

3. The authority may establish, fix, revise, levy and collect or cause to be established, fixed, revised, levied and collected and, in the case of a joint service arrangement, join with others in the establishment,

fixing, revision, levy and collection of such fares, rentals, rates, charges, landing and field use fees, concession fees and other fees as it may deem necessary, convenient or desirable for the use and operation of any aviation facilities, and related services operated or managed by the authority or under contract, pollution control facilities, lease or other arrangement, including joint service arrangements, with the authority. Such fares, rentals, rates, charges, landing and field use fees, concession fees or other fees shall be at least sufficient at all times in the judgment of the authority to establish and maintain the combined operations of the authority on a self-sustaining basis. Such operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or fund or cause to be paid or funded from revenues and any other funds actually available to the authority (i) the principal of, premium, if any, and the interest on the outstanding bonds of the authority as the same shall become due and payable and any capital or debt service reserve therefor and, to the extent required by any agreement between the county and the authority, the principal of and interest on any general obligation bonds, notes or other evidence of indebtedness of the county issued for or allocable to any project of the authority as the same shall become due and payable and any reserves therefor, (ii) the cost of administering, maintaining, repairing and operating any project of the authority, (iii) the cost of constructing capital improvements thereto pursuant to any agreement between the county and the authority, (iv) any liabilities incurred for or allocable to any project of the authority including any liabilities of the county assumed by the authority pursuant to any agreement between the county and the authority, as the same become due and payable, (v) any requirements of any agreement including those relating to the establishment of reserves for renewal and replacement and for uncollected fares, rentals, rates, charges and fees and covenants respecting rates and debt service and earnings coverage ratios, (vi) all other reasonable and necessary expenses of the authority, and (vii) the cost of such additional projects as may be now or hereafter authorized by law and agreed to by the authority.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules

and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct, safety and security of the public as it may deem necessary, convenient or desirable for the use, operation and management of any project and related services operated or managed by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing the conduct, safety and security of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct, safety and security of the public and any local law, ordinance, rule or regulation, such rule or regulation of the authority shall prevail.

5. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of aviation facilities, equipment or property operated by or under contract, lease or other arrangement with the authority. Except as agreed to pursuant to any agreement between the authority and any public corporation and except as hereinafter specially provided, no municipality except for the county, shall have jurisdiction over any facilities of the authority or any of its activities or operations. The county shall provide for such facilities police, fire and health protection services.

6. The authority may accept unconditional grants of money or property from any municipality the whole or any part of which municipality shall be served or to be served by an aviation facility operated by the authority. Such grants of money or property would be for the purpose of assisting the authority in meeting its capital or operating expenses. The acceptance of any such grant shall not operate to make the authority an agency of the municipality making the grant.

7. In any instance where the county is required by law, with respect to an airport or any aviation facilities, to conduct a public hearing in connection with a contract, lease, joint service arrangement, charge, fare, rental or fee, the authority shall not enter into such contract,

lease, joint service arrangement, or establish, fix, revise or levy any charge, fare, rental, landing and field use fee, concession fee or other fee unless and until the authority has held a public hearing at which interested persons have had an opportunity to be heard concerning the same, provided however, if the county has conducted a public hearing in connection with such contract, lease, joint service arrangement, charge, fare, rental or fee, the authority shall not be required to hold a public hearing. Notice of such public hearing shall be published by the authority at least ten days before the date set therefor, in at least one newspaper of general circulation in the county. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such meeting. At all such hearings, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision of the authority on matters considered at such public hearing shall be in writing and be made available in the office of the authority for public inspection during regular office hours.

§ 2758. County approval required. Notwithstanding any inconsistent provision of this title, no project, including but not limited to the acquisition of real property by the authority or the expansion of the authority's aviation facilities, may be undertaken by the authority unless such project is approved by a resolution of the county legislature adopted by a majority vote and approved by the county executive; provided, however, that Resolution No. 157 of 1989 of the county legislature approving an airport expansion project shall be deemed to be an approval within the meaning of this section without further action by the county. All future projects not incorporated in or contemplated by Resolution No. 157 of 1989 shall be subject to approval by the county legislature and the county executive as set forth in this section.

§ 2759. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed two hundred million dollars ($200,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than two hundred million dollars ($200,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds (other

than notes or other evidence of indebtedness) issued for refunding purposes, which have a final maturity date longer than the maturity of the bonds being refunded, shall be approved by a resolution of the county legislature adopted by a majority vote and approved by the county executive. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide.

Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect a satisfactory sale.

Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales.

The private or public bond sale guidelines set by the authority shall include, but not be limited to a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for private or public bond sales conducted pursuant to a request for proposal process undertaken at least once annually and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the comptroller.

The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

The authority shall annually submit its bond sale report to the comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

The authority shall make available to the public copies of its bond sale report upon reasonable request therefor.

Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or any part of the revenues, other moneys or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor

any financing statement need be recorded or filed.

8. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the members of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

§ 2760. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the authority shall default in the payment of principal or of interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located and proved or

acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding, shall in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2761. State and county not liable on authority bonds. Neither the state nor the county shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or the county, and such bonds shall contain on the face thereof a statement to such effect.

§ 2762. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by such person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such moneys shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2763. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding other provisions of law, the bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2764. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 2765. Agreement with county. The county is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the county will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority.

§ 2766. Exemption from taxes, assessments and certain fees. 1. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other excise taxes, upon any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities or any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority. Notwithstanding the previous sentence, the authority shall be required to pay water and pure water fees or charges imposed by any public corporation. The authority shall at all times be exempt from any filing, mortgage recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall at all times be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure

the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2767. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers, or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (i) a notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, (ii) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, (iii) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and (iv) an action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of

the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2768. Contracts. All contracts for construction shall be let by the authority in conformity with the applicable provisions of section one hundred thirty-five of the state finance law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards and working hours. In the case of industrial projects, whenever the authority determines that trade secrets or other confidential information about the prospective project occupant's business operations, products, processes or designs would be revealed by public bidding, the requirements of section one hundred thirty-five of the state finance law with respect to public bidding may be waived. In such event, separate specifications shall be prepared for, and separate and independent contracts shall be entered into, for the following three subdivisions of work to be performed: (a) plumbing and gas fitting; (b) steam heating, hot water heating, ventilating and air conditioning apparatus; and (c) electric wiring and standard illuminating fixtures. The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

§ 2769. Interest in contracts prohibited. It shall be a misdemeanor for any member, officer or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2770. Agreements relating to payment in lieu of taxes. 1. In order to assure that municipalities may not suffer undue loss of taxes or assessments in the event that the authority acquires any airport from the county, any person paying real property taxes or assessments as of the date of the transfer of title from the county to the authority on any property located within any such airport shall make payments in lieu of taxes in an amount equal to the sums which would ordinarily be imposed as taxes by any municipality in which such property is located, pursuant to the prevailing method of determining taxes and assessments.

2. Subject to any agreement with bondholders, the authority may, but is not required to, enter into agreements with any municipality of the state to pay annual sums in lieu of taxes to any such municipality in respect of any real property which is owned by the authority is located in such municipality and is used for public aviation purposes or pollution control purposes. For the purposes of this section, such public aviation purposes shall include without limitation air terminal facilities, parking facilities, fuel facilities, maintenance facilities, and facilities for the loading, unloading, holding, interchange or transfer of passengers, freight, baggage or cargo.

3. In the event that any real property owned by the authority is used or is to be used by the authority or a lessee thereof for purposes other than public aviation purposes, the authority, or lessee thereof, as the case may be, shall enter into agreements with any municipality of the state to pay annual sums in lieu of taxes in respect of such real property located in such municipality. For the purposes of this section, such purposes other than public aviation purposes shall include without limitation hotels, motels, restaurants and retail stores and concessions not located within any air terminal building, office buildings to the extent not used by the authority or any other public corporation for its own corporate purposes, and such other buildings and improvements as determined by the authority to be not exclusively for public aviation purposes.

The authority shall determine (i) the amount of such annual payments in lieu of taxes, (ii) whether the use of such property is for purposes other than public aviation purposes and (iii) the extent to which such property is used for purposes other than public aviation purposes. In making such determinations the authority shall take into consideration the recommendations, if any, of the county.

§ 2771. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of assembly ways and means committee a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the clerk of the county legislature and the county executive.

§ 2772. Limited liability. Neither members, officers or employees of the authority, nor any municipality, or an officer or employee thereof acting on behalf of the authority, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title provided, however, that this section shall not be held to apply to any independent contractor.

§ 2773. Transfer of applications, proceedings, approvals and permits. 1. Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the county or by the county with the federal government, the state department of environmental conservation, the state department of transportation or any other public corporation shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application, review, process or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county to the authority unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits, determinations, findings, awards and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using or occupying any facility financed in whole or in part by the authority.

§ 2774. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 2775. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter or any local law, charter, ordinance or resolution of the county or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

TITLE 32

ALBANY COUNTY AIRPORT AUTHORITY

§ 2776. Short title. This title may be cited as the "Albany County Airport Authority Act".

§ 2777. Statement of legislative findings and purpose. The legislature hereby finds and declares as follows:

1. The economic well-being of the state and the general welfare of its people require adequate, safe, secure and efficient aviation and transportation facilities at a reasonable cost to the people.

2. The strengthening and improvement of aviation facilities and related services is a matter of vital importance not only to the residents of the capital district but to all the state's residents and is, therefore, a matter of state concern.

3. In order to insure a healthy economy for such area and to promote the general welfare of its residents, it is necessary to expand and improve the existing aviation facilities and services in Albany county in such a manner as to stimulate and promote increased local, state, national and international air travel and commerce through the capital district.

4. The health, welfare, safety and security of the state's residents and of those passengers using air transportation requires coordinated operation of aviation facilities and services in Albany county by a public benefit airport authority.

5. The purposes of such authority shall be: (a) to promote safe, secure, efficient and economical air transportation by preserving and enhancing airport capacity; (b) to acquire, construct, reconstruct, continue, develop, equip, expand, improve, maintain, finance and operate aviation and other related facilities and services within Albany county; (c) to stimulate and promote economic development, trade and tourism; (d) to form an integral part of a safe and effective nationwide system of airports to meet the present and future needs of civil aeronautics and national defense and to assure inclusion of the authority's facilities in state, national and international programs for air transportation and for airport or airway capital improvement, all in accordance with the provisions of this title; and (e) to insure that aviation facilities authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the state and the capital district area.

6. Such purposes are in all respects public purposes for the benefit of the people of the state of New York and for which public funds may be expended and both the county and the authority in carrying out their respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The acquisition, construction, reconstruction, development, expansion, improvement, equipping, operation and maintenance of any project financed or undertaken by the authority or the county shall be deemed to be the performance of an essential governmental function by the authority or the county acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or public corporation.

7. It is hereby found and declared that it has been and remains the policy of the state of New York to promote equal opportunity in employment for all persons, without discrimination on account of race,

creed, color, national origin, sex, age, disability or marital status, to promote equality of economic opportunity for minority group members and women, and business enterprises owned by them, and to eradicate the effects of private and governmental discrimination which has erected and continues to maintain barriers that unreasonably impair access by minority and women-owned business enterprises to state contract opportunities.

Recent reviews and analyses of contracting in New York, including the study by the division of minority and women's business development of the department of economic development entitled "Opportunity Denied! A Study of Racial and Sexual Discrimination Related to Government Contracting in New York State," confirm through direct evidence of racial and sexual discrimination in and by New York state sufficient to justify race and sex conscious remedies. For the purpose of furthering the state's compelling interest in eradicating the effects of racial and sexual discrimination therefore, it is necessary and proper that article fifteen-A of the executive law, concerning participation by minority group members and women and business enterprises owned by them, shall apply to the Albany county airport authority.

§ 2778. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Airport" (a) shall mean any area of land or water which is used or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings, parking facilities or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon; and (b) includes any heliport.

2. "Airport hazard" shall mean any structure or object of natural growth located on or in the vicinity of an airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

3. "Authority" shall mean the corporation created by this title.

4. "Aviation facilities" shall mean any airport facility or terminal including but not limited to any facility, property or equipment necessary, convenient or desirable for the landing, taking off, accommodation or servicing of aircraft of all types, and shall include such other facilities, equipment, property, structures and appurtenances as may be necessary or convenient in the operation, maintenance, development or improvement of an airport including facilities, equipment, property, structures, and appurtenances, leased by the authority to persons, engaged in air transportation or the production or development of materials, goods or equipment for an airport or air transportation or in providing facilities or equipment for the accommodation, safety, security or comfort of the traveling public and for purposes related or incidental to one or more of the foregoing purposes. It shall include, without limitation, runways, aprons, hangars, control towers, ramps, taxiways, navigation aids, warehouses, office and service buildings, structures, parking facilities, concession facilities, maintenance facilities, fuel facilities, facilities for the overnight accommodation of passengers and carrier employees, including hotels and motels located at the authority's airport, and facilities for the loading, unloading, holding, interchange or transfer of such passengers, freight, baggage or cargo. It shall also mean any property necessary to remove, mitigate, prevent or limit airports hazards. It shall also mean facilities and equipment providing access to an airport facility or terminal, including appropriate mass transportation terminal facilities at and within the airport facility or terminal itself. It shall also mean pollution control facilities, highways, bridges, access roads, driveways and approaches in the vicinity of an airport facility or terminal providing improved access to such airport facility or terminal.

5. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bond holders which shall apply with equal force and effect to notes and note holders unless the

context otherwise clearly requires.

6. "Construction" shall mean the acquisition, erection, building, alteration, repair, improvement, increase, enlargement, extension, installation, reconstruction, renovation or rehabilitation of a project including any appurtenances thereto which may be necessary or desirable to promote the efficiency or effectiveness of such project; the inspection and supervision thereof; and the engineering, consulting, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto and claims arising therefrom.

7. "Cost", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property both real and personal, improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land and the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications the cost of consultants and legal services, the cost of lease, guarantees, credit enhancement or bond insurance, other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to any public corporation, the state, the federal government or any other person for expenditures, that would be costs of the project hereunder had they been made directly by the authority.

8. "County" shall mean Albany county.

9. "Equipment" shall mean snow removal vehicles, fire fighting and rescue vehicles, passenger and freight vehicles, aircraft, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements, materials, supplies, instruments and devices of every nature whatsoever used or useful for aviation and transportation purposes or for the generation or transmission of motive power including but not limited to all power houses, and all apparatus and all devices for navigation, security, safety, signaling, communications and ventilation as may be necessary, convenient or desirable for the operation of aviation facilities and pollution control facilities.

10. "Facility" shall mean, among other things, such properties, structures, appurtenances, utilities, terminals, railroad trackage, warehouses, elevators and such other works, properties, buildings or allied items necessary or desirable in connection with development, operation, maintenance or improvement of airport and public transportation needs and for the accommodation, safety, security or comfort of the public and of commercial enterprise.

11. "Federal government" shall mean the United states of America, and any department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

12. "Joint service arrangements" shall mean agreements between or among the authority and any person, the state, the county, any other public corporation, the federal government, any other state or agency or instrumentality thereof, relating to property, buildings, structures, facilities, services, rates, fares, classification, divisions, allowances or charges (including charges between operators of railroad, omnibus and aviation facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part in or upon railroad, omnibus or aviation facilities located within the county and in part in or upon railroad, omnibus or aviation facilities located outside the county.

13. "Municipality" shall mean a county, city, town, village or school district.

14. "Person" shall mean any natural person, firm, partnership association, joint venture or corporation, exclusive of a public corporation.

15. "Personal property" shall mean chattels and other tangible things of a moveable or removable nature.

16. "Pollution control facilities" shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all property deemed necessary therewith, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of aviation facilities, including, but not limited to, any air pollution control facility, noise abatement or suppression facility (including physical barriers, landscaping and sound proofing for the purpose of diminishing the effect of aircraft noise on any area adjacent to an airport), water management facility, waste water collecting systems, waste water treatment works, sewage treatment works system, or sewage treatment system or site.

17. "Property" shall mean both real and personal property.

18. "Project" shall mean any property or improvements located within the state of New York and within or outside or partially outside Albany county, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be necessary or suitable for aviation purposes and airport development and which may include or mean aviation facilities and pollution control facilities provided, however, the authority shall not use its funds in respect of any part of a project located wholly or partially outside the county without the prior consent thereto by the governing body of any other county in which a part or parts of the project is, or is to be located. It shall also mean any property necessary to remove, mitigate, prevent or limit airport noise

or hazards.

19. "Public corporation" shall mean a county, city, town, village, school district or special district, any public benefit corporation, agency or instrumentality of the state or of any municipality, or two or more of any of the foregoing acting jointly.

20. "Real property" shall mean lands, structures, franchises and interests in land, airspace, waters, lands under water, riparian rights, air rights, any fixtures, equipment and articles of personal property affixed to or used in connection therewith, and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

21. "Revenues" shall mean all rates, fees, rents, revenues, charges and other income derived by the authority from the operation, leasing, sale or other disposition of the airport or airport related facilities.

22. "State" shall mean the state of New York.

§ 2779. Albany county airport authority. 1. (a) There is hereby created the Albany county airport authority. The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of seven members who shall be residents of Albany county. The members shall be appointed in the following manner: three shall be appointed by the county executive and four shall be appointed by the majority leader of the county legislature. All appointments must be confirmed by the county legislature within thirty days of the appointment. No more than four members may be enrolled members of the same political party. Of the members initially appointed by the county executive two each shall serve for a term ending December thirty-first, nineteen hundred ninety-six and one shall serve for a term ending December thirty-first, nineteen hundred ninety-seven. Of the members initially appointed by the majority leader of the county legislature, one shall serve for a term ending December thirty-first, nineteen hundred ninety-five; two each shall serve for a term ending December thirty-first, nineteen hundred ninety-six and one shall serve for a term ending December thirty-first, nineteen hundred ninety-seven. Each member shall serve a term of four years. The majority leader and county executive shall jointly designate one of the seven members to serve as the chairperson of the authority. The authority may provide for such officers as may be determined necessary and the same need not be members of the authority.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision the majority leader and county executive shall jointly submit to the county legislature the initial seven members of the authority. Within thirty days, the county legislature must approve or disapprove the appointment of the entire group of nominees but may not reject an individual member nor may it modify in any way the proposed group of members.

2. All members shall continue to hold office until their successors are appointed and qualify. Except as otherwise provided in subdivision three of this section, vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers as set forth in the by-laws of the authority shall be established and vested in and be exercised by the members of the authority at an initial meeting duly called and held and five members shall constitute a quorum. No action shall be taken at the aforementioned initial meeting or any adjournment thereof except pursuant to the favorable vote of at least five members of the authority. Any amendment to the aforementioned powers as set forth in the by-laws shall only become effective upon the favorable vote of at

least five members of the authority.

3. The authority shall have a regional advisory board consisting of not less than six non-voting members. The membership shall include, but not be limited to, the chairperson of the airline affairs committee of the Albany county airport and other members, one of whom shall be appointed by the legislative body of the county of Schenectady, one of whom shall be appointed by the legislative body of the county of Saratoga, one of whom shall be appointed by the legislative body of the county of Rensselaer and two of whom shall be appointed by the legislative body of the town of Colonie.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer or employee of the authority, nor shall service as such member, officer or employee be deemed incompatible or in conflict with such office, membership or employment.

5. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member, elected official or employee of the county of Albany shall be eligible to serve as a member of the authority.

6. All members of the authority will be required to comply with the Albany county code of ethics and to complete all disclosure forms required by said code of ethics.

7. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such termination shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county of Albany in such a manner as prescribed by law.

8. Within thirty days from the establishment of the authority, the county and authority shall undertake an environmental audit ("the audit") of the airport and its facilities. The audit shall be prepared pursuant to an agreed upon scope of work between the county and the authority prior to its undertaking and shall be used to establish the existing environmental conditions of the airport and its facilities. As a minimum the audit shall include, but not be limited to, the examination and inspection of all property identified on the currently approved airport layout plan; all property adjacent to the airport layout plan or otherwise used directly by the county in support of airport operations which will continue to be made available to the authority for the same purposes in the future; all structures and facilities on said properties including facilities used for the storage and handling of aviation, jet, automotive, heating or other fuel, oil, petroleum products or solvents; all storm water drainage systems including oil/water separators and systems for the collection or diversion of airport and aircraft deicing agents. The results of the audit shall serve as a disclosure statement and will be taken into consideration in any negotiations for any agreement between the county and the authority regarding the future operation of the airport.

§ 2780. Advances on behalf of the authority; transfer of property to authority; acquisition of property by county for authority. 1. In addition to any powers granted to it by law, the county may, from time to time, appropriate by resolution sums of money to defray project costs or any other costs and expenses of the authority including operating expenses.

Subject to the rights of bond holders, the county may determine if the monies so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, any public corporation

may, by a majority vote of its governing body and the approval of its chief executive officer, give, grant, sell, convey, loan, license the use of or lease to the authority any property or facilities, including aviation facilities and pollution control facilities, which are useful in connection with the exercise by the authority of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, and for such term or terms of years, subject to the rights of the holders of any bonds, as the authority and such public corporation may agree. Any such gift, grant, sale, conveyance, lease, loan or license shall not be subject to referendum, permissive or mandatory. In the event that any public corporation gives, grants, sells, conveys, loans, licenses or leases any aviation facilities or pollution control facilities to the authority, such public corporation may contract with the authority to lease, borrow, license, operate, maintain, manage and provide services for such facilities upon such terms and conditions and for such term or terms of years, subject to the rights of holders of bonds, as the authority and such public corporation may agree. The authority, in furtherance of any purchase, conveyance or lease of any property or facility from any public corporation, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by such public corporation for such property or facility. For purposes of section 136.00 of the local finance law, any agreement by the authority to assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by any such public corporation shall, so long as such agreement shall continue to be honored by the authority, cause such bonds or notes to be deemed to have been refunded and any such public corporation may deduct from its gross indebtedness any outstanding indebtedness contracted for such property or facility to be acquired by the authority.

3. The county may acquire by purchase, grant, lease, gift or condemnation pursuant to the eminent domain procedure law real property in the name of the county for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority or the county from the

state may be used for any corporate purpose of the authority provided, however, no non-hazardous solid waste, toxic, or hazardous waste site, center, consolidated collection or transfer area, shall be located or maintained at the airport, or on lands adjacent to the airport that are used in support of airport operations as contained in any present or future airport layout plan approved by the New York state department of transportation or the federal aviation administration and no non-hazardous solid waste, toxic, or hazardous waste site, center, consolidated collection or transfer area, shall be located or maintained on any other lands made available by the county in support of airport operations by way of any agreement between the county and the airport operator. The storage of materials, which by federal definition may be classified as hazardous materials, but are acquired by the airport operator, its agent, or assignee, solely in support of airport operations or airport facility maintenance shall be exempt from the provisions of this subdivision. The inventory, storage and use of such materials shall be in accordance with all applicable federal and state regulations.

§ 2781. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the county, may, at the request of the authority and with the consent of the county executive, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor

employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 2782. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. to sue and be sued:

2. to have a seal and alter the same at pleasure;

3. to borrow money and issue bonds for any of its corporate purposes or its projects and to provide for the rights of the holders thereof;

4. to make and alter by-laws for its organization and management, and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

5. (a) to acquire by purchase, grant, lease, gift, or otherwise and to hold and use property necessary, convenient or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine;

(b) to acquire by condemnation pursuant to the provisions of the eminent domain procedure law with the approval of the county legislature;

6. to acquire, construct, reconstruct, lease, expand, improve, maintain, equip, furnish, operate one or more projects and, if necessary, to pay or finance the cost thereof;

7. to accept gifts, grants, loans, or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state or any public corporation or any other source, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

8. to grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the authority may deem desirable;

9. to designate the depositories of its money;

10. to establish its fiscal year;

11. to enter into contracts, agreements and leases with the federal government, the state, the county, any person or other public corporation and to execute all instruments necessary or convenient to accomplishing its corporate purposes;

12. to appoint such officers, employees and agents as the authority may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

13. with the consent of the county executive, to use employees, agents, consultants and facilities of the county, paying the county its agreed proportion of the compensation or costs;

14. to make and adopt plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers

of the authority and to prepare recommendations in regard thereto;

15. to enter upon such lands, waters or premises as in the judgement of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

16. the authority may covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includable, under the United States Internal Revenue Code of 1986, as amended (the "code") or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders thereof under the code or any such subsequent law;

17. to do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title;

18. to insure or provide for the insurance of the authority's property or operations as required by law and also against such other risks as the authority may deem advisable.

§ 2783. Special powers of the authority. In order to effectuate the purpose of this title:

1. The authority may enter into any joint service arrangements as hereinafter provided.

2. The authority may, on such terms and conditions as the authority may determine necessary, convenient or desirable, establish, construct, effectuate, operate, manage, maintain, renovate, improve, extend or repair any aviation facilities or pollution control facilities, or may provide for such establishment, construction, effectuation, operation,

management, maintenance, renovation, improvement, extension or repair by contract, lease, or other arrangement on such terms as the authority may deem necessary, convenient or desirable with the federal government, any state or agency or instrumentality thereof, any person or public corporation. In connection with the operation of any such facilities, the authority may establish, construct, effectuate, operate, manage, maintain, renovate, improve, extend or repair, or may provide by contract, lease or other arrangement for the establishment, construction, effectuation, operation, management, maintenance, renovation, improvement, extension or repair of any related services and activities it deems necessary, convenient or desirable.

3. The authority may establish, fix, revise, levy and collect or cause to be established, fixed, revised, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, fixing, revision, levy and collection of such fares, rentals, rates, charges, landing fees, concession fees and other fees as it may deem necessary, convenient or desirable for the use and operation of any aviation facilities, and related services operated or managed by the authority or under contract, pollution control facilities, lease or other arrangement, including joint service arrangements, with the authority. Such fares, rentals, rates, charges, landing fees, concession fees or other fees shall be at least sufficient at all times in the judgement of the authority to establish and maintain the operations of the authority on a self-sustaining basis. Such operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or fund or cause to be paid or funded from revenues and any other funds actually available to the authority: (a) the principal of, premium, if any, and the interest on outstanding bonds of the authority as the same shall become due and payable and any capital or debt service reserve therefor and, to the extent required by an agreement between the county and the authority, the principal of and interest on any general obligations bonds, notes or other evidence of indebtedness of the county issued for or allocable to any project of the authority as the same shall become due and payable and any reserves therefor, (b) the cost of administering, maintaining, repairing and operating any project of the authority, (c) the cost of constructing

capital improvements thereto pursuant to any agreement between the county and the authority, (d) any liabilities incurred for or allocable to any project of the authority including any liabilities of the county assumed by the authority pursuant to any agreement between the county and the authority, as the same become due and payable, (e) any requirements of any agreement including those relating to the establishment of reserves for renewal and replacement and for uncollected fares, rentals, rates, charges and fees and covenants respecting rates and debt service and earnings coverage ratios, (f) all other reasonable and necessary expenses of the authority, and (g) the cost of such additional projects as may be now or hereafter authorized, by law and agreed to by the authority.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct, safety and security of the public as it may deem necessary, convenient or desirable for the use, operation and management of any project and related services operated or managed by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing the conduct, safety and security of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct, safety and security of the public and any local law, ordinance, rule or regulation, such rule or regulation of the authority shall prevail.

5. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of aviation facilities, equipment or property operated by or under contract, lease or other arrangement with the authority. Except as agreed to pursuant to any agreement between the authority and any public corporation and except as hereinafter specially provided, no municipality except for the county, shall have jurisdiction over any facilities of the authority or any of its activities or operations. The

authority shall provide for such facilities police, fire and health protection services.

6. The authority may accept unconditional grants of money or property from any municipality the whole or any part of which municipality shall be served or to be served by an aviation facility operated by the authority. Such grants of money or property would be for the purpose of assisting the authority in meeting its capital or operating expenses. The acceptance of any such grant shall not operate to make the authority an agency of the municipality making the grant.

7. In any instance where the county is required by law, with respect to an airport or any aviation facilities, to conduct a public hearing in connection with a contract, lease, joint service arrangement, charge, fare, rental or fee, the authority shall not enter into such contract, lease, joint service arrangement, or establish, fix, revise or levy any charge, fare, rental, landing fee, concession fee or other fee unless and until the authority has held a public hearing at which interested persons have had an opportunity to be heard concerning the same, provided, however, if the county has conducted a public hearing in connection with such contract, lease, joint service agreement, charge, fare, rental or fee, the authority shall not be required to hold a public hearing. Notice of such public hearing shall be published by the authority at least ten days before the date set there for, in at least one newspaper of general circulation in the county. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such meeting. At all such hearings, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision of the authority on matters considered at such public hearing shall be in writing and be made available in the office of the authority for public inspection during regular office hours.

§ 2784. County approval of capital projects. 1. It is the intention of the county to select and approve a specific airport redevelopment program for the Albany county airport upon completion of the federal aviation administration and New York state environmental review processes initiated in January of nineteen hundred ninety-two by Albany county for the Albany county airport development project, which project is identified in the "Draft SEQR Environmental Impact Statement/FAA Environmental Assessment prepared for the FAA/Eastern Region and the Albany County Legislature," by Louis Berger & Associates, Inc. and which two volume document was accepted as complete and adequate for public and agency review by Resolution one hundred fifty-seven of nineteen hundred ninety-three (March 8, 1993). The Albany county airport redevelopment program will be determined by the Albany county legislature as part of the adoption of a state environmental quality review act findings statement for said environmental impact statement. The airport redevelopment program referred to in this subdivision shall not be subject to the provisions of subdivision two of this section.

2. No capital project, other than the redevelopment project described in subdivision one of this section, shall be undertaken by the authority unless it shall first have been approved by the county legislature as part of a five-year capital program plan. For purposes of this section, the term "capital project" shall be defined as the construction, reconstruction or acquisition of airport or aviation facilities.

3. (a) On or before September first, nineteen hundred ninety-five, and on or before September first of every fifth year thereafter, the authority shall submit to the county legislature a capital projects plan for the five year period commencing January first of the following year. The plan shall set goals and objectives for capital spending and describe each capital project proposed to be initiated in each of the years covered by the plan. Each plan shall also set forth an estimate of the amount of capital funding required each year and the expected sources of such funding. Each plan subsequent to the first such plan and each proposed amendment or modification thereof shall also describe the current status of capital projects included in previously approved plans.

(b) (1) A plan may be approved by the county legislature by a majority vote of the members. If the plan is not voted on within ninety days of its submission to the legislature, it shall be deemed approved;

provided, however, that the legislature may agree to extend the time period in which it must vote on the plan.

(2) If the plan is not approved, the authority may thereafter reformulate and resubmit for approval such plan at any time. If the reformulated plan is not voted on within forty-five days of its submission to the legislature, it shall be deemed approved; provided, however, that the legislature may agree to extend the time period in which it must vote on the reformulated plan.

(c) The authority may from time to time submit to the county amendments or modifications to the plan. If the amendments or modifications are not voted on within forty-five days of its submission to the legislature, it shall be deemed approved; provided, however, that the legislature may agree to extend the time period in which it must vote on the amended or modified plan.

4. The disapproval of a plan by the county legislature shall not affect: (a) the right of the authority to issue bonds or notes to finance a capital project which was initiated prior to such disapproval in conformity with a previously approved plan; (b) the right of the authority to issue its bonds, notes, lease, sublease or other contractual obligations in payment for a project initiated prior to such disapproval in conformity with a previously approved plan; (c) the right of the authority to issue bonds or notes to refund or otherwise repay any of its outstanding bonds or notes or to fulfill any of their obligations to the holders of any of their outstanding bonds or notes; or (d) the right of the authority to issue its bonds, notes, lease, sublease or other contractual obligations to refund or otherwise repay any of its outstanding bonds or notes or to fulfill any of its obligations to the holders of any of its outstanding bonds or notes.

§ 2785. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith.

The aggregate principal amount of such bonds, notes or other obligations outstanding shall not exceed two hundred eighty-five million dollars ($285,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than two hundred eighty-five million dollars ($285,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds (other than notes or other evidence of indebtedness) issued for refunding purposes, which have a final maturity date longer than the maturity of

the bonds being refunded, shall be approved by a resolution of the county legislature adopted by a majority vote and approved by the county executive. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more that fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the authority shall include, but not be limited to, a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller and the county comptroller. The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

The authority shall annually submit its bond sale report to the state comptroller and the county comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

The authority shall make available to the public copies of its bond sale report upon reasonable request thereof.

Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the revenues, other monies or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bond holders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees and other charges to be fixed and collected

by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bond may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bond holders to appoint a trustee pursuant to this title or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bond holders and providing for the rights and remedies of the bond holders in the event of such default, including as a matter of right appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to

the provisions of the bonds for registration.

9. Neither the members of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

§ 2786. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the authority shall default in the payment of principal or of interest on any issue of bonds, after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding

shall, in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bond holders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bond holders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of any receiver of any part or parts of the project, the revenues of which are pledged for the security of bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the

holders of such bonds, shall take possession of all monies and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising there from subject to any pledge or agreement with bond holders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court.

In any suit, action or proceeding by the trustee, the fees, council fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2787. State and county not liable on authority bonds. Neither the state nor the county shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or the county, and such bonds shall contain on the face thereof a statement to such effect.

§ 2788. Monies of the authority. All monies of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The monies in such accounts shall be paid out on check of the treasurer upon requisition by such person or persons as the authority may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such monies shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the authority or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the authority and all banks and trust companies are authorized to give such security for such deposits. Any monies of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provision of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bond holders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

§ 2789. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding other provisions of law, the bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2790. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 2791. Agreement with county. The county is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the county will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all cost and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority.

§ 2792. Exemption from taxes, assessments and certain fees. 1. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other excise taxes, upon any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities or any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority. Notwithstanding the previous sentence, the authority shall be required to pay water and pure water fees or charges as may be negotiated by any public corporation. The authority shall at all times be exempt from any filing, mortgage recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the county, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income there from as well as the property of the authority shall at all times be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2793. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers, or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and (d) an action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to

all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2794. Contracts. All contracts for construction shall be let by the authority in conformity with the applicable provisions of section one hundred thirty-five of the state finance law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards and working hours.

The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

§ 2795. Code of ethics. 1. Definition. As used in this section the term "authority employee" shall mean any member, officer or employee of the authority.

2. Rule with respect to conflicts of interest. No authority employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards.

a. No authority employee should accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.

b. No authority employee should accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which he or she has gained by reason of his or her official position or authority.

c. No authority employee should disclose confidential information acquired by the employee in the course of his or her official duties nor use such information to further his or her personal interests.

d. No authority employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

e. No authority employee should engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

f. An authority employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence such employee or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

g. An authority employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

h. An authority employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

i. No authority employee employed on a full-time basis nor any firm or association of which such an employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such employee serves or is employed.

j. If any authority employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she should file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such authority employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

§ 2796. Agreements relating to payment in lieu of taxes. 1. In order to assure that municipalities may not suffer undue loss of taxes or assessments in the event that the authority acquires any airport from the county, any person paying real property taxes or assessments as of the date of the transfer of title from the county to the authority on any property located within any such airport shall make payments in lieu of taxes in an amount equal to the sums which would ordinarily be imposed as taxes by any municipality in which such property is located, pursuant to the prevailing method of determining taxes and assessments.

2. Subject to any agreement with bond holders, the authority may, with the approval of the county, but is not required to, enter into agreements with any municipality of the state to pay annual sums in lieu of taxes to any such municipality in respect of any real property which is owned by the authority is located in such municipality and is used for public aviation purposes or pollution control purposes. For the purposes of this section, such public aviation purposes shall include without limitation air terminal facilities, parking facilities, fuel facilities, maintenance facilities, and facilities for the loading, unloading, holding, interchange or transfer of passengers, freight, baggage or cargo.

3. (a) In the event that any real property owned by the authority is used by the authority or a lessee thereof for purposes other than public aviation purposes, the authority, or lessee thereof, as the case may be, shall, with the approval of the county, enter into agreements with any municipality of the state to pay annual sums in lieu of taxes in respect of such real property locate in such municipality. For the purposes of this section, such purposes other than public aviation purposes shall include without limitation, hotels, motels, restaurants and retail stores and concessions not located within any air terminal building, office buildings to the extent not used by the authority or any other public corporation for its own corporate purposes, and such other buildings and improvements as determined by the authority to be not exclusively for public aviation purposes.

(b) The authority shall determine (i) the amount of such annual payments in lieu of taxes, (ii) whether the use of such property is for purposes other than public aviation purposes, and (iii) the extent to which such property is used for purposes other than public aviation purposes. In making such determinations the authority shall take into consideration the recommendations, if any, of the county.

§ 2797. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the county comptroller, county legislature, county executive, governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section two thousand eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county legislature and the county executive.

§ 2798. Limited liability. Neither members, officers or employees of the authority, nor any municipality, or an officer or employee thereof acting on behalf of the authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title provided, however, that this section shall not be held to apply to any independent contractor.

§ 2799. Transfer of applications, proceedings, approvals and permits. 1. Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the county or by the county with the federal government, the state department of transportation or any other public corporation shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority has been a party to such application, review, process, or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award or decision heretofore or thereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county to the authority unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits, determinations, findings, awards and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using or occupying any facility financed in whole or in part by the authority.

§ 2799-a. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 2799-b. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of the county charter or any local law, charter, ordinance or resolution of the county or another municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county.

TITLE 33

NEW YORK CITY TRANSITIONAL FINANCE AUTHORITY

§ 2799-aa. Short title. This title shall be known and may be cited as the "New York City Transitional Finance Authority Act".

§ 2799-bb. Definitions. For the purposes of this title, unless the context otherwise requires:

1. "Alternative revenues" means (i) sales and compensating use taxes that the city is authorized by the state to impose and (ii) taxes imposed pursuant to section eleven hundred seven of the tax law.

2. "Authority" or "New York city transitional finance authority" means the public benefit corporation created by this title.

3. "Bonds" means bonds, notes and other evidences of indebtedness, issued by the authority.

4. "Capital financing need" means a period during which and only the extent to which the issuance of bonds in accordance with this title would assist the city in meeting its capital needs as determined by the mayor pursuant to section twenty-seven hundred ninety-nine-ff of this title.

5. "City" means the city of New York.

6. "Comptroller" means the comptroller of the city.

7. "Council" means the council of the city.

8. "Director of management and budget" means the director of management and budget of the city.

9. "Mayor" means the mayor of the city.

10. "Project capital costs" or "costs" means costs, appropriated in the capital budget of the city pursuant to chapters nine and ten of the New York city charter, as amended from time to time, providing for the construction, reconstruction, acquisition or installation of physical public betterments or improvements, or the costs of any preliminary studies, surveys, maps, plans, estimates and hearings, or incidental costs, including, but not limited to, legal fees, printing or engraving, publication of notices, taking of title, apportionment of costs, and interest during construction, or any underwriting or other costs incurred in connection with the financing thereof.

11. "Public corporation" means and includes the city, the state and every public corporation as defined in the general construction law.

12. "Revenues" means the tax revenues and all aid, rents, fees, charges, payments and other income and receipts paid or payable to the authority or a trustee for the account of the authority.

13. "Speaker" means the speaker of the council, elected pursuant to the rules of the council.

14. "State" means the state of New York.

15. "Tax revenues" means the taxes paid or payable to the authority pursuant to subsection (d) of section eight hundred seventy-three, or section thirteen hundred thirteen, of the tax law and such other revenues as the authority may derive directly from the state from taxes imposed by the city or the state and collected by the state.

§ 2799-cc. New York city transitional finance authority. 1. There is hereby created the New York city transitional finance authority. The authority shall be a corporate governmental agency constituting a public benefit corporation and an instrumentality of the state.

2. In accordance with the provisions of this title, the authority may only finance costs, including the refunding of bonds issued by the authority to finance costs, and fund reserves to secure such bonds.

3. The authority shall continue until all its liabilities have been met or otherwise discharged. Upon the termination of the existence of the authority, all of its rights and property shall pass to and be vested in the city.

§ 2799-dd. Administration of the authority. 1. The authority shall be administered by five directors, consisting of the director of management and budget, the commissioner of finance of the city, the commissioner of the department of design and construction of the city, the comptroller and the speaker of the council.

2. The director of management and budget shall serve as chairperson of the authority. The chairperson or his or her alternate shall preside over all meetings of the directors and shall have such other duties as

may be fixed by the directors.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state of New York, any city, county, town or village, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality which exercises governmental powers under the laws of the state, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director, officer or employee of the authority, nor shall service as such director, officer or employee of the authority be deemed incompatible or in conflict with such office or employment.

4. Three directors shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. No action shall be taken by the authority except pursuant to a favorable vote of at least three directors present at a meeting at which such action is taken. Any director may, by written instrument, filed with and approved as to form by the authority, designate an alternate or alternates to perform, in the absence of such director, his or her duties unde this title. The term "director" as used in this title shall include such alternates, except that no alternate may designate an alternate pursuant to this subdivision. The designation of such alternates shall be deemed temporary only and shall not affect the civil service or retirement rights of any persons so designated.

5. The authority shall appoint a treasurer and may appoint officers and agents as it may require and prescribe their duties.

§ 2799-ee. General powers of the authority. Except as otherwise limited by this title, the authority shall have the following powers in addition to those specially conferred elsewhere in this title, subject only to agreements with bondholders:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to make and alter by-laws for its organization and management and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and fulfillment of its purposes under this title;

4. to make and execute contracts and all other instruments or agreements necessary or convenient to carry out any powers and functions expressly given in this title;

5. to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;

6. to borrow money and issue bonds, or to refund the same, and to provide for the rights of the holders of its obligations;

7. to accept gifts, grants, loans or contributions of funds or financial or other aid in any form from the city, state or federal government or any agency or instrumentality thereof, or from any other source and for any of its corporate purposes in accordance with the provisions of this title;

8. to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority, in obligations which may, from time to time, be legally purchased by the city pursuant to section eleven of the general municipal law;

9. to pledge all or any part of its revenues as security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith;

10. to appoint such officers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation, subject to the provisions of the civil service law, the rules of the civil service commission of the city, the New York

city collective bargaining law and applicable collective bargaining agreements, and to retain or employ counsel, auditors and private financial consultants on a contract basis or otherwise for rendering professional or technical services and advice;

11. to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title provided, however, such authority shall under no circumstances acquire, hold or transfer title to, lease, own beneficially or otherwise, manage, operate or otherwise exercise control over any real property, any improvement to real property or any interest therein other than a lease of office space deemed necessary or desirable by the authority.

§ 2799-ff. Declaration of need. 1. The mayor shall determine and declare at least annually whether a capital financing need exists. When the mayor determines that a capital financing need exists, the mayor shall so certify and submit to the authority a transitional capital plan. Such plan shall include only projects whose costs are appropriated in the capital budget of the city and shall describe by reference to the capital budget of the city the particular projects and costs requested to be financed in whole or in part by the authority.

2. Concurrent with the submission to the authority of the certification, request and plan, the mayor shall submit copies of such certification, request and plan to the comptroller, the speaker of the council, the governor and the state comptroller, and to the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee, and to the state financial control board for the city.

3. At the time of submission, (a) the mayor shall publish notice of such plan and the availability of digests thereof in at least one newspaper of general circulation within the city, which notice shall also state that a public hearing will be held to consider the plan at a specified time and place on a date not less than thirty days after such

publication; (b) the mayor or his designee shall conduct public hearings pursuant to such notice; (c) any person shall have the opportunity to present written comments on the plan within thirty days after the date of the public hearing; and (d) after due consideration of such testimony and comments, if any, the mayor shall affirm, modify or withdraw the plan.

4. Upon declaration by the mayor of such need, the mayor shall request that the authority provide financing in accordance with the provisions of this title.

5. Upon approval by the authority that such a capital financing need exists pursuant to such submissions, the authority may:

(a) authorize agreements between the city and the authority in accordance with the provisions of this title. Such agreements shall not constitute indebtedness of the city for purposes of section 20.00 of the local finance law or any constitutional or statutory limitation.

(b) enter into agreements with the city and the city, acting by the mayor alone, may enter into agreements with the authority in accordance with the provisions of this title as to the financing of costs by the authority, the application of tax revenues to the authority to secure its bonds, and further assurances in respect of the authority's receipt of such revenues. The authority's revenues shall not be deemed funds of the city. Any such agreements may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge.

6. Such agreements (i) shall describe by reference to the capital budget of the city the particular projects and costs to be financed in whole or in part by the authority, (ii) shall describe the plan for the financing of the costs or projects, (iii) shall set forth the method by which and by whom and the terms and conditions upon which money provided by the authority shall be disbursed to the city, which disbursements shall occur, subject to receipt by the authority of such documentation as to the costs being reimbursed as the authority shall reasonably require, at least monthly, (iv) shall provide for the payment of such costs by the city under such contracts as shall be awarded by the city

or for the city to make a capital contribution of such proceeds as city funds to another entity for the payment or reimbursement of such costs, and (v) shall require every contract entered into by the city, or another entity receiving funds from the city, for projects or costs to be financed in whole or in part by the authority to be subject to the provisions of the New York city charter and other applicable laws governing contracts of the city or such entity, as the case may be.

7. At least annually, commencing no more than one year after the date on which authority bonds are first issued, the mayor shall report to the comptroller, the speaker of the council, the governor, the state comptroller, the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee on the projects financed by the authority and the amount of such financing for each such project over the past year, which report shall, by reference to specific items in the city's capital budget, describe the type and location of each such project.

§ 2799-gg. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary pursuant to section twenty-seven hundred ninety-nine-ff of this title to pay the cost of any project and to fund reserves to secure such bonds, including incidental expenses in connection therewith.

The aggregate principal amount of such bonds, notes or other obligations outstanding shall not exceed, beginning July first, two thousand twenty-four, twenty-one billion five hundred million dollars ($21,500,000,000) and beginning July first, two thousand twenty-five, thirty billion five hundred million dollars ($30,500,000,000), excluding bonds, notes or other obligations issued pursuant to sections twenty-seven hundred ninety-nine-ss and twenty-seven hundred ninety-nine-tt of this title; provided, however, that upon any refunding or repayment of bonds (which term shall not, for this purpose, include bond anticipation notes), the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than, beginning July first, two thousand twenty-four, twenty-one billion five hundred million dollars ($21,500,000,000), and beginning July first, two thousand twenty-five, thirty billion five hundred million dollars ($30,500,000,000), only if the refunding or repayment bonds, notes or other obligations were issued in accordance with the provisions of subparagraph (a) of subdivision two of paragraph b of section 90.10 of the local finance law, as amended from time to time. Notwithstanding the foregoing, bonds, notes or other obligations issued by the authority may be outstanding in an amount greater than the amount permitted by the preceding sentence, provided that such additional amount at issuance, together with the amount of indebtedness contracted by the city of New York, shall not exceed the limit prescribed by section 104.00 of the local finance law. The authority shall have the power from time to time to refund any bonds of the authority by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds of the authority then outstanding and partly to pay the cost of any project pursuant to section twenty-seven hundred ninety-nine-ff of this title. Bonds issued by the authority shall be payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the city, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. The authority is authorized to obtain insurance, letters of credit and other credit or liquidity facilities related to bonds in accordance with paragraph a and paragraphs c through g of section 168.00 of the local finance law, as amended from time to time; provided, however, that the board of directors of the authority shall make the determination as to "financially responsible parties" required under the local finance law.

3. (a) The authority (i) shall amortize its serial and term bonds in accordance with sections 11.00, 21.00 and 57.00 of the local finance law and its bond anticipation notes in accordance with section 23.00 of the

local finance law, as amended from time to time, (ii) shall establish provisions relating to redemption of its bonds that conform with section 53.00 of the local finance law, as amended from time to time, (iii) subject to the limitation set forth in paragraph (b) of this subdivision, may issue bonds with variable rates of interest, and enter into agreements related thereto, subject to the limitations prescribed in paragraphs a and c of section 54.90 of the local finance law, as amended from time to time, other than the limitation therein on the total principal amount of such variable rate bonds, and (iv) shall not issue refunding bonds without meeting the standards of subparagraph (a) or (b) of subdivision two of paragraph b of section 90.10 of the local finance law, as amended from time to time. In addition, except as provided in this title, bonds of the authority shall be subject to all other provisions of the local finance law, as amended from time to time, applicable to bonds of the city of New York, except where application of such law to bonds of the authority would be inappropriate. Functions assigned by such law to the mayor, comptroller, finance board and chief fiscal officer shall, to the extent not performed by such officers pursuant to this title, be reserved or delegated by the directors of the authority.

(b) The authority shall not issue variable rate bonds pursuant to this section in an amount outstanding at issuance exceeding twenty percent of the limit prescribed by subdivision one of this section, excluding bonds (i) bearing interest at rates and for periods of time that are specified without reference to future events or contingencies, or (ii) the interest rate on which is reasonably expected to be equivalent to a fixed rate over time in conjunction with other bonds or by reason of payments made pursuant to agreements with financially responsible third parties.

4. The directors may delegate to the chairperson of the authority the power to set the final terms of bonds.

5. Whenever the authority shall determine that the issuance of its bonds is appropriate, which determination shall occur at a minimum whenever necessary to reimburse the city for project capital costs incurred by the city, the mayor and the comptroller shall make a joint

recommendation as to the arrangements necessary for the issuance and sale of such bonds including the underwriting of such bonds through the public or, subject to approval of the state comptroller, private sale of such bonds and such recommendation shall include compensation for services rendered as they deem appropriate. Subject to the applicable provisions of subdivision three of this section, the mayor and comptroller shall recommend to the authority the price or prices, interest rate or rates, maturities and other terms and conditions for the issuance of the bonds. Following such recommendation, the bonds shall be authorized by resolution of the authority. The bonds shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at such public or private sale, be executed in such manner, be denominated in United States' currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may provide in such resolution. Such resolution and the minutes of the authority related thereto shall be transmitted to the mayor and the comptroller who shall then approve or disapprove the bond issuance. Approval of such bond issuance shall be indicated by the execution of the resolution by the mayor and the comptroller whereupon such resolution shall come into full force and effect in accordance with its terms.

6. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of its revenues, together with any other moneys, securities or contracts, to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of bonds;

(e) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given;

(f) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section twenty-seven hundred ninety-nine-oo of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; and

(g) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title.

7. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements for the benefit of the bondholders as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys, including the entrusting, pledging or creation of any other security interest in any such revenues, moneys and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

8. Notwithstanding any provision of the uniform commercial code to the contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security

interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

9. Whether or not the bonds of the authority are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

10. Neither the directors of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof. The bonds or other obligations of the authority shall not be a debt of either the state or the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority; and such bonds shall contain on the face thereof a statement to such effect.

11. The authority, subject to such agreements with bondholders as then may exist, shall have power to purchase bonds of the authority out of any moneys available therefore, which shall thereupon be cancelled.

§ 2799-hh. Resources of the authority. 1. Subject to the provisions of this title, the directors of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all money of the authority from whatever sources derived including (a) payments by the state comptroller pursuant to this title; (b) the proceeds of bonds; and (c) any other payments, gifts, or appropriations to the authority from any other source.

2. Subject to the provisions of any contract with bondholders, (a) the

money of the authority shall be paid to the authority and shall not be commingled with any other money, and (b) all money received by the authority which, together with other money of the authority available for the operating expenses of the authority, the payment of debt service and payments to reserve funds, exceeds the amount required for such purposes shall be transferred to the city on or before the last day of each month.

3. The money in any of the authority's accounts shall be paid out on checks signed by the treasurer, or by other lawful and appropriate means such as wire or electronic transfer, on requisitions of the chairperson of the authority or of such other officer as the directors shall authorize to make such requisition, or pursuant to a bond resolution or trust indenture.

4. All deposits of authority money shall be secured by obligations of the United States or of the state or of the city at a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his or her legally authorized representative are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have the power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the other provisions of this title. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such money may be secured in the same manner as money of the authority, and all banks and trust companies are authorized to give such security for such deposits.

5. Tax revenues received by the authority pursuant to subsection (d) of section eight hundred seventy-three, or section thirteen hundred

thirteen, of the tax law, together with any alternative revenues received by the authority, shall be applied in the following order of priority: first pursuant to the authority's contracts with bondholders, then to pay the authority's operating expenses not otherwise provided for, and then pursuant to the authority's agreements with the city, which agreements shall require the authority to transfer the balance of such taxes not required to meet contractual or other obligations of the authority to the city as frequently as practicable.

§ 2799-ii. Agreement with the state. The state does hereby pledge and agree with the holders of any issue of bonds and/or bond anticipation notes secured by such a pledge that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds and/or bond anticipation notes until such bonds and/or bond anticipation notes, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. Nothing contained in this section shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter statutes imposing or relating to the taxes payable to the authority pursuant to subsection (d) of section eight hundred seventy-three and section thirteen hundred thirteen of the tax law, but such taxes shall in all events continue to be so payable so long as any such taxes are imposed. Not less than thirty days prior to the beginning of each city fiscal year, the chairperson of the authority shall certify to the state comptroller, the governor, and the members of the board of directors of the authority a schedule of maximum annual debt service payments due on the bonds and notes of the corporation then outstanding. To the extent that the tax revenues payable to the authority under subsection (d) of section eight hundred seventy-three and section thirteen hundred thirteen of the tax law during such fiscal year are projected by the mayor to be insufficient to meet at least one hundred fifty percent of maximum annual debt service on authority bonds then outstanding, the mayor shall so notify the state comptroller and the state comptroller shall pay to the authority from alternative revenues such amount as is necessary to provide at least one hundred fifty percent of the maximum annual debt service; provided, however, that for so long as any indebtedness of the municipal assistance corporation for the city of New York remains outstanding no alternative revenues that are, as of the effective date of this title, or may in the future be, required to be deposited in the municipal assistance tax fund established under section ninety-two-d of the state finance law shall be paid to the authority except out of funds that are otherwise required to be paid to the city under such section of the state finance law. Nothing in this section shall be deemed to obligate the state to make any additional payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 2799-jj. Agreement with the city. The city is authorized to pledge and agree with the holders of any issue of bonds and/or bond anticipation notes secured by such a pledge that the city will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds and/or bond anticipation notes until such bonds and/or bond anticipation notes, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. Nothing contained in this section shall be deemed to restrict any right the city may have to amend, modify or otherwise alter local laws imposing or relating to the taxes payable to the authority pursuant to subsection (d) of section eight hundred seventy-three or section thirteen hundred thirteen of the tax law so long as, after giving effect to such amendment, modification or other alteration, the amount of tax revenues projected by the mayor to be available to the authority during each of its fiscal years following the effective date of such amendment, modification or other alteration shall be not less than one hundred fifty percent of maximum annual debt service on authority bonds then outstanding.

§ 2799-kk. Bonds legal for investment and deposit. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all public corporations, municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, conservators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 2799-ll. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, including, but not limited to, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to pay or to secure the payment of such bonds shall at all times be free from taxation.

§ 2799-mm. Actions against the authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any director, officer, agent or employee thereof, unless (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a director, counsel or an attorney, officer or employee thereof designated for such purpose, concerning such account or claim

and when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust any claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on bonds, shall not exceed the rate of interest on judgments and accrued claims against municipal authorities as provided in the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate specified in the general municipal law until paid or otherwise satisfied.

5. The venue of every action, suit or special proceeding brought against the authority shall be laid in the county of New York.

6. Neither any director of the authority nor any officer, employee, or agent of the authority, while acting within the scope of his or her authority, shall be subject to any liability resulting from exercising or carrying out of any of the powers expressly given in this title. A director, officer or employee of the authority shall be deemed an "employee" for the purposes of section fifty-k of the general municipal law.

§ 2799-nn. Audit. The accounts of the authority shall be subject to the supervision and audit of the comptroller and the state comptroller. In addition, the authority shall be subject to an annual management and financial audit performed by an independent certified accountant selected by the authority. Such audited report, together with the audited financial statements of the authority, shall be submitted to the mayor, the speaker of the city council, the comptroller, the director of management and budget, the New York state financial control board, the governor, the state comptroller, the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee.

§ 2799-oo. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (g) of subdivision six of section twenty-seven hundred ninety-nine-gg of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the city and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose provided in this section.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding shall, in his or her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders and require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall, in addition to the provisions of subdivisions one and two of this section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically

set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of New York.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§ 2799-pp. Assistance to the authority; employees of the authority. 1. With the consent of any public corporation, the authority may use agents, employees and facilities thereof, paying to such public corporation its agreed proportion of the compensation or costs.

2. Officers and employees of city agencies may be transferred to the authority and officers and employees of the authority may be transferred to appropriate city agencies without examination and without loss of any civil service or retirement status or rights. Any officer or employee of the authority who heretofore acquired or shall hereafter acquire such position status by transfer and who at the time of such transfer was a member of the New York city employees' retirement system shall continue to be a member of such system as long as he or she continues in such service, and shall continue to have all the rights, privileges and obligations of membership in such system. Employment by the authority shall constitute city-service for the purposes of chapter one of title thirteen of the administrative code of the city of New York. Transfers shall be in accordance with section seventy of the civil service law and the rules of the civil service commission of the city. No such transfer shall be made except with the approval of the head of the agency involved and the chairperson of the authority and in compliance with applicable collective bargaining agreements and the rules and regulations of the civil service commission of the city.

3. A transferred employee shall remain in the same collective

bargaining unit as was the case prior to his or her transfer, consistent with the provisions of article fourteen of the civil service law and the collective bargaining law of the city.

4. Nothing in this section shall be construed to affect the rights of employees pursuant to a collective bargaining agreement.

5. Employees newly appointed by the authority to a same or similar position or title as those represented by public employee organizations subject to the New York city collective bargaining law shall be placed in the same collective bargaining unit as such same or similar position or title and shall be represented by the duly certified employee organization representing that unit.

6. The commissioner of labor relations of the city shall be the authority's representative for purposes of the New York city collective bargaining law.

7. Employees of the authority shall be subject to chapter sixty-eight of the New York city charter, as amended from time to time.

§ 2799-qq. Equal employment opportunity program and procurement guidelines. 1. Notwithstanding any other inconsistent provision of law, section 8-107 of the administrative code of the city of New York shall apply to the activities of the authority.

2. The authority shall establish and implement guidelines for procurement which include the matters set forth in paragraphs (c), (d) and (e) of subdivision three of section twenty-eight hundred seventy-nine of this chapter.

§ 2799-rr. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

§ 2799-ss. Additional bonds of the authority. Notwithstanding any provision of this title or of any other law to the contrary, the authority is hereby authorized to issue bonds, notes or other obligations in addition to those authorized by section twenty-seven hundred ninety-nine-gg of this title in an amount outstanding of up to two billion five hundred million dollars to pay all costs in the city's budget (whether or not included or includable in the city's capital budget) which are, in the judgment of the mayor, related to or arising from the terrorist attack on New York city that occurred on September eleventh, two thousand one. In addition to or in lieu of any revenues or other money that may be paid or payable to the authority, such bonds, notes or other obligations may be secured by and payable from the proceeds of other bonds, notes or other obligations of the authority or federal or state aid related to or arising from the terrorist attack on New York city that occurred on September eleventh, two thousand one. In addition, the authority may issue bonds, notes or other obligations without limitations as to amount, secured solely by and payable solely from such federal or state aid. The city, acting through the mayor, is hereby authorized to assign the right to receive any such federal or state aid to the authority and, after such assignment, the right to receive such aid shall be the property of the authority. Bonds issued pursuant to this section shall have a maximum maturity of up to thirty years.

§ 2799-tt. Additional bonds of the authority. 1. Notwithstanding any provision of this title or of any other law to the contrary, the authority is hereby authorized to issue bonds, notes or other obligations in addition to those authorized by sections twenty-seven hundred ninety-nine-gg and twenty-seven hundred ninety-nine-ss of this title in an amount outstanding of up to nine billion four hundred million dollars for purposes of (i) funding costs of such educational facilities capital plan, the five-year educational facilities capital plan approved in accordance with section twenty-five hundred ninety-p of the education law and (ii) refunding bonds, notes or other obligations issued to pay such costs, and for payment of all other costs and expenses relating to bonds, notes or other obligations described in clause (i) or (ii) of this subdivision or incurred pursuant to agreements relating to such bonds, notes or other obligations, including without limitation, capitalized interest, the funding of reserves and costs of issuance. The city, acting through the mayor, may assign all or any portion of the state aid payable to the city of New York or the school district of the city of New York pursuant to subdivision six of section thirty-six hundred two of the education law of the state (or pursuant to any successor provision of state law) to the authority and, after such assignment, such aid and the right to receive such aid shall be the property of the authority. Bonds issued pursuant to this section shall have a maximum maturity of up to thirty years.

2. Following notice from the city of New York to the director of the state division of the budget and the state comptroller of such assignment, such payment shall be made by the state comptroller directly to the city's assignee; provided that such payment shall be subject and subordinate to payment of such aid to the municipal bond bank agency pursuant to section twenty-four hundred thirty-six of this article, the educational construction fund pursuant to section four hundred sixty-two of the education law, and the paying agent for bonds and notes in default pursuant to section ninety-nine-b of the state finance law.

3. Notwithstanding any inconsistent provision of law, amounts applied pursuant to this section to fund the five-year educational facilities capital plan and related costs, and amounts applied to pay debt service on bonds, notes or other obligations described in clause (i) or (ii) of subdivision one of this section (together with all other costs and expenses referred to in such subdivision) shall be deemed to be paid from revenues of the city of New York for the purpose of any computation of federal or state aid.

4. The pledge and agreement of the state contained in section

twenty-seven hundred ninety-nine-ii of this title shall be fully applicable to bonds, notes or other obligations issued pursuant to this section, and may be included in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this section shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter statutes relating to the state aid subject to such assignment, but such state aid shall in all events (i) continue to be so payable, as assigned, so long as any such state aid is paid and (ii) continue to be calculated in accordance with the same formula used for such calculation, and otherwise on the same basis as such aid is calculated, on the date that the applicable project is approved for reimbursement.

§ 2799-uu. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

TITLE 34

SYRACUSE REGIONAL AIRPORT AUTHORITY

§ 2799-aaa. Short title. This title may be cited as the "Syracuse regional airport authority act".

§ 2799-bbb. Statement of legislative findings and purpose. The legislature hereby finds and declares as follows:

1. The economic well-being of the state and the general welfare of its people require adequate, safe, secure and efficient aviation and transportation facilities at a reasonable cost to the people.

2. The strengthening and improvement of aviation facilities and related services for the central part of the state is a matter of vital importance not only to the residents of central New York but to all the state's residents and is therefore a matter of state concern.

3. In order to ensure a healthy economy for such area and to promote the general welfare of its residents, it is necessary to expand and improve the existing aviation facilities and services in the central New York region in such a manner as to stimulate and promote increased local, state, national and international air travel and commerce throughout central New York.

4. The health, welfare, safety and security of the state's residents and of those passengers using air transportation requires coordinated operation of aviation facilities and services in the central New York region by a public benefit airport authority.

5. The purposes of such authority shall be:

(a) to stimulate and promote economic development, trade and tourism;

(b) to acquire, construct, reconstruct, continue, develop, equip, expand, improve, maintain, finance and operate aviation and other related facilities and services within central New York;

(c) to promote safe, secure, efficient and economical air transportation by preserving and enhancing airport capacity;

(d) to form an integral part of a safe and effective nationwide system of airports to meet the present and future needs of civil aeronautics and national defense and to assure inclusion of the authority's facilities in state, national and international programs for air transportation and for airport or airway capital improvement, all in accordance with the provisions of this title; and

(e) to ensure that aviation facilities authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the state and the central New York area.

6. Such purposes are in all respects public purposes for the benefit of the people of the state of New York and for which public funds may be expended and both the city of Syracuse and the authority in carrying out their respective powers and duties under this title shall be deemed to be acting in a governmental capacity. The acquisition, construction, reconstruction, development, expansion, improvement, equipping, operation and maintenance of any project financed or undertaken by the

authority or the city shall be deemed to be the performance of an essential governmental function by the authority or the city acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or public corporation.

7. It is hereby found and declared that it has been and remains the policy of the state of New York to promote equal opportunity in employment for all persons, without discrimination on account of race, creed, color, national origin, sex, sexual preference, age, disability or marital status, to promote equality of economic opportunity for minority group members and women, and business enterprises owned by them, and to eradicate the effects of private and governmental discrimination which has erected and continues to maintain barriers that unreasonably impair access by minority and women-owned business enterprises to state contract opportunities. For the purpose of furthering the state's compelling interest in eradicating the effects of racial and sexual discrimination, therefore, it is necessary and proper that article fifteen-a of the executive law, concerning participation by minority group members and women and business enterprises owned by them, shall apply to the Syracuse regional airport authority.

§ 2799-ccc. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Airport" shall mean any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other aviation facilities, airport facility or rights-of-way, together with all airport buildings and facilities located thereon, including any heliport;

2. "Airport hazard" shall mean any structure or object of natural growth located on or in the vicinity of an airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft;

3. "Authority" shall mean the corporation created by this title;

4. "Aviation facilities" shall mean any airport facility or terminal including but not limited to any facility, property or equipment necessary, convenient or desirable for the landing, taking off, accommodation or servicing of aircraft of all types, and shall include such other facilities, equipment, property, structures and appurtenances as may be necessary or convenient in the operation, maintenance, development or improvement of an airport including facilities, equipment, property, structures, and appurtenances, leased by the authority to persons, engaged in air transportation or the production or development of materials, goods or equipment for an airport or air transportation or in providing facilities or equipment for the accommodation, safety, security or comfort of the traveling public and for purposes related or incidental to one or more of the foregoing purposes. It shall include, without limitation, runways, aprons, hangars, control towers, ramps, taxiways, navigation aids, warehouses, office and service buildings, structures, parking facilities, concession facilities, restaurants located in the terminal, motels and hotels located in the terminal, retail stores, maintenance facilities, fuel facilities, and facilities for the loading, unloading, holding, interchange or transfer of such passengers, freight, baggage or cargo. It shall also mean any property necessary to remove, mitigate, prevent or limit airport hazards. It shall also mean facilities and equipment providing access to an airport facility or terminal, including appropriate mass transportation terminal facilities at and within the airport facility or terminal itself. It shall also mean highways, access roads, driveways and approaches in the vicinity of an airport facility or terminal providing improved access to such airport facility or terminal. Notwithstanding any contrary provision of law, general, special or local, it shall also mean railroad projects related or of benefit to an airport facility or terminal consisting of railroad transportation facilities; and any equipment, improvement, structure or facility or any land, and any building, structure, facility or other improvement thereon, or any combination thereof, and all property in connection therewith or incidental thereto, deemed necessary or

desirable in the opinion of the authority, whether or not now in existence or under construction, for the undertaking of such railroad projects (exclusive of privately owned, stand alone railroad facilities which do not provide a benefit to the airport).

5. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders which shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

6. "City" shall mean the city of Syracuse.

7. "Construction" shall mean the acquisition, erection, building, alteration, repair, improvement, increase, enlargement, extension, installation, reconstruction, renovation or rehabilitation of a project including any appurtenances thereto which may be necessary or desirable to promote the efficiency or effectiveness of such project; the inspection and supervision thereof; and the engineering, consulting, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto and claims arising therefrom.

8. "Cost" as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, both real and personal, improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land and the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantees, credit enhancement or bond insurance, other expenses necessary or

incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to any public corporation, the state, the federal government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

9. "County" shall mean Onondaga county.

10. "Equipment" shall mean snow removal vehicles, fire fighting and rescue vehicles, passenger and freight vehicles, aircraft, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements, materials, supplies, instruments and devices of every nature whatsoever used or useful for aviation and transportation purposes or for the generation or transmission of motive power including but not limited to all power houses, and all apparatus and all devices for navigation, security, safety, signaling, communications and ventilation as may be necessary, convenient or desirable for the operation of aviation facilities and pollution control facilities.

11. "Facility" shall mean, among other things, such properties, structures, appurtenances, utilities, terminals, railroad trackage, warehouses, elevators and such other works, properties, buildings or allied items necessary or desirable in connection with development, operation, maintenance or improvement of airport and public transportation needs and for the accommodation, safety, security or comfort of the public and of commercial enterprise.

12. "Federal government" shall mean the United States of America, and any department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

13. "Joint service arrangement" shall mean agreements between or among the authority and any person, the state, the city, any other public corporation, the federal government, any other state or agency or

instrumentality thereof, relating to property, buildings, structures, facilities, services, rates, fares, classifications, divisions, allowances or charges (including charges between operators of railroad, omnibus and aviation facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part in or upon railroad, omnibus or aviation facilities located within the county and in part in or upon railroad, omnibus or aviation facilities located outside the county.

14. "Municipality" shall mean a county, city, town, village or school district.

15. "Person" shall mean any natural person, firm, partnership, association, joint venture or corporation, exclusive of a public corporation.

16. "Personal property" shall mean chattels and other tangible things of a movable or removable nature.

17. "Pollution control facilities" shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all property deemed necessary therewith, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of aviation facilities, including, but not limited to any air pollution control facility, noise abatement or suppression facility (including physical barriers, landscaping and sound proofing for the purpose of diminishing the effect of aircraft noise on any area adjacent to an airport), water management facility, waste water collecting system, waste water treatment works, sewage treatment works, deicing facility, or sewage treatment system or site.

18. "Property" shall mean both real and personal property.

19. "Project" shall mean any property or improvements located within the state of New York and within or outside or partially within and

partially outside Onondaga county, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be necessary or suitable for aviation purposes and airport development and which may include or mean aviation facilities and pollution control facilities; provided, however, the authority shall not use its funds in respect of any part of a project located wholly or partially outside the county without the prior consent thereto by the governing body of any other county in which a part or parts of the project is, or is to be located. It shall also mean any property necessary to remove, mitigate, prevent or limit airport hazards.

20. "Public corporation" shall mean a county, city, town, village, school district or special district, any public benefit corporation, agency or instrumentality of the state or of any municipality, or two or more of any of the foregoing acting jointly.

21. "Real property" shall mean lands, structures, franchises and interests in land, airspace, waters, lands under water, riparian rights, air rights, any fixtures, equipment and articles of personal property affixed to or used in connection therewith, and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

22. "Revenues" shall mean all rates, fees, rents, revenues, charges and other income derived by the authority from the operation, leasing, sale or other disposition of a project or projects.

23. "State" shall mean the state of New York.

§ 2799-ddd. Syracuse regional airport authority. 1. There is hereby created the Syracuse regional airport authority. The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of eleven members who shall be appointed as follows: seven shall be appointed by the mayor of the city of Syracuse, one shall be appointed by the county executive of Onondaga county, one shall be appointed by the town board of the town of Dewitt, one shall be appointed by the board of education of the East Syracuse Minoa Central School District, and one shall be appointed for a period of one year, alternately, by the board of education of the North Syracuse Central School District and the town board of the town of Salina, Cicero or Clay. The member initially appointed by the county executive and two of the members initially appointed by the mayor shall serve for a term ending December thirty-first, two thousand fourteen. Two of the members initially appointed by the mayor shall serve for a term ending December thirty-first, two thousand fifteen. Three members initially appointed by the mayor, the member appointed by the town board of the town of Dewitt, and the member appointed by the board of education of the East Syracuse Minoa Central School District, shall serve for a term ending December thirty-first, two thousand sixteen. The first member appointed by the town board of the town of Salina, Cicero or Clay, or by the board of education of the North Syracuse Central School District, shall be appointed by the town board of the town of Cicero and shall serve for a term ending December thirty-first, two thousand thirteen. Following the expiration of such member's two year term, the subsequently appointed member shall be appointed by the town board of the town of Salina. Following the expiration of such member's two year term, the subsequently appointed member shall be appointed by the town board of the town of Clay. Following the expiration of such member's two year term, the subsequently appointed member shall be appointed by the board of education of the North Syracuse Central School District. Thereafter, each subsequent member shall be appointed alternately by each town or the board of education in the same order as the initial appointments. The mayor shall designate one of the eleven members to serve as chairperson of the authority. With the exception of the member appointed by the board of education of the North Syracuse Central School District or by the town board of the town of Salina, Cicero or Clay, who shall serve a two year term, and those initial appointees whose terms are three years or less, each member shall serve a term of four years.

2. All members shall continue to hold office until their successors are appointed and qualify. Provided that upon a new mayor of the city taking office, the incoming mayor may replace the city appointee with the shortest remaining term with a new appointee. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by section twenty-eight hundred twenty-seven of this chapter. The members of the authority shall receive no compensation for their services but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the members of the authority at a meeting duly called and held and a majority of directors shall constitute a quorum. No action shall be taken except pursuant to the favorable vote of at least a majority of members. The members of the authority may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

3. The authority shall have a regional advisory board consisting of eight non-voting members. The membership shall include one member appointed by the county executive of Oneida county, one member each appointed by the chairpersons of the county legislatures of Onondaga, Oswego, Cortland, Cayuga, and Jefferson counties, one member appointed by the chairperson of the board of supervisors of Madison county, and one member appointed by the Common Council of the City of Syracuse. Members will be appointed for two year terms and may be reappointed.

4. Appointments to the authority and to the non-voting advisory board shall be geographically diverse and include representatives from business, finance, and labor.

5. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or

employee of the state or of any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer or employee of the authority, nor shall service as such member, officer or employee be deemed incompatible or in conflict with such office, membership or employment.

6. All members of the authority will be required to comply with the provisions of this chapter and to complete all disclosure forms required by this chapter.

7. The authority shall continue for a term of one year after all its bonds have been fully paid and discharged. Upon termination of the existence of the authority, all of its rights and property shall pass to and be vested in the city.

§ 2799-eee. Advances on behalf of authority, transfer of property to authority, acquisition of property by city or authority. 1. In addition to any powers granted to it by law, the city or any other public corporation may, from time to time, appropriate by ordinance or resolution sums of money to defray project costs or any other costs and expenses of the authority including operating expenses. Subject to the rights of bondholders, the city or such other public corporation may determine if the moneys so appropriated shall be subject to repayment by the authority to the city or such other public corporation and, in such event, the manner and time or times for such repayment.

2. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, any public corporation may, by a majority vote of its governing body and the approval of its chief executive officer, give, grant, sell, convey, loan, license the use of or lease to the authority any property or facilities, including aviation facilities and pollution control facilities, which are useful in connection with the exercise by the authority of its powers under this title. Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, and for such term or terms of years, subject to the rights of the holders of any bonds, as

the authority and such public corporation may agree. Any such gift, grant, sale, conveyance, lease, loan or license shall not be subject to referendum, permissive or mandatory. In the event that any public corporation gives, grants, sells, conveys, loans, licenses or leases any aviation facilities, real property, facilities or pollution control facilities to the authority, such public corporation may contract with the authority to lease, borrow, license, operate, maintain, manage and provide services for such real property or facilities upon such terms and conditions and for such term or terms of years, subject to the rights of holders of bonds, as the authority and such public corporation may agree. The authority, in furtherance of any purchase, conveyance or lease of any property or facility from any public corporation, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by such public corporation for such property or facility. For purposes of section 136.00 of the local finance law, any agreement by the authority to assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by any such public corporation shall, so long as such agreement shall continue to be honored by the authority, cause such bonds or notes to be deemed to have been refunded and any such public corporation may deduct from its gross indebtedness any outstanding indebtedness contracted for such property or facility to be acquired by the authority.

3. The city may acquire by purchase, grant, lease, gift or condemnation pursuant to the eminent domain procedure law real property in the name of the city for any corporate purpose of the authority.

4. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority or the city from the state may be used for any corporate purpose of the authority.

§ 2799-fff. Transfer of officers and employees. 1. In accordance with the provisions of section seventy of the civil service law, any officer or employee of the city, selected by the authority may, with the consent of the mayor, be transferred to the authority and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to such same collective bargaining unit if they would have been assigned to such unit were such titles created prior to the establishment of the authority. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

§ 2799-ggg. General powers of the authority. Except as otherwise limited by this title, the authority shall have power:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to borrow money and issue bonds for any of its corporate purposes or its projects and to provide for the rights of the holders thereof;

4. to make and alter by-laws for its organization and management, and,

subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

5. to acquire by purchase, grant, lease, gift, condemnation pursuant to the provisions of the eminent domain procedure law with the approval of the city, or otherwise and to hold and use property and facilities necessary, convenient or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property and facilities;

6. to acquire, construct, reconstruct, lease, expand, improve, maintain, equip, furnish, operate one or more projects and, if necessary, to pay or finance the cost thereof;

7. to apply for and to accept gifts, grants, loans, or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state or any public corporation or any other source, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

8. to grant options to renew any lease with respect to any project or projects and to grant options to buy any project;

9. to designate the depositories of its money;

10. to establish its fiscal year;

11. to enter into contracts, agreements and leases with the federal government, the state, the county, the city, any person or other public corporation and to execute all instruments necessary or convenient to accomplishing its corporate purposes;

12. to appoint such officers, employees and agents as the authority may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation subject to the provisions

of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice; which positions, with the exception of all police positions, shall be in the exempt class of civil service;

13. with the consent of the mayor to use employees, agents, consultants and facilities of the city, paying the city its agreed proportion of the compensation or costs;

14. to make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

15. to enter upon such lands, waters or premises as in the judgment of the authority may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable for actual damage done;

16. the authority may covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includible, under the United States Internal Revenue Code of 1986, or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law;

17. to do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title; and

18. to insure or provide for the insurance of the authority's property or operations as required by law and also against such other risks as the authority may deem advisable.

§ 2799-ggg-1. Authority police force. The authority is hereby authorized and empowered to provide and maintain an authority police department and a uniformed authority police force. Each member of such uniformed police force shall be a "police officer" as that term is defined in paragraph (e) of subdivision thirty-four of section 1.20 of the criminal procedure law, with all of the powers of such police officers thereunder and subject to the same jurisdictional provisions on the exercise of that power as set forth in such law. The geographical area of employment of such police officers for the purposes of the criminal procedure law shall be limited to the buildings and grounds of the authority. Such department and force shall have the power, in and about any or all of the facilities owned, occupied and/or operated by the authority, to enforce and prevent violation of all laws. Nothing herein shall confer upon the authority police force or upon their collective negotiations representatives exclusive jurisdiction or claim over the exercise of police power or security work on behalf of the authority. Nothing herein shall limit the authority from continuing to rely on local police for police services. However, traditional police functions previously performed by the city of Syracuse police department shall continue to be performed by the authority police force.

§ 2799-hhh. Special powers of the authority. In order to effectuate the purpose of this title:

1. The authority may enter into any joint service arrangements as provided in this section.

2. The authority may, establish, construct, effectuate, operate, manage, maintain, renovate, improve, extend or repair any aviation facilities or pollution control facilities, or may provide for such establishment, construction, effectuation, operation, management, maintenance, renovation, improvement, extension or repair by contract, lease, or other arrangement with the federal government, any state or agency or instrumentality thereof, or any person or public corporation.

In connection with the operation of any such facilities, the authority may establish, construct, effectuate, operate, manage, maintain, renovate, improve, extend or repair or may provide by contract, lease or other arrangement for the establishment, construction, effectuation, operation, management, maintenance, renovation, improvement, extension or repair of any related services and activities.

3. The authority may establish, fix, revise, levy and collect or cause to be established, fixed, revised, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, fixing, revision, levy and collection of such fares, rentals, rates, charges, landing and field use fees, concession fees and other fees for the use and operation of any real property, aviation facilities, pollution control facilities, facility and related services operated or managed by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such fares, rentals, rates, charges, landing and field use fees, concession fees or other fees shall be at least sufficient at all times in the judgment of the authority to establish and maintain the combined operations of the authority on a self-sustaining basis. Such operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or fund or cause to be paid or funded from revenues and any other funds actually available to the authority:

(a) the principal of, premium, if any, and the interest on the outstanding bonds of the authority as the same shall become due and payable and any capital or debt service reserve therefor and, to the extent required by any agreement between the city and the authority, the principal of and interest on any general obligation bonds, notes or other evidence of indebtedness of the city issued for or allocable to any project of the authority as the same shall become due and payable and any reserves therefor;

(b) the cost of administering, maintaining, repairing and operating any project of the authority;

(c) the cost of constructing capital improvements thereto pursuant to any agreement between the city and the authority;

(d) any liabilities incurred for or allocable to any project of the authority including any liabilities of the city assumed by the authority pursuant to any agreement between the city and the authority, as the same become due and payable;

(e) any requirements of any agreement including those relating to the establishment of reserves for renewal and replacement and for uncollected fares, rentals, rates, charges and fees and covenants respecting rates and debt service and earnings coverage ratios;

(f) all other reasonable and necessary expenses of the authority; and

(g) the cost of such additional projects as may be now or hereafter authorized by law and agreed to by the authority.

4. The authority may establish and, in the case of joint service arrangements, join with others in the establishment of such schedules and standards of operations and such other rules and regulations including but not limited to rules and regulations governing the conduct, safety and security of the public as it may deem necessary, convenient or desirable for the use, operation and management of any project and related services operated or managed by the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Such rules and regulations governing the conduct, safety and security of the public shall be filed with the department of state in the manner provided by section one hundred two of the executive law. In the case of any conflict between any such rule or regulation of the authority governing the conduct, safety and security of the public and any local law, local ordinance, local rule or local regulation, such rule or regulation of the authority shall prevail. Nothing in this section shall be construed to exempt the authority from any state law, rule or regulation.

5. The authority may manage, control and direct the maintenance and operation of aviation facilities, equipment or property operated by or under contract, lease or other arrangement with the authority. Except as agreed to pursuant to any agreement between the authority and any public corporation and except as hereinafter specially provided, no municipality except for the city, shall have jurisdiction over any facilities of the authority or any of its activities or operations. The city may provide for such facilities' police and fire protection services.

6. The authority may accept unconditional grants of money or property from any municipality the whole or any part of which municipality shall be served or to be served by an aviation facility operated by the authority. Such grants of money or property would be for the purpose of assisting the authority in meeting its capital or operating expenses. The acceptance of any such grant shall not operate to make the authority an agency of the municipality making the grant.

7. In any instance where the city is required by law, with respect to an airport or any aviation facilities, to conduct a public hearing in connection with a contract, lease, joint service arrangement, charge, fare, rental or fee, the authority shall not enter into such contract, lease, joint service arrangement, or establish, fix, revise or levy any charge, fare, rental, landing and field use fee, concession fee or other fee unless and until the authority has held a public hearing at which interested persons have had an opportunity to be heard concerning the same, provided however, if the city has conducted a public hearing in connection with such contract, lease, joint service arrangement, charge, fare, rental or fee, the authority shall not be required to hold a public hearing. Notice of such public hearing shall be published by the authority at least ten days before the date set therefor, in at least one newspaper of general circulation in the county and on the authority website. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such meeting. At all such hearings, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision of the authority on matters considered at such public hearing shall be in writing and be made available in the office of the authority for public inspection during regular office hours and posted on the authority website.

8. The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities through, and cause any one or more of its powers, duties, functions or activities to be exercised or performed by, no more than two wholly owned subsidiary corporations of the authority for the

purposes of operating parking and concessions including food, beverage, and retail services, and airline and aircraft services including ticketing, baggage and fueling services and other services for the operation of the airport. The authority may transfer to or from any such corporation, or between such corporations, any moneys, real property or other property or the services of any officers, employees or consultants for any of the purposes of this title. The directors or members of each such subsidiary corporation shall be the same persons holding the offices of members of the authority. Each such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. Each such subsidiary corporation shall be subject to the restrictions and limitations to which the authority may be subject. Each such subsidiary corporation shall be subject to suit in accordance with section twenty-seven hundred ninety-nine-www of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

§ 2799-iii. City notice required. Notwithstanding any inconsistent provision of this title, no project having an aggregate cost exceeding ten million dollars, including but not limited to the acquisition of real property by the authority or the expansion of the authority's aviation facilities, may be undertaken by the authority unless the authority has provided notice of such project to the Syracuse common council and the mayor.

§ 2799-jjj. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall not exceed three hundred million dollars ($300,000,000), excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purposes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than three hundred million dollars ($300,000,000) only if the present value of the aggregate debt service of their funding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes of this section, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. The authority shall have power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds.

2. The authority shall have power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds (other than notes or other evidence of indebtedness) issued for refunding purposes, which have a final maturity date longer than the maturity of the bonds being refunded, shall be approved by a resolution of the common council adopted by a majority vote and approved by the mayor.

Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the authority is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the authority, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within thirty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide.

(c) Notwithstanding any other provision of law, the bonds of the authority issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the authority and on the authority website, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper and on the authority website at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the authority, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the authority is authorized to negotiate a private or public sale or re-advertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect a satisfactory sale.

(d) Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the authority the interests of the authority will be served thereby, the members of the authority, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The authority shall set guidelines governing the terms and conditions of any such private or public sales.

(e) The private or public bond sale guidelines set by the authority shall include, but not be limited to a requirement that where the interests of the authority will be served by a private or public sale of bonds, the authority shall select underwriters for private or public bond sales conducted pursuant to a request for proposal process undertaken at least once annually and consideration of proposals from qualified underwriters taking into account, among other things, qualifications of underwriters as to experience, their ability to structure and sell authority bond issues, anticipated costs to the authority, the prior experience of the authority with the firm, if any, the capitalization of such firms, participation of qualified minority and women-owned business enterprise firms in such private or public sales of bonds of the authority and the experience and ability of firms under consideration to work with minority and women-owned business enterprises so as to promote and assist participation by such enterprises.

(f) The authority shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(g) No private or public bond sale on a negotiated basis shall be conducted by the authority without prior approval of the state comptroller and the city comptroller.

(h) The authority shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the authority is required to make.

(i) The authority shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee, the assembly ways and means committee and the authority budget office.

(j) The authority shall make available to the public copies of its bond sale report upon reasonable request therefore.

(k) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or any part of the revenues, other moneys or property of the authority to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to

secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the members of the authority nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be cancelled.

§ 2799-kkk. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the authority shall default in the payment of principal or of interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding, shall in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this title or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and operate, maintain and reconstruct such

part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2799-lll. State, county, and city not liable on authority bonds. Neither the state, the county, nor the city shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, the county, or the city, and such bonds shall contain on the face thereof a statement to such effect.

§ 2799-mmm. Moneys of the authority. All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks designated by the authority. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by such person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the authority, all such moneys shall be deposited in interest bearing accounts. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the authority shall prescribe a system of accounts.

§ 2799-nnn. Bonds legal investment for fiduciaries. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding other provisions of law, the bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2799-ooo. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 2799-ppp. Agreement with city. The city is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title and with those persons or public corporations who may enter into contracts with the authority pursuant to the provisions of this title that the city will not alter, limit or impair the rights hereby vested in the authority to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority.

§ 2799-qqq. Exemption from taxes, assessments and certain fees. 1. The authority, notwithstanding the provisions of the real property tax law, any other general, special, or local law, or ordinance, rule or regulation to the contrary, with respect to the airport, aviation facilities, pollution control facilities, any real property, and any facility shall be exempt from taxation and shall not be required to pay any fees, taxes, special ad valorem levies or special assessments, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other excise taxes, upon the airport, aviation facilities, pollution control facilities, any facility or any property owned or leased by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities or any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority. Notwithstanding the previous sentence; (1) the authority shall be required to pay (a) only those special ad valorem levies or assessments payable by the city immediately prior to the effective date of this act and (b) scheduled payments in lieu of taxes payable by the city to school districts and to towns pursuant to PILOT agreements in effect immediately prior to the effective date of this act; and (2) tax parcels not owned by the city and not tax exempt prior to the effective date of this act shall not become tax exempt upon the effective date of this act. Tax parcels acquired by the authority subsequent to the effective date of this act shall be exempt from taxes, assessments, special ad valorem levies, and special assessments fees as provided herein, subject to the obligation to make payments in lieu of taxes to the extent provided in subdivision three of section twenty-seven hundred ninety-nine-uuu of this title. The authority, notwithstanding the provisions of any general, special, or local law, or ordinance, resolution, rule, or regulation to the contrary, with respect to the airport, aviation facilities, pollution control facilities, real property, and other facilities used for public aviation purposes or for airport development or to support or in connection with the airport, aviation facilities, pollution control facilities, real property or other facilities, shall at all times be exempt from any filing, mortgage recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by them or on their behalf. The construction, use, occupation or possession of any property owned by the authority, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall at all times be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2799-rrr. Actions against authority. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority, its members, officers, or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and (d) an action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. No action or special proceeding, for any cause whatever, except as hereinafter provided, relating to airport property, facilities or operations or involving the rights or interests of the airport or the airport authority shall be prosecuted or maintained against the airport authority unless it shall appear by and as an allegation in the complaint or necessary moving papers that a written verified claim upon which action or special proceeding is founded was served on the airport authority, in the same manner as a summons under the CPLR, within three (3) months after the accrual of such claim. The provisions of this section shall not apply to an action or special proceeding founded upon tort which shall be governed by the provisions of section fifty-e of the general municipal law, or to the extent disallowed under federal law, regulations, or by agreement with the federal government.

3. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

4. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

5. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the

authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of Onondaga county.

6. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2799-sss. Contracts. All contracts for construction shall be let by the authority in conformity with the applicable provisions of section one hundred thirty-five of the state finance law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards and working hours. The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The authority may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

§ 2799-ttt. Conflicts of interest. Eligibility for appointment as a director, officer or employee of the authority shall be subject to the provisions of section twenty-eight hundred twenty-five of this chapter. In addition to the requirements of such section:

1. It shall be a misdemeanor for any member, officer or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or

in any contract therefore which the authority is empowered by this title to make.

2. If any director, officer or employee of the authority shall have an interest, either direct or indirect, in any contract to which the authority is or is to be a party, such interest shall be disclosed to the authority in writing and shall be set forth in the minutes of the authority. The director, officer or employee having such interest shall not participate in any action by the authority with respect to such contract.

3. No director, officer or employee of the authority shall be deemed to have such an interest solely by reason of the ownership of two percent or less of the securities of a corporation which is or is to be a party to a contract with the authority, including without limitation the holding company of any banking institution in which the funds of the authority are, or are to be deposited, or which is or is to be acting as trustee or paying agent under any bond or note resolution, trust indenture or similar instrument to which the authority is a party.

4. Nothing in this section shall be deemed or construed to limit the right of any director, officer or employee of the authority to acquire an interest in the securities of the authority.

§ 2799-uuu. Agreements relating to payment in lieu of taxes. 1. In order to assure that municipalities may not suffer undue loss payments in lieu of taxes, the city has entered into payment in lieu of tax agreements with the East Syracuse Minoa central school district, the town of Dewitt, the town of Salina, the town of Cicero and the North Syracuse central school district. The authority is obligated to continue to make any PILOT payments as set forth in these PILOT agreements.

2. Subject to any agreement with bondholders, the authority may, but is not required to, increase the amount of the payments in lieu of taxes to any such municipality in respect of any real property which is owned or leased by the authority, is located in such municipality, and is used

for the airport, aviation facilities, pollution control facilities, and other facilities used for public aviation purposes or for airport development or to support or in connection with the airport, aviation facilities or pollution control facilities. For the purposes of this section, such public aviation purposes shall include without limitation air terminal facilities, aviation facilities, parking facilities, fuel facilities, maintenance facilities, and facilities for the loading, unloading, holding, interchange or transfer of passengers, freight, baggage or cargo.

3. (a) In the event that any real property acquired by the authority subsequent to the effective date of this act is used or is to be used by the authority, or a lessee thereof, for purposes other than the airport, aviation facilities, pollution control facilities, and other facilities used for public aviation purposes or for airport development or to support or in connection with the airport, aviation facilities, or pollution control facilities, the authority, or a lessee thereof, as the case may be, shall enter into agreements with any municipality of the state to pay annual sums in lieu of taxes in respect of such real property located in such municipality. For the purposes of this section, such purposes other than the airport, aviation facilities, pollution control facilities, and other facilities used for public aviation purposes or for airport development or to support or in connection with the airport, aviation facilities, or pollution control facilities, shall include without limitation hotels, motels, restaurants, retail stores and concessions that are not located within any air terminal building, office buildings to the extent not used by the authority or any other public corporation for its own corporate purposes, and such other buildings and improvements as determined by the authority to be not exclusively for the airport, aviation facilities, pollution control facilities, and other facilities used for aviation purposes or for airport development or to support or in connection with the airport, aviation facilities, or pollution control facilities.

(b) The authority shall determine: (i) the amount of such annual payments in lieu of taxes, (ii) whether the use of such property is for purposes other than public aviation purposes and (iii) the extent to which such property is used for purposes other than public aviation

purposes.

§ 2799-vvv. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. In addition to the reporting requirements of article nine of this chapter, the authority shall annually submit to the governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the clerk of the Syracuse common council and the mayor.

§ 2799-www. Limited liability. Neither members, officers or employees of the authority, nor any municipality, or an officer or employee thereof acting on behalf of the authority, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title unless the conduct is finally determined by a court of competent jurisdiction to constitute intentional wrong doing or recklessness provided, however, that this section shall not be held to apply to any independent contractor.

§ 2799-xxx. Transfer of applications, proceedings, approvals and permits. 1. Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the city or by the city with the federal government, the state department of environmental conservation, the state department of transportation or any other public corporation shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application, review, process or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the city to the authority unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits, determinations, findings, awards and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using or occupying any facility financed in whole or in part by the authority.

§ 2799-xxx-1. Website. The authority shall make accessible to the public, via its official or shared internet website, documentation pertaining to its mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

§ 2799-yyy. Severability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 2799-zzz. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of the city charter or any local law, local charter, local ordinance or local resolution of the county or any other municipality, the provisions of this title shall be controlling. Insofar as the provisions of this title are inconsistent with any state law, rule or regulation the state law, rule or regulation will prevail. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title nor abridge the powers or duties of any state agency or department. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the city charter, and any local law, ordinance or resolution of the city.

TITLE 35

ROOSEVELT ISLAND OPERATING CORPORATION

* **§ 2799-aaaa. Legislative declaration.** The legislature hereby finds, determines and declares that: (a) the city of New York and the New York state urban development corporation have entered into a lease providing for the urban development corporation to use its statutory powers to create on Roosevelt Island a new community which would retain and heighten the benefits of urban living while preserving a sense of scale and open space for Roosevelt Island residents and New York city as a whole; (b) the urban development corporation has and its successors have constructed the first phases of the island's development, including public facilities, pursuant to a general development plan for Roosevelt Island, which plan is being updated and which plan contemplates significant future development, including the provision of additional housing, commercial, civic, recreational and other facilities; (c) it is in the public interest for the urban development corporation to transfer all of its rights and obligations with respect to the development, operation and supervision of both such existing and such proposed development to a public benefit corporation which shall be under the supervision of the commissioner of homes and community renewal; and (d) it is in the public interest that the public benefit corporation plan, design, develop, operate, maintain and manage Roosevelt Island and have vested in it such powers as are necessary or convenient to effectuate those functions and that the division of housing and community renewal be authorized to assist such corporation in the performance of its duties with respect to Roosevelt Island.

§ 2799-bbbb. Definitions. As used in this title, the following terms shall have the following meanings:

1. "City" shall mean the city of New York;

2. "Commissioner" shall mean the commissioner of homes and community renewal;

3. "Corporation" shall mean the Roosevelt Island operating corporation created by this section;

4. "Development subleases" shall mean (a) the sublease dated August first, nineteen hundred eighty between the urban development corporation and the city, (b) the ground lease, dated October thirtieth, nineteen hundred seventy-two, between the urban development corporation and North Town Phase II Houses, Inc., (c) the ground lease, dated April twenty-fifth, nineteen hundred seventy-three, between the urban development corporation and North Town Phase III Houses, Inc., (d) the restated ground lease, dated November thirtieth, nineteen hundred seventy-seven, between the urban development corporation and Rivercross Tenants' Corporation, (e) the ground lease between the corporation and Manhattan Park dated August fourth, nineteen hundred eighty six, (f) the ground lease between the corporation and related and Hudson Companies dated December twenty-first, two thousand one, and (g) the sublease between the corporation and MEPT Octagon, LLC dated November third, two thousand four;

5. "Division" shall mean the New York state division of housing and community renewal;

6. "Lease" shall mean the lease, dated December twenty-third, nineteen hundred sixty-nine, as heretofore or hereafter amended, among the city of New York, the New York state urban development corporation and the Roosevelt Island development corporation, pursuant to which the city leased substantially all of Roosevelt Island to the New York state urban development corporation for development substantially in accordance with the development plan referred to therein;

7. "Roosevelt Island" shall mean the island located in the east river, city and county of New York, extending from approximately fiftieth street to eighty-sixth street in Manhattan;

8. "Safe affordable housing for everyone, inc." shall mean the New York corporation organized under article six-A of the private housing finance law and under the supervision and control of the commissioner;

9. "Tramway franchise" shall mean the franchise for the Roosevelt

Island tramway granted by the city to the urban development corporation on February nineteenth, nineteen hundred seventy-four; and

10. "Urban development corporation" shall mean the New York state urban development corporation and any successor agency.

§ 2799-cccc. Establishment of the corporation; organization of the board. 1. To effectuate the purposes and provisions of this title, there is hereby created the "Roosevelt Island operating corporation", which shall be a body corporate and politic constituting a public benefit corporation and a political subdivision of the state of New York.

2. The board of directors of the corporation shall be composed of nine members. One member shall be the commissioner, who shall serve as the chair; one member shall be the director of the budget; and seven public members shall be appointed by the governor with the advice and consent of the senate. Of the seven public members, two members, one of whom shall be a resident of Roosevelt Island, shall be appointed upon the recommendation of the mayor of the city; and four additional members shall be residents of Roosevelt Island. Each member shall serve for a term of four years and until his or her successor shall have been appointed and shall have qualified, except that the commissioner and the director of the budget shall serve so long as they continue to hold their respective offices. Any action taken by the directors of the corporation shall be taken by majority vote of the directors then in office. The elected public officials who represent Roosevelt Island shall be representatives to the board of directors of the corporation entitled to receive notice of and attend all meetings of such board but shall not be entitled to vote. Failure to give such notice shall not affect the validity of any action taken at a meeting of such board.

3. The governor may fill any vacancy which occurs on the board of directors of the corporation in a manner consistent with the original appointment. Any member of the corporation may be removed by the governor for cause, but not without an opportunity to be heard, in person or by counsel, in his or her defense, upon not less than ten

days' written notice.

4. The commissioner and the director of the budget may each designate an officer or employee of his or her respective division to represent such member at meetings of the corporation. Such designation shall be by written notice filed with the chair or the secretary of the corporation by the member making the designation, and may be revoked at any time by similar notice. Any representative so designated shall have the power to attend and to vote at any meeting of the corporation from which the member making the designation is absent with the same force and effect as if the member making the designation were present and voting. No such designation shall limit the right of the member making the designation to attend and vote in person at any meeting of the corporation.

5. A member of the corporation who is not an officer or employee of the state or the city shall not receive a salary or other compensation, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties as a member. A member of the corporation who is not an officer or employee of the state or the city may engage in private employment, or in a profession or business, unless otherwise prohibited by law from doing so. Notwithstanding any other provision of law, general, special, or local, no officer or employee of the state or any civil division thereof shall be deemed to have forfeited, or shall forfeit such office of employment because of acceptance of membership in the corporation, or by virtue of being an officer, employee or agent thereof.

§ 2799-dddd. Powers of the corporation. The corporation's powers shall be limited to carrying out the development, management and operation of Roosevelt Island. In carrying out such development, management and operation, the corporation shall have the power to:

1. Sue and be sued;

2. Have a seal and alter the same at pleasure;

3. Make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;

4. Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act;

5. Acquire in the name of the corporation by purchase, grant or gift, or by the exercise of the power of eminent domain pursuant to the eminent domain procedure law, or otherwise, real or personal property, or any interest therein deemed necessary or desirable for the development, management or operation of Roosevelt Island, including, without limitation, leasehold interest, air and subsurface rights, easements and lands under water at the site of Roosevelt Island or in the general vicinity thereof, and to subject such property or interest therein to a purchase money or other lien or security interest in connection with the acquisition and development thereof, provided that the corporation shall have no authority or power to issue any notes, bonds or other debt obligations, whether for the purpose of financing the development of Roosevelt Island or otherwise;

6. Hold and dispose of real or personal property for its corporate purposes;

7. Appoint officers, agents and employees, prescribe their duties and fix their compensation in accordance with a staffing and compensation plan submitted to and approved by the director of the budget;

8. Engage the services of private consultants on a contract basis for rendering professional and technical assistance advice;

9. Procure insurance against any loss in connection with its activities, properties and other assets, in such amount and from such insurers as it deems desirable;

10. Charge and collect fees, rents and other charges for the occupancy or other use of real or personal property or facilities owned, operated,

managed or regulated by the corporation;

11. Accept any gifts or grants of money or property, or financial or other aid in any form, from the federal government, the state, or the city (or any instrumentality of any such government) or from any other source and, subject to the provisions of this title and other applicable law, to comply with any conditions of such assistance and execute any contracts or other instruments in connection therewith;

12. Invest any funds of the corporation, or any other monies under its custody and control not required for immediate use or disbursement, at the discretion of the corporation, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in any other obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight of the state finance law;

13. Enter into such agreements with the state, the urban development corporation and the city as the parties thereto deem appropriate to effectuate the provisions of this title;

14. Assume and perform the obligations and responsibilities of the urban development corporation under the lease, the tramway franchise, and all other contracts, leases, and agreements heretofore entered into by the urban development corporation relating to the development, management and operation of Roosevelt Island (except that the corporation shall not assume any of the rights, duties and responsibilities of the urban development corporation in relation to any bonds or notes issued, or mortgages or security agreements held, by the urban development corporation or any of its subsidiaries) and exercise all of the rights of the urban development corporation with respect thereto; and

15. Do and perform all other acts necessary or convenient to carry out the foregoing in connection with the development, management or operation of Roosevelt Island.

§ 2799-eeee. Rules and regulations; approval of development plan amendments; applicability of local laws. 1. The corporation shall promulgate such rules and regulations as it shall deem appropriate to provide an opportunity for residents of Roosevelt Island to comment upon any major amendment of the development plan for Roosevelt Island referred to in the lease at a public hearing held prior to its adoption by the corporation.

2. Any amendment of the development plan for Roosevelt Island referred to in the lease shall be subject to the review and approval of the director of the budget, and the corporation shall not enter into any agreement for the design or construction of any improvement provided for in any such amendment prior to such approval.

3. The requirements of all local laws, ordinances, codes, charters or regulations shall be applicable to the construction, alteration or improvement of any building or structure on Roosevelt Island, provided that the corporation may, in lieu of such compliance, determine that the requirements of the New York state uniform fire prevention and building code, formulated by the state fire prevention and building code council pursuant to article eighteen of the executive law, shall be applicable to such work. In the event of such compliance with the New York state uniform fire prevention and building code, the city shall have no power to modify any drawings, plans or specifications for such work or for the plumbing, heating, lighting or other mechanical branches thereof, or to require that any person, firm or corporation employed on any such work perform the same except as provided by such plans and specifications or obtain any additional authority, approval, permit or certificate from the city in connection therewith.

§ 2799-ffff. Powers and duties of urban development corporation; lease and tramway franchise. 1. The corporation shall perform all obligations of the urban development corporation or any of its subsidiaries with respect to the development, management and operation of Roosevelt

Island, including, without limitation, all such obligations arising under the lease and the tramway franchise.

2. The urban development corporation, the division and the corporation shall each use their best efforts to obtain any required consents to the assignment of the lease and the tramway franchise from the urban development corporation to the corporation and to any other assumption by the corporation of the obligations of the urban development corporation or any of its subsidiaries under any other contracts, leases, agreements or instruments entered into by the urban development corporation, or any such subsidiary, relating to the development, management or operation of Roosevelt Island (other than any bonds or notes issued, or mortgages or security agreements held, by the urban development corporation or any of its subsidiaries) and, upon obtaining such consents, the corporation and the urban development corporation shall enter into such agreements and take such actions as shall be necessary to effectuate such assignments and assumptions, provided that in order to permit the urban development corporation to recover the investment which it has heretofore made in the development of Roosevelt Island, such agreements shall provide appropriate assurances satisfactory to the urban development corporation (a) for the prompt payment directly to the urban development corporation of all sums from time to time due from lessees under the development subleases and all sums received by the corporation from the city in connection with the termination of the lease, and (b) for the amending or supplementing of the development subleases to the extent, if any, necessary to protect the rights of the holders of any mortgages on the leasehold interests created thereunder. Nothing in this title shall constitute or authorize an assignment by the urban development corporation, or any subsidiary thereof, of any mortgage or security interest held by the urban development corporation, or any such subsidiary, on any real or personal property or interest therein on Roosevelt Island or any rights or obligations of the urban development corporation, or any such subsidiary, arising under any such mortgage or security agreement, relieve the urban development corporation of any of its obligations under any bonds heretofore issued by the urban development corporation, or otherwise affect the interests of the holders of any such bonds.

3. All revenues, other than state appropriations, derived from the contracts, leases, agreements or instruments assigned to or assumed by the corporation pursuant to subdivision two of this section shall be applied first to the payment of those obligations assigned to or assumed by the corporation.

4. The urban development corporation and the corporation are hereby authorized to enter into such agreements with the city as the corporation shall determine to be appropriate to amend, reform or supplement the lease, including the development plan referred to therein, and the tramway franchise in order to carry out the purposes of this title. The provisions of any general, special or local law notwithstanding, the city is hereby authorized to enter into any such agreements with the corporation and the urban development corporation.

§ 2799-gggg. Equal employment opportunities. 1. The corporation shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and will undertake or continue programs of affirmative action to ensure that minority group persons and women are afforded equal employment opportunity without discrimination. Such action shall be taken with reference, but not be limited, to recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rate of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

2. The corporation shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status and that such union or representative will cooperate in the implementation of the corporation's obligations hereunder.

3. The corporation shall state, in all solicitations or advertisements for employees placed by or on behalf of the corporation, that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status.

4. The corporation shall seek meaningful participation by minority business enterprises in the programs of the corporation and shall actively and affirmatively promote and assist their participation in the corporation's programs, so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of publicly owned business, at least fifty-one per centum of the stock of which is owned by, citizens or permanent resident noncitizens who are Black, Hispanic, Asian, American Indian or women, and such ownership interest is real, substantial and continuing.

§ 2799-hhhh. Indemnification; notice of claims. 1. The state shall indemnify and hold harmless the corporation, urban development corporation and safe affordable housing for everyone, inc., and pursuant to section seventeen of the public officers law, their respective officers, directors and employees, from and against any and all liability, claim, loss, damage, suit or judgment and any and all costs and expenses including, but not limited to, counsel fees and disbursements that such corporations or their officers, directors or employees may suffer or incur, whether before or after the date hereof, as a result of either (a) the development, management or operation of Roosevelt Island or (b) the performance or non-performance by the division of any of its obligations or duties with respect to Roosevelt Island. All of the provisions of section seventeen of the public officers law which are not inconsistent with this section shall apply to the officers, directors, and employees of such corporations, including the provisions relating to the defense by the attorney general or private counsel of any civil action and the payment of legal costs incurred in connection with the defense of any such action. Any member, officer or employee of such corporations seeking to be saved harmless or indemnified or to claim any other benefits available pursuant to this section or section seventeen of the public officers law shall comply with the procedural requirements of such section seventeen. As used in this section the terms "member", "officer" and "employee" shall include a former member, officer or employee, his estate or judicially appointed personal representative.

2. A notice of claim, served in accordance with the provisions of section fifty-e of the general municipal law, shall be a condition precedent to the commencement of an action against the corporation, its officers, directors and employees. No such action shall be commenced more than one year after it has accrued, except that an action against the corporation for wrongful death shall be commenced within the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

3. Notwithstanding the provisions of section one hundred thirteen of the retirement and social security law and any other general, special or local law, the Roosevelt Island operating corporation shall provide to persons employed by the Roosevelt Island operating corporation any retirement, disability, death or other benefits provided or required pursuant to any agreement with a labor union of which its employees are members, and the Roosevelt Island operating corporation is hereby authorized to retroactively or in the future make such contributions as may be necessary to provide such benefits.

4. For purposes of the retirement and social security law, persons employed by the Roosevelt Island operating corporation and to whom the Roosevelt Island operating corporation provides any retirement, disability, death and other benefits required pursuant to any agreement with a labor union of which its employees are members, shall be deemed not to be employees of the Roosevelt Island operating corporation. Such other persons who are employees of the Roosevelt Island operating corporation as of the effective date of this title shall be eligible to receive credit under the retirement and social security law for previous

service with the entities, or where applicable, their subsidiaries, made subject to section seventeen of the public officers law by subdivision one of this section.

§ 2799-iiii. Annual budget and report. 1. On or before September fifteenth, nineteen hundred eighty-four and on each September fifteenth thereafter, the chair of the corporation shall make and deliver to the director of the budget for his or her review a proposed budget for the operation of the corporation for the next fiscal year of the state. The chair of the corporation shall also deliver a copy of such budget to the chair of the senate finance committee and the chair of the assembly ways and means committee at the same time that the budget is delivered to the director of the budget. The budget shall include the total amount needed for corporate purposes, including the funds required by the corporation for operation of Roosevelt Island facilities and improvements, the source of all funds that the corporation expects to receive and such other information as the director of the budget shall require. The governor shall recommend in his or her annual budget such appropriations to the corporation for its operations as he or she deems necessary.

2. The corporation shall submit to the director of the budget, chair of the senate finance committee and the chair of the assembly ways and means committee, within ninety days after the end of its fiscal year, a complete and detailed report setting forth (a) its operations and accomplishments, and (b) its receipts and expenditures during such fiscal year in accordance with categories and classifications established by the corporation, with the approval of the director of the budget, for its operating and capital outlay purposes.

§ 2799-jjjj. Future management study. The corporation shall study the future operation and management of Roosevelt Island. Such study shall be completed by December thirty-first, nineteen hundred eighty-five.

§ 2799-kkkk. Open space development prohibited. Notwithstanding any other provision of this title, or any other law to the contrary, on or after the effective date of this section, no further development or construction for other than park purposes shall be permitted on any real property which is identified as open space areas in the general development plan as amended May tenth, nineteen hundred ninety, and as subsequently amended, and approved by the board of estimate of the city of New York on August seventeenth, nineteen hundred ninety and referred to in the lease defined in subdivision six of section twenty-seven hundred ninety-nine-bbbb of this title, and on such real property shall remain open space areas for the duration of the lease unless such development or construction includes the reconstruction, restoration, rehabilitation or preservation of the historic landmarks located in such open space areas and furthers the use of the areas surrounding the historic landmarks as open space areas. Open space areas, as used in this section shall be limited to Lighthouse Park, Octagon Park, Blackwell Park, and South Point Park.

§ 2799-llll. Liability for community obligations; tax exemption. 1. The obligations of the corporation shall not be debts of the state, and the state shall not be liable thereon, and such obligations shall not be payable out of any funds other than those of the corporation.

2. It is hereby found, determined and declared that the creation of the corporation and the carrying out of its purposes is in all respects for the benefit of the people of the state and is a public purpose, and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this title. The corporation and its operations, property and moneys shall be free and exempt from taxation of every kind by the city and the state and any subdivision thereof. Except as hereinabove provided and except as may otherwise specifically be provided, nothing contained in this act shall confer exemption from any tax, assessment or fee upon any person, firm, corporation or other entity, or upon the obligations of any of them.

§ 2799-mmmm. Division of housing and community renewal; assistance and

services. The corporation may from time to time request the division to perform such services and render such technical assistance to the corporation with respect to the development, management or operation of Roosevelt Island as the corporation deems necessary or convenient and may provide for the reimbursement to the division by the corporation of the reasonable cost of such services. The division is hereby authorized to perform such services and render such technical assistance as may be agreed upon between the division and the corporation pursuant to this section. In addition, the commissioner is hereby authorized to represent the corporation in any negotiations with the city concerning amendments or supplements to or reformations of the lease and tramway franchise as contemplated by section twenty-seven hundred ninety-nine-ffff of this title.

§ 2799-nnnn. Operation of motor vehicles. In addition to any other power conferred upon it by this title, the corporation is hereby authorized to prescribe rules and regulations governing the operation, including the parking, standing or stopping of vehicles on Roosevelt Island; provided however, that such rules and regulations shall not restrict access to any city facilities situated on Roosevelt Island nor unreasonably restrict parking by city of New York employees, their visitors and invitees. The violation of such rules or regulations shall be an offense punishable upon a first conviction thereof by a fine of not more than fifty dollars, upon a second within a period of eighteen months by a fine of not more than one hundred fifty dollars, and upon a third or subsequent conviction thereof within a period of eighteen months by a fine of not more than one hundred fifty dollars. For purposes of enforcement and administration of such rules and regulations, including but not limited to conferring jurisdiction with respect thereto upon the applicable courts and administrative tribunals, all provisions of law relating to, and rules or regulations of, the New York city department of transportation not inconsistent with this title shall be applicable.

§ 2799-oooo. Not-for-profit grant distribution. 1. The corporation is authorized to provide financial assistance in the form of grants to not-for-profit corporations that provide direct services or benefits to the residents of Roosevelt Island, the totality of such grants not to exceed three per centum per annum of the operating budget of the corporation, and upon the approval of a majority of the entire board of the corporation.

2. Annually, within ninety days after the end of the fiscal year of the corporation, the corporation shall post a report on its website that shall list and identify each grant recipient in such fiscal year, the amount provided to each recipient, and a general description of the public benefit of each grant.

§ 2799-pppp. Severability of provisions. If any section, clause or provision of this title or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, clause or provision of this title.

§ 2799-qqqq. Transfer of funds. 1. Notwithstanding the provisions of any general or special law, the director of the budget is authorized to transfer to the corporation from funds appropriated to the division for the fiscal year beginning April first, nineteen hundred eighty-four, the amount he or she determines necessary to carry out the provisions of this title, including providing for Roosevelt Island operations, capital improvement program and any other appropriate management expenses.

2. Notwithstanding the provisions of any general or special law, no part of such appropriations shall be available for the purposes designated until a certificate of approval of availability shall have been issued by the director of the budget and a copy of such certificate is filed with the state comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee. Such certificate may be amended from time to time, subject to the approval of the director of the budget, and a copy of each such amendment shall be filed with the state comptroller, the chair of the senate finance

committee and the chair of the assembly ways and means committee.

ARTICLE 9

GENERAL PROVISIONS

TITLE 1

REPORTS BY PUBLIC AUTHORITIES

§ 2800. Annual reports by authorities. 1. State authorities. (a) For the purpose of furnishing the state with systematic information regarding the status and the activities of public authorities, every state authority continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, the chairman and ranking minority member of the senate finance committee, the chairman and ranking minority member of the assembly ways and means committee, the state comptroller, and the authorities budget office, within ninety days after the end of its fiscal year, a complete and detailed report or reports setting forth: (1) its operations and accomplishments; (2) its financial reports, including (i) audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law, (ii) grant and subsidy programs, (iii) operating and financial risks, (iv) current ratings, if any, of its bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings, and (v) long-term liabilities, including leases and employee benefit plans; (3) its mission statement and measurements including its most recent measurement report; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year as part of a schedule of debt issuance that includes the date of issuance, term, amount, interest rate and means of repayment. Additionally, the debt schedule shall also include all refinancings, calls, refundings, defeasements and interest rate exchange or other such agreements, and for any debt issued during the reporting year, the schedule shall also include a detailed list of costs of issuance for such debt; (5) a compensation schedule, in addition to the report described in section twenty-eight hundred six of this title, that shall include, by position, title and name of the person holding such position or title, the salary, compensation, allowance and/or benefits provided to any officer, director or employee in a decision making or managerial position of such authority whose salary is in excess of one hundred thousand dollars; (5-a) biographical information, not including confidential personal information, for all directors and officers and employees for whom salary reporting is required under subparagraph five of this paragraph; (6) the projects undertaken by such authority during the past year; (7) a listing and description, in addition to the report required by paragraph a of subdivision three of section twenty-eight hundred ninety-six of this article of all real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority acquires or disposes of during such period. The report shall contain the price received or paid by the authority and the name of the purchaser or seller for all such property sold or bought by the authority during such period; (8) such authority's code of ethics; (9) an assessment of the effectiveness of its internal control structure and procedures; (10) a copy of the legislation that forms the statutory basis of the authority; (11) a description of the authority and its board structure, including (i) names of committees and committee members, (ii) lists of board meetings and attendance, (iii) descriptions of major authority units, subsidiaries, and (iv) number of employees; (12) its charter, if any, and by-laws; (13) a listing of material changes in operations and programs during the reporting year; (14) at a minimum a four-year financial plan, including (i) a current and projected capital budget, and (ii) an operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance; (15) its board performance evaluations; provided, however, that such evaluations shall not be subject to disclosure under article six of the public officers law; (16) a description of the total amounts of assets, services or both assets and services bought or sold without competitive bidding, including (i) the nature of those assets and services, (ii) the names of the counterparties, and (iii) where the contract price for assets purchased exceeds fair market value, or where the contract price for assets sold is less than fair market value, a detailed explanation of the justification for making the purchase or sale without competitive bidding, and a certification by the chief executive officer and chief financial officer of the public authority that they have reviewed the terms of such purchase or sale and determined that it complies with applicable law and procurement guidelines; and (17) a description of any material pending litigation in which the authority is involved as a party during the reporting year, except that no hospital need disclose information about pending malpractice claims beyond the existence of such claims.

(b) Each state authority shall make accessible to the public, via its official or shared internet web site, documentation pertaining to its mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

(c) The authorities budget office shall make accessible to the public, via its official or shared internet web site, documentation pertaining to each authority's mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

2. Local authorities. (a) Every local authority, continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or local governments and the authorities budget office, within ninety days after the end of its fiscal year, a complete and detailed report or reports setting forth: (1) its operations and accomplishments; (2) its financial reports, including (i) audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law, (ii) grants and subsidy programs, (iii) operating and financial risks, (iv) current ratings if any, of its bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings, and (v) long-term liabilities, including leases and employee benefit plans; (3) its mission statement and measurements including its most recent measurement report; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year as part of a schedule of debt issuance that includes the date of issuance, term,

amount, interest rate and means of repayment. Additionally, the debt schedule shall also include all refinancings, calls, refundings, defeasements and interest rate exchange or other such agreements, and for any debt issued during the reporting year, the schedule shall also include a detailed list of costs of issuance for such debt; (5) a compensation schedule in addition to the report described in section twenty-eight hundred six of this title that shall include, by position, title and name of the person holding such position or title, the salary, compensation, allowance and/or benefits provided to any officer, director or employee in a decision making or managerial position of such authority whose salary is in excess of one hundred thousand dollars; (5-a) biographical information, not including confidential personal information, for all directors and officers and employees for whom salary reporting is required under subparagraph five of this paragraph; (6) the projects undertaken by such authority during the past year; (7) a listing and description, in addition to the report required by paragraph a of subdivision three of section twenty-eight hundred ninety-six of this article of all real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority acquires or disposes of during such period. The report shall contain the price received or paid by the authority and the name of the purchaser or seller for all such property sold or bought by the authority during such period; (8) such authority's code of ethics; (9) an assessment of the effectiveness of its internal control structure and procedures; (10) a copy of the legislation that forms the statutory basis of the authority; (11) a description of the authority and its board structure, including (i) names of committees and committee members, (ii) lists of board meetings and attendance, (iii) descriptions of major authority units, subsidiaries, (iv) number of employees, and (v) organizational chart; (12) its charter, if any, and by-laws; (13) a listing of material changes in operations and programs during the reporting year; (14) at a minimum a four-year financial plan, including (i) a current and projected capital budget, and (ii) an operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance; (15) its board performance evaluations provided, however, that such evaluations shall not be subject to disclosure under article six of the public officers law; (16) a description of the total amounts of assets, services or both assets and services bought or sold without competitive bidding, including (i) the nature of those assets and services, (ii) the names of the counterparties, and (iii) where the contract price for assets purchased exceeds fair market value, or where the contract price for assets sold is less than fair market value, a detailed explanation of the justification for making the purchase or sale without competitive bidding, and a certification by the chief executive officer and chief financial officer of the public authority that they have reviewed the terms of such purchase or sale and determined that it complies with applicable law and procurement guidelines; and (17) a description of any material pending litigation in which the authority is involved as a party during the reporting year, except that no provider of medical services need disclose information about pending malpractice claims beyond the existence of such claims.

(b) Each local authority shall make accessible to the public, via its official or shared internet web site, documentation pertaining to its mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

3. Every financial report submitted under this section shall be approved by the board and shall be certified in writing by the chief executive officer and the chief financial officer of such authority that based on the officer's knowledge (a) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (b) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (c) fairly presents in all material respects the financial condition and results of operations of the authority as of, and for, the periods presented in the financial statements.

4. The authorities budget office may, upon application of any authority, waive any requirements of this section upon a showing that the authority meets the criteria for such a waiver established by

regulations of the authorities budget office. Such regulations shall provide for consideration of: (a) the number of employees of the authority; (b) the annual budget of the authority; (c) the ability of the authority to prepare the required reports using existing staff; and (d) such other factors as the authorities budget office deems to reflect the relevance of the required disclosures to evaluation of an authority's effective operation, and the burden such disclosures place on an authority. Each waiver granted pursuant to this subdivision shall be disclosed in the reports of such office issued pursuant to section seven of this chapter.

§ 2801. Budget reports by authorities. 1. State authorities. Every state authority or commission heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, the chair and ranking minority member of the senate finance committee, the chair and ranking minority member of the assembly ways and means committee and the authorities budget office, for their information, annually not more than one hundred twenty days and not less than ninety days before the commencement of its fiscal year, in the form submitted to its members or trustees, budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year.

2. Local authorities. For the local authority fiscal year ending on or after December thirty-first, two thousand seven and annually thereafter, every local authority heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or governments and the authorities budget office for their information, annually not more than ninety days and not less than sixty days before the commencement of its fiscal year, in the form submitted to its members or trustees, budget information on operations and capital construction setting forth the estimated receipts and expenditures for

the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year.

3. If any state or local authority has provided the information required by this section as part of the annual report required by section twenty-eight hundred of this title, such authority may comply with the provisions of this section by reference to such information with any necessary updates.

§ 2802. Independent audits and audit reports of authorities. 1. State authorities. Every state authority or commission heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, chairman and ranking minority member of the senate finance committee, chairman and ranking minority member of the assembly ways and means committee, each chair and ranking member of the senate and assembly committees on corporations, authorities and commissions, the state comptroller, and the authorities budget office, together with the report described in section twenty-eight hundred of this title, a copy of the annual independent audit report, performed by a certified public accounting firm in accordance with generally accepted auditing standards as defined in subdivision eleven of section two of the state finance law, and management letter and any other external examination of the books and accounts of such authority other than copies of the reports of any examinations made by the state comptroller.

2. Local authorities. For the local authority fiscal year ending on or after December thirty-first, two thousand seven and annually thereafter, every local authority heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or local governments and the authorities budget office, together with the report described in section twenty-eight hundred of this title, a copy of the annual independent audit report, performed by a certified public accounting firm in accordance with generally accepted auditing standards

as defined in subdivision eleven of section two of the state finance law, and management letter and any other external examination of the books and accounts of such authority other than copies of the reports of any examinations made by the state comptroller.

3. Each certified independent public accounting firm that performs for any state or local authority any audit required by this chapter shall timely report to the audit committee of such authority: (a) all critical accounting policies and practices to be used; (b) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of such authority, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm; and (c) other material written communications between the certified independent public accounting firm and the management of such authority, such as the management letter along with management's response or plan of corrective action, material corrections identified or schedule of unadjusted differences, where applicable.

4. Notwithstanding any other provision of law to the contrary, the certified independent public accounting firm providing such authority's annual independent audit will be prohibited in providing audit services to the respective authority if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the five previous fiscal years of such authority.

5. The certified independent public accounting firm performing such authority's audit shall be prohibited from performing any non-audit services to such authority contemporaneously with the audit, unless receiving previous written approval by the audit committee including: (a) bookkeeping or other services related to the accounting records or financial statements of such authority; (b) financial information systems design and implementation; (c) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (d) actuarial services; (e) internal audit outsourcing services; (f) management functions or human services; (g) broker or dealer, investment advisor,

or investment banking services; and (h) legal services and expert services unrelated to the audit.

6. It shall be prohibited for any certified independent public accounting firm to perform for such authority any audit service if the chief executive officer, comptroller, chief financial officer, chief accounting officer, or any other person serving in an equivalent position for such authority, was employed by that certified independent public accounting firm and participated in any capacity in the audit of such authority during the one year period preceding the date of the initiation of the audit.

7. Notwithstanding any provision of law to the contrary, a public authority may exempt information from disclosure or report, if the counsel of such authority deems that such information is covered by subdivision two of section eighty-seven of the public officers law.

§ 2803. Examination of the books and accounts of public authorities by the state comptroller. 1. Notwithstanding any other provision of this chapter, the state comptroller shall, from time to time but not less than once in every five years, examine the books and accounts of every authority or commission heretofore or hereafter continued or created by this chapter, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. In lieu of such an examination, the state comptroller is hereby authorized to accept from every such authority or commission an external examination of its books and accounts made at the request of such authority or commission.

2. (a) The state comptroller may, pursuant to subdivisions two and three of section eight-c of the state finance law, in his or her sole discretion, apply to state authorities the electronic data analytical enterprise fraud prevention and detection system as provided for in such section eight-c of the state finance law. Public authorities shall fully support and cooperate with the state comptroller by providing the state comptroller with access to data of the authority requested by the state

comptroller, in accordance with state and federal law, to allow such data to be integrated into such analytic efforts as the state comptroller may deem necessary.

(b) For purposes of this subdivision, the term "state authority" shall have the same meaning as in subdivision one of section two of this chapter, provided that for purposes of this subdivision, the term "public benefit corporation" as used in such subdivision one of section two of this chapter shall have the same meaning as in subdivision four of section sixty-six of the general construction law.

§ 2804. Financial disclosure by public authorities or commissions prior to toll or fare increase. (1) Notwithstanding any inconsistent provision of this chapter or of any other general, special or local law, every authority or commission heretofore or hereafter continued or created by this chapter, except those excluded from the operation of this section by subdivision four, having jurisdiction over highway, bridge or tunnel facilities shall submit to the governor, comptroller, chairman of the senate finance committee, chairman of the assembly ways and means committee and ranking minority member of each of such committees, not less than one hundred twenty days prior to the proposed date of any future increase in fees, tolls or other charges for the use of any such highway, bridge or tunnel facilities, or the imposition of tolls or fees at such a location which is toll or fee free, a detailed report setting forth: (a) the need for such increase or imposition; (b) its receipts and disbursements, or revenues and expenses, during the prior three fiscal years, or so much thereof as it may have been in existence, in accordance with the categories or classifications established by such authority or commission for its own operating and capital outlay purposes; (c) its assets and liabilities at the end of its last fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds; (d) a schedule of bonds and notes outstanding at the end of its fiscal year and their redemption dates, together with a statement of the amounts redeemed and incurred during such fiscal year; (e) information on future authority or commission operations, debt service and capital construction, together with estimated receipts and expenditures for the next five fiscal years without reference to such proposed increase or imposition; (f) projections and estimates as to the effect which the proposed increase or imposition will have on the future use of the facilities, and an estimate of the revenues which will accrue to the authority or commission as the result of the proposed increase or imposition.

(2) The comptroller shall review any proposed increase or imposition in fees, tolls or other charges, and the report required by subdivision one of this section and within sixty days make public a report of his findings, conclusions and recommendations. A copy of the comptroller's report shall be sent to the authority or commission, the governor, chairman of the senate finance committee, chairman of the assembly ways and means committee and ranking minority member of each of such committees.

(3) Every authority or commission shall hold a public hearing or hearings after receipt of the report of the comptroller required by subdivision two of this section not less than fifteen days prior to the effective date of such increase or imposition. Where the increase sought is or constitutes a portion of a general statewide increase, three hearings across the state shall be held. Where the increase or imposition is applicable only to a specific facility or segment, one hearing in the affected area shall be held. Notice of each hearing shall be given to the governor, comptroller, and each member of the legislature at least ten days prior to each such hearing, and shall be published at least once in two newspapers of daily circulation in the area where each hearing is to be held at least ten days prior to each such hearing. All newspapers shall be selected by the authority or commission. Copies of the proposed increase or imposition, the reports required by subdivisions one and two of this section shall be available for public inspection during a period of fifteen days prior to each hearing at the office or offices of the authority or commission and at a public facility in each area where a hearing is to be held. Following such public hearing or hearings, the authority or commission shall reconsider the proposed increase or imposition and may rescind, change or modify the proposal as it then deems necessary or advisable.

(4) This section shall not be applicable to any authority or commission whose existence and jurisdiction is fixed by compact, treaty,

action or agreement with other states or nations.

§ 2805. Reports and publications by authorities. Every authority or commission heretofore or hereafter continued or created shall, in accordance with the provisions of section one hundred sixty-four-a of the executive law and the regulations promulgated pursuant thereto, provide for cost savings in the printing and distribution of its reports and other authority publications.

§ 2806. Personnel reports by state and local authorities and public benefit corporations. 1. Every state and local authority and public benefit corporation shall submit to the comptroller, the director of the budget, the chairpersons of the legislative fiscal committees and the authorities budget office, for their information, annually, on or before the fifteenth day of January of each calendar year, personnel information setting forth personal service schedules by subsidiary, division and unit which indicate position, grade, salary and title for each employee and in summary form.

2. If any state or local authority has provided the information required by this section in the annual report required under section twenty-eight hundred of this title, such authority may comply with the provisions of this section by references to such information with any necessary updates.

§ 2807. Reporting for searchable state subsidy and aggregate economic development benefits database. Notwithstanding any other provision of law to the contrary, every state authority shall submit to the urban development corporation, and update quarterly, in the form and manner prescribed by the urban development corporation, any and all data and information as necessary for developing, updating, and maintaining the database established in section fifty-eight of section one of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, constituting the New York state urban development corporation act, regarding economic development benefits, as such term is defined in such section, awarded by such state authority. A state authority may request and shall receive any data from an individual, business, limited liability corporation or any other entity that has applied for and received approval for, or is the beneficiary of, any such economic development benefits, as is necessary and required to comply with this section.

TITLE 2

BOARDS OF PUBLIC AUTHORITIES

§ 2824. Role and responsibilities of board members. 1. Board members of state and local authorities shall (a) execute direct oversight of the authority's chief executive and other management in the effective and ethical management of the authority; (b) understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the authority; (c) establish policies regarding the payment of salary, compensation and reimbursements to, and establish rules for the time and attendance of, the chief executive and management; (d) adopt a code of ethics applicable to each officer, director and employee that, at a minimum, includes the standards established in section seventy-four of the public officers law; (e) establish written policies and procedures on personnel including policies protecting employees from retaliation for disclosing information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, investments, travel, the acquisition of real property and the disposition of real and personal property and the procurement of goods and services; (f) adopt a defense and indemnification policy and disclose such plan to any and all prospective board members; (g) perform each of their duties as board members, including but not limited to those imposed by this section, in good faith and with that degree of diligence, care and skill which an ordinarily prudent person in like position would use under similar circumstances, and may take into consideration the views and policies of any elected official or body, or other person and ultimately apply independent judgment in the best interest of the authority, its mission and the public; (h) at the time that each member takes and subscribes his or her oath of office, or within sixty days after the effective date of this paragraph if the member has already taken and subscribed his or her oath of office, execute an acknowledgment, in the form prescribed by the authorities budget office after consultation with the attorney general, in which the board member acknowledges that he or she understands his or her role, and fiduciary responsibilities as set forth in paragraph (g) of this subdivision, and acknowledges that he or she understands his or her duty of loyalty and care to the organization and commitment to the authority's mission and the public interest.

2. Individuals appointed to the board of a public authority shall participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of an authority within one year of appointment to a board. Board members shall participate in such continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities and to adhere to the highest standards of responsible governance.

3. No chair who is also the chief executive officer shall participate in determining the level of compensation or reimbursement, or time and attendance rules for the position of chief executive officer.

4. Board members of each state and local authority, or subsidiary thereof, shall establish an audit committee to be comprised of not less than three independent members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the audit committee; provided, however, that in the event that a board has less than three independent members, the board may appoint non-independent members to the audit committee, provided that the independent members must constitute a majority of the members of the audit committee. The committee shall recommend to the board the hiring of a certified independent accounting firm for such authority, establish the compensation to be paid to the accounting firm and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes.

5. Notwithstanding any provision of any general, special or local law, municipal charter or ordinance to the contrary, no board of a state or local authority shall, directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, board member or employee (or equivalent thereof) of the authority.

6. Members of the audit committee shall be familiar with corporate financial and accounting practices.

7. Board members of each state and local authority, or subsidiary thereof, shall establish a governance committee to be comprised of not less than three independent members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the governance committee; provided, however, that in the event that a board has less than three independent members, the board may appoint non-independent members to the governance committee, provided that the independent members must constitute a majority of the members of the governance committee. It shall be the responsibility of the members of the governance committee to keep the board informed of current best governance practices; to review corporate governance trends; to recommend updates to the authority's corporate

governance principles; to advise appointing authorities on the skills and experiences required of potential board members; to examine ethical and conflict of interest issues; to perform board self-evaluations; and to recommend by-laws which include rules and procedures for conduct of board business.

8. Board members of each state and local authority, or subsidiary thereof which issues debt, shall establish a finance committee to be comprised of not less than three independent members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the committee; provided, however, that in the event that a board has less than three independent members, the board may appoint non-independent members to the finance committee, provided that the independent members must constitute a majority of the members of the finance committee. It shall be the responsibility of the members of the finance committee to review proposals for the issuance of debt by the authority and its subsidiaries and make recommendations.

§ 2824-a. Mission statement and measurement report. Each state authority shall submit to the authorities budget office on or before March thirty-first, two thousand ten, and each local authority shall submit to the authorities budget office on or before March thirty-first, two thousand eleven, a proposed authority mission statement and proposed measurements which the authorities budget office shall post on its website. The proposed authority mission statement and proposed measurements shall have the following components: a brief mission statement expressing the purpose and goals of the authority, a description of the stakeholders of the authority and their reasonable expectations from the authority, and a list of measurements by which performance of the authority and the achievement of its goals may be evaluated. Each authority shall reexamine its mission statement and measurements on an annual basis, and publish a self-evaluation based on the stated measurements; provided, however, such reexamination may be waived pursuant to a determination by the director of the authorities budget office that such undertaking is unnecessary for an individual

authority.

§ 2825. Membership on authorities and commissions; independence; and financial disclosure. Notwithstanding the provisions of any general, special or local law, municipal charter or ordinance: 1. No public officer or employee shall be ineligible for appointment as a trustee or member of the governing body of a state or local authority, as defined in section two of this chapter, and any public officer or employee may accept such appointment and serve as such trustee or member without forfeiture of any other public office or position of public employment by reason thereof.

2. Except for members who serve as members by virtue of holding a civil office of the state, the majority of the remaining members of the governing body of every state or local authority shall be independent members; provided, however, that this provision shall apply to appointments made on or after the effective date of chapter seven hundred sixty-six of the laws of two thousand five which added this subdivision. The official or officials having the authority to appoint or remove such remaining members shall take such actions as may be necessary to satisfy this requirement and further, shall consider the prospective diversity of the members of a state authority when making their determinations to appoint any member. For the purposes of this section, an independent member is one who:

(a) is not, and in the past two years has not been, employed by the public authority or an affiliate in an executive capacity;

(b) is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than fifteen thousand dollars for goods and services provided to the public authority or received any other form of financial assistance valued at more than fifteen thousand dollars from the public authority;

(c) is not a relative of an executive officer or employee in an executive position of the public authority or an affiliate; and

(d) is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the public authority or an affiliate.

3. Notwithstanding any other provision of any general, special or local law, municipal charter or ordinance to the contrary, board members, officers, and employees of a state authority shall file annual financial disclosure statements as required by section seventy-three-a of the public officers law. Board members, officers, and employees of a local public authority shall file annual financial disclosure statements with the county board of ethics for the county in which the local public authority has its primary office pursuant to article eighteen of the general municipal law.

§ 2826. Quorums and majorities. Notwithstanding any other provision of this chapter and notwithstanding any provision of any general, special or local law, whenever the whole number of the board of any authority or commission heretofore or hereafter continued or created by this chapter is three or more persons, a majority of the whole number of the members of such board, at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board, or at any duly adjourned meeting of such meeting or at any meeting duly held upon reasonable notice to all of the members of such board, shall constitute a quorum and not less than a majority of the whole number of such board may perform and exercise the powers authorized and provided in this chapter. For the purpose of this section the words "whole number" shall be construed to mean the total number which such board would have were there no vacancies and were none of the members of such board disqualified from acting.

§ 2827. Removal of authority members. Except as otherwise provided in this chapter, every member of every authority or commission heretofore or hereafter continued or created by this chapter, except ex-officio members, that is, members whose membership results by virtue of their incumbency of a public office, shall be removable by the public officer or public body which is empowered by this chapter to appoint such authority or commission member, for inefficiency, breach of fiduciary duty, neglect of duty or misconduct in office, provided, however, that such member shall be given a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days' notice.

§ 2827-a. Subsidiaries of public authorities. 1. Notwithstanding any law to the contrary, no state authority shall hereafter have the power to organize any subsidiary corporation unless the legislature shall have enacted a law granting such state authority such power for the organization of a specific corporation, provided, however, that a state authority may organize a subsidiary corporation pursuant to the following requirements:

a. the purpose for which the subsidiary corporation shall be organized shall be for a project or projects which the state authority has the power to pursue pursuant to its corporate purposes;

b. the primary reason for which the subsidiary corporation shall be organized shall be to limit the potential liability impact of the subsidiary's project or projects on the authority or because state or federal law requires that the purpose of a subsidiary be undertaken through a specific corporate structure; and

c. the subsidiary corporation shall make the reports and other disclosures as are required of state authorities, unless the subsidiary corporation's operations and finances are consolidated with those of the authority of which it is a subsidiary.

2. In such cases where a state authority has the power to organize a subsidiary corporation pursuant to subdivision one of this section, the state authority shall file, no less than sixty days prior to the formation of such subsidiary, notice to the authorities budget office, the governor, the comptroller, and the legislature that it will be creating a subsidiary.

3. Subsidiary corporations formed under subdivision one of this

section shall not have the authority to issue bonds, notes or other debts, provided, however, that such subsidiary corporations may issue notes or other debt to the public authority of which it is a subsidiary. No such debt issued by the subsidiary to its parent authority shall in total exceed, at any time, a principal amount of five hundred thousand dollars or, during the nine months after the formation of the subsidiary, one million dollars.

4. The certificate of incorporation or other document filed to organize a subsidiary corporation under this section shall state that the state authority is the person organizing the corporation.

5. Provided, however, that nothing in this section shall be construed to grant an authority the power to create a subsidiary where the authority does not otherwise have the power to do so.

6. On or before the first day of January, two thousand eleven, and annually on such day thereafter, any subsidiary public benefit corporation, in cooperation with its parent public benefit corporation, shall provide to the chair and ranking minority member of the senate finance committee, the chair and ranking minority member of the assembly ways and means committee, and each chair and ranking member of the assembly and senate committees on corporations, authorities and commissions a report on the subsidiary public benefit corporation. Such report shall include for each subsidiary:

a. The complete legal name, address and contact information of the subsidiary;

b. The structure of the organization of the subsidiary, including the names and titles of each of its members, directors and officers, as well as a chart of its organizational structure;

c. The complete bylaws and legal organization papers of the subsidiary;

d. A complete report of the purpose, operations, mission and projects of the subsidiary, including a statement of justification as to why the subsidiary is necessary to continue its operations for the public benefit for the people of the state of New York; and

e. Any other information the subsidiary public benefit corporation deems important to include in such report.

7. Notwithstanding any inconsistent provision of this section, paragraph b of subdivision one and subdivision three of this section shall not apply to an entity established in article ten-c of this chapter; provided, however, that no such public benefit corporation shall have the power to organize a subsidiary for the purpose of:

a. evading the requirements of an existing collective bargaining agreement; or

b. replacing or removing a certified employee organization.

§ 2828. Termination of public authorities. Every authority or commission hereafter created by this chapter shall terminate at the end of five years from the date of its creation if at the end of such period it has outstanding no liabilities; provided, however, that any appropriation made to such authority or commission by the state of New York or by any political subdivision thereof shall not be deemed a liability for the purposes of this section.

2829. State and local authorities subject to the open meetings and freedom of information laws. All state and local authorities, as such terms are defined in section two of this chapter, as well as all subsidiaries of such state and local authorities, as such terms are defined in section two of this chapter, shall be subject to the provisions of articles six and seven of the public officers law relating to the freedom of information and open meetings laws respectively. All state and local authorities, as well as all subsidiaries of such state and local authorities, shall, to the extent practicable, stream all open meetings and public hearings on their website in real-time, post video recordings of all open meetings and public hearings on their website within five business days of the meeting or hearing and maintain such recordings for a period of not less than five years.

TITLE 3

EMPLOYEES OF PUBLIC AUTHORITIES

§ 2850. Transfer of authority officers and employees. Subject to the civil service law and rules, transfer may be allowed between positions in any authority or commission heretofore or hereafter continued or created by this chapter, which is subject to the jurisdiction of the state or a municipal civil service commission, and positions in the service of the state or a civil division thereof.

§ 2850-a. Emergency service volunteers; paid leave. Notwithstanding any other provisions of law to the contrary, public officers and employees of public authorities who are certified by the American Red Cross as disaster volunteers shall be granted leave from work with pay to participate in specialized disaster relief operations upon written request for such services by the American Red Cross and upon the approval of the chief executive of the public authority for which the public officer or employee serves. The public officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the public officer or employee is absent from work while participating in authorized specialized disaster relief operations. Such leave shall be provided without loss of seniority, compensation, sick leave, vacation leave or other overtime compensation to which the volunteer is otherwise entitled and shall not exceed twenty days in any calendar year.

§ 2851. Age not to be bar to employment by public authorities. No public authority shall hereafter prohibit, prevent, disqualify or discriminate against any person applying for employment by, such authority, who is physically and mentally qualified, or from competing, participating or registering for a position, or be penalized in a final rating for any position, by reason of his or her age. Any existing rule, regulation, penalty or requirement resolution preventing the hiring of persons because of age shall be void, except that nothing herein contained, shall prevent any public authority from adopting reasonable minimum or maximum age requirements for positions such as police officer, firefighter, guard or other positions which require extraordinary physical effort except where age limits for such positions are already prescribed by law.

Notwithstanding any provisions to the contrary, no person who is physically or mentally qualified may be disqualified from, competing, participating or registering for a promotional examination or be penalized in a final rating or barred from promotion after having passed such promotion examination by reason of his or her age, by any public authority.

§ 2852. Senate confirmation of certain chief executive officers. Where the appointment of any chief executive officer is subject to confirmation by the senate pursuant to subdivision five of section sixteen hundred seventy-eight of this chapter, subdivision six of section three hundred fifty-four of this chapter, section one thousand four of this chapter, or subdivision (c) of section one thousand twenty-f of this chapter the senate shall vote to confirm any such appointment within sixty days of its submission to the senate during session, or if such submission is made when the senate is not in session, within seven days of the convening for session. If the senate fails to vote to confirm any such appointment within the time prescribed in this section, such appointment shall be deemed confirmed without any further action by the senate.

§ 2853. Confidentiality agreements. 1. Definitions. For the purposes of this section:

a. "confidentiality agreement" shall mean an agreement entered into between a state authority or a local authority with a former or current employee, officer or member of the governing board of such authority that prevents disclosure of any records or information, as defined in subdivision four of section eighty-six of the public officers law, during or after their employment or service.

b. "local authority" shall mean a local authority as defined in section two of this chapter.

c. "state authority" shall mean a state authority as defined in section two of this chapter.

2. No state authority or local authority shall enter into a confidentiality agreement, unless:

a. it covers only records or information that are exempt from disclosure pursuant to subdivisions two and four of section eighty-seven of the public officers law and any rules promulgated and published thereto; or

b. the agreement covers both records or information exempt from disclosure, and those subject to disclosure under section eighty-seven of the public officers law, but only if:

(i) the agreement does not prohibit any disclosure of records or information related to compensation or benefits given to an employee, officer or member of the governing board or of illegal conduct or wrongdoing by the authority;

(ii) the authority is unable to specifically determine at the time the confidentiality agreement is entered into which records or information are exempt from disclosure in accordance with subdivision two of section eighty-seven of the public officers law;

(iii) the authority establishes a process by which a current or former employee, officer or member of the governing board covered by the confidentiality agreement may obtain a ruling from the authority as to whether he or she may disclose any records or information covered by such agreement in accordance with the procedures established under subdivision four of section eighty-nine of the public officers law, including any right to challenge the authority's decision provided by that section; and

(iv) the authority notifies the current or former employee, officer or member of the governing board in the agreement of his or her right to seek such a ruling.

3. Nothing in this section shall require disclosure of information otherwise protected from disclosure by law.

4. Any provision in any contract or other agreement entered into in violation of this section shall have no force and effect.

§ 2854. Severance packages. 1. For the purposes of this section:

(a) "at-will employee" shall mean an employee of any entity organized under this chapter. Any employee that is covered by a collective bargaining agreement or union contract shall not be considered an at-will employee for the purpose of this section.

(b) "severance pay for an at-will employee" shall include benefits or compensation with a quantifiable monetary value that are provided for an at-will employee upon termination of employment and shall not be considered part of the at-will employee's annual wages and benefits. "Severance pay for an at-will employee" shall not include payments for accumulated vacation, accumulated sick leave, and accumulated sick leave liquidated to cover the cost of group term insurance or payments of periodic contributions by an employer toward premiums for group insurance policies.

2. Notwithstanding any other law, rule or regulation to the contrary,

severance pay provided for an at-will employee leaving employment shall not exceed an amount equivalent to their prior three months' salary.

3. Notwithstanding any other law, rule or regulation to the contrary, the severance pay for an at-will employee shall be excluded from retirement deductions and from any calculations of retirement benefits.

4. If a retired or terminated at-will employee dies before all of their severance pay has been disbursed, the balance due must be paid to a named beneficiary or, lacking one, to the decedent's estate.

5. No collective bargaining agreement or union contract shall be altered by the provisions of this section.

TITLE 3-A

BUSINESS PRACTICES OF PUBLIC AUTHORITIES

§ 2855. Electronic method of payment; periodic charges. Notwithstanding the provisions of any law to the contrary, if any authority shall offer any electronic method of payment for tolls, fares, fees, rentals, or other charges, including but not limited to a system called E-ZPass, such authority shall not impose any periodic administrative or other charge for the privilege of using such electronic method of payment for such charges. Nothing in this section shall be construed to prohibit any authority from making any charge for extra services requested by a holder of such electronic method of payment, any charge for lost or damaged equipment, or for defaults, such as charges for dishonored checks. The authority shall not enter any agreement with bondholders that would require the imposition of administrative or other periodic charges relating to electronic methods of payment prohibited by this section.

§ 2856. Consideration of public authority debt. On or before a date fixed by the authorities budget office, every authority not subject to a statutory limit on bonds, notes, or other debt obligations it may issue, shall submit to the authorities budget office a statement of intent to guide the authority's issuance and overall amount of bonds, notes, or other debt obligations it may issue.

§ 2857. Actions by an authority. No state or local authority shall fire, discharge, demote, suspend, threaten, harass or discriminate against an employee because of the employee's role as a whistleblower, insofar as the actions taken by the employee are legal.

§ 2858. Public water and sewer authority powers. A public water or sewer authority, created pursuant to article five of this chapter, shall have the power to specify the manner in which exterior manhole covers, containing grease traps or interceptors shall be regulated and inspected to prevent unauthorized access, in addition to the requirements set forth in the uniform fire prevention and building code pursuant to article eighteen of the executive law.

TITLE 4
CONTRACTS OF PUBLIC AUTHORITIES

§ 2875. Ground for cancellation of contract by public authority. A clause shall be inserted in all specifications or contracts hereafter made or awarded by any public authority or by any official of any public authority created by the state or any political subdivision, for work or services performed or to be performed or goods sold or to be sold, to provide that upon the refusal by a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract,

(a) such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or official thereof, for goods, work or services, for a period of five years after such refusal, and to provide also that

(b) any and all contracts made with any public authority or official thereof, since the effective date of this law, by such person and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the public authority without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the public authority for goods delivered or work done prior to the cancellation or termination shall be paid.

§ 2875-a. Definitions. As used in this article, the following terms shall have the following meanings unless otherwise specified:

1. "Construction item" means any such item or material used in construction and which is procured directly by the public authority or office or any such item or material commonly used in construction which is procured by a person, other than a municipality, under contract with the public authority or office.

2. "Office" means the office of general services.

3. "Practicable" means capable of being used without violating the following criteria: performance, availability at a reasonable price, availability within a reasonable period of time and maintenance of a satisfactory level of competition.

4. "Product" means any material, supply, equipment or construction item or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such product.

5. "Secondary materials" means any material recovered from or otherwise destined for the waste stream, including but not limited to, post-consumer material, industrial scrap material, and overstock or obsolete inventories from distributors, wholesalers and other companies as defined in rules and regulations promulgated by the commissioner of general services but such term does not include those materials and byproducts generated from, and commonly reused within an original manufacturing process.

6. "Specification" means any description of the physical or functional characteristics, or of the nature of a material, supply, equipment or construction item. It may include a description of any requirement for inspecting, testing or preparing a material, supply, equipment or construction item for delivery.

§ 2875-b. Specifications. Within twelve months of the effective date of this section all public authorities or commissions created or continued by this chapter shall review their present product specifications to determine whether such require that products be manufactured from virgin materials or exclude products manufactured from secondary materials and shall, on or before April first, nineteen hundred ninety revise and adopt their product specifications as may be necessary to ensure that:

a. Where such specifications exclude the use of products manufactured from secondary materials or require that products be manufactured from virgin materials only, such exclusions or requirements be eliminated; provided however, that specifications need not be revised if the public authority or commission demonstrates that for a particular end use a product containing secondary materials would not meet necessary performance standards.

b. Performance standards, specifications and a product's intended end use are related, and clearly identified when feasible.

c. Specifications are not overly stringent for a particular end use or performance standard.

d. Specifications incorporate or require the use of secondary materials to the maximum extent practicable without jeopardizing the performance or intended end use of the product; provided however, where the public authority or commission demonstrates that for a particular end use a product containing secondary materials would not meet necessary performance standards, such specifications need not incorporate or require the use of secondary materials.

§ 2876. Disqualification to contract with public authority. Any person who, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, refuses to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract, and any firm, partnership or corporation, of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or any official of any public authority created by the state or any political subdivision, for goods, work or services, for a period of five years after such refusal or until a disqualification shall be removed pursuant to the provisions of section twenty-eight hundred seventy-seven of this title.

It shall be the duty of the officer conducting the investigation before the grand jury, the head of a state department, the chairman of the temporary state commission or other state agency, the organized crime task force in the department of law, the head of a city department or other city agency before which the refusal occurs to send notice of such refusal, together with the names of any firm, partnership or corporation of which the person so refusing is known to be a member, partner, officer or director, to the commissioner of transportation of the state of New York, or the commissioner of general services as the case may be, and the appropriate departments, agencies and officials of the state, political subdivisions thereof or public authorities with whom the persons so refusing and any firm, partnership or corporation of which he is a member, partner, director or officer, is known to have a contract. However, when such refusal occurs before a body other than a grand jury, notice of refusal shall not be sent for a period of ten days after such refusal occurs. Prior to the expiration of this ten day period, any person, firm, partnership or corporation which has become liable to the cancellation or termination of a contract or disqualification to contract on account of such refusal may commence a special proceeding at a special term of the supreme court, held within the judicial district in which the refusal occurred, for an order determining whether the questions in response to which the refusal occurred were relevant and material to the inquiry. Upon the commencement of such proceeding, the sending of such notice of refusal to answer shall be subject to order of the court in which the proceeding was brought in a manner and on such terms as the court may deem just. If a proceeding is not brought within ten days, notice of refusal shall thereupon be sent as provided herein.

§ 2877. Removal of disqualification of public contractors by petition. 1. Any firm, partnership or corporation which has become subject to the cancellation or termination of a contract or disqualification to contract on account of the refusal of a member, partner, director or officer thereof to waive immunity when called to testify, as provided in sections twenty-eight hundred seventy-five and twenty-eight hundred seventy-six of this title, may, upon ten days' notice to the attorney general and to the officer who conducted the investigation before the grand jury or other body in which the refusal occurred, commence a special proceeding at a special term of the supreme court held within the judicial district in which the refusal occurred for a judgment discontinuing the disqualification. Such application shall be in the form of a petition setting forth grounds, including that the cooperation by petitioner with the grand jury or other body at the time of the refusal was such, and the amount and degree of control and financial interest, if any, in the petitioning firm, partnership or corporation by the member, partner, officer or director who refused to waive immunity is such that it will not be in the public interest to cancel or terminate petitioner's contracts or to continue the disqualification, as provided in sections twenty-eight hundred seventy-five and twenty-eight hundred seventy-six of this title.

A copy of the petition and accompanying papers shall be served with the notices to be given pursuant to this subdivision.

2. Upon the filing of such petition the court may stay as to petitioner, pending a decision upon the petition, the cancellation or termination of any contracts resulting from such refusal upon such terms as to notice or otherwise as may be just.

3. At least two days prior to the return day, the officer who conducted the investigation before the grand jury or other body and the attorney general may file answers to the petition or apply for judgment dismissing the petition as a matter of law. On or before the return day the petitioner may file a reply to the answer.

4. Upon the return day the court may, upon the petition and answer and other papers filed, forthwith render such judgment as the case requires, or if a triable issue of fact is duly raised, it shall forthwith be tried before a court sitting without a jury or before a referee. The provisions of statute or rule governing references in an action shall apply to a reference under this subdivision.

5. The court shall render judgment dismissing the petition on the merits or discontinuing the disqualification upon the ground that the public interest would be served by its discontinuance, and granting such other relief as to the cancellation or termination of contracts as may be appropriate, but without costs to petitioner.

§ 2877-a. The New York state buy American salt act. 1. Use of American materials. (a) Notwithstanding any other provision of law, when soliciting a contract for the purchase of rock salt or sodium chloride, any public authority may award such contract to the responsible and reliable bidder offering to supply rock salt or sodium chloride that is mined or hand harvested in the United States, and which offer is within ten percent of the lowest price or best value offer, rather than to the lowest responsible and reliable bidder.

(b) If it has been determined by a court or federal or state agency that any person intentionally:

(i) affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any rock salt, or sodium chloride product used in projects to which this section applies, sold in or shipped to the United States that was not mined or hand harvested in the United States; or

(ii) represented that any rock salt, or sodium chloride product procured in a contract to which this section applies that was not produced in the United States, was produced in the United States; then that person shall be ineligible to receive any contract or subcontract with this state pursuant to the debarment or suspension provisions provided under section one hundred thirty-nine-a of the state finance law.

(c) This section shall be applied in a manner consistent with the state's obligations under any applicable international agreements pertaining to government procurement.

2. Definitions. For the purposes of this section, the following words shall have the following meanings unless specified otherwise:

(a) "Public authority" means a state, local or interstate authority as those terms are defined in section two of this chapter;

(b) "Mined or hand harvested in the United States" means: extracted or collected from land or ponds within the boundary of the United States, from the initial separation from the earth through the addition of any additives necessary for commercial sale;

(c) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

§ 2603-a. Letting of certain contracts involving steel products. 1. Notwithstanding any other provision of law, all public authorities shall award contracts involving steel products as follows:

a. All purchase contracts for supplies, material or equipment involving an estimated expenditure in excess of fifty thousand dollars shall require with respect to materials, supplies and equipment made of, fabricated from, or containing steel components, that such steel components be produced or made in whole or substantial part in the United States, its territories or possessions. The provisions of this paragraph shall not apply to motor vehicles and automobile equipment assembled in Canada in conformity with the United States-Canadian trade agreements known as the "Automotive Products Trade Act of 1965" or any amendments thereto.

b. All contracts in excess of one hundred thousand dollars for the construction, reconstruction, alteration, repair, maintenance or improvement of public works shall require that all structural steel, reinforcing steel or other major steel items to be incorporated in the work of the contract shall be produced or made in whole or substantial part in the United States, its territories or possessions.

2. Notwithstanding the provisions of subdivision one of this section, all contracts over one million dollars in value made and awarded by the dormitory authority, the metropolitan transportation authority, the bridge authority or the thruway authority, on its account or for the benefit of a state agency or authority, for the construction, reconstruction, alteration, repair, maintenance or improvement of any road or bridge, shall contain a provision that the structural iron and structural steel used or supplied in the performance of the contract or any subcontract thereto and permanently incorporated into the surface road or bridge shall be produced or made in whole or substantial part in the United States, its territories or possessions. In the case of a structural iron or structural steel product all manufacturing must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving the refinement of steel additives. For purposes of this section, "permanently incorporated" shall mean an iron or steel product that is required to remain in place at the end of the project contract, in a fixed location, affixed to the public work to which it was incorporated. Iron and steel products that are capable of being moved from one location to another are not permanently incorporated into a public

building or public work.

3. The provisions of this section shall not apply if the governing board or body of such public authority, in its discretion, determines that such provisions would result in unreasonable costs or that such iron, steel products or steel components including without limitation structural iron and steel; cannot be produced or made in the United States in sufficient and reasonably available quantities or of satisfactory quality or design, or would result in the loss or reduction of federal funding for the subject contract or the ability to obtain such federal funding would be limited or jeopardized by compliance with this section; or there is an immediate or emergency need existing for such structural iron, structural steel products or structural steel components; or such steel or iron is not manufactured in the United States in sufficient and reasonably available quantities or of satisfactory quality or design to meet the authority's requirements; or obtaining for such iron, steel products or steel components in the United States would increase the cost of the contract by an unreasonable amount; or for such iron, steel products or steel components is necessary for the operation of or repairs of critical infrastructure that is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare; or a reciprocal trade agreement or treaty has been negotiated by the state or by the United States government on behalf of or including this state with a foreign nation or government for nondiscriminatory governmental procurement practices or policies with such foreign nation or government.

4. Nothing in this section is intended to contravene any existing treaties, laws, trade agreements, or regulations of the United States or subsequent trade agreements entered into between any foreign countries and the state or the United States.

5. Any authority subject to the provisions of this section shall be authorized to establish rules and regulations for the effective administration of this section, provided however, nothing in this section shall be interpreted to require a contractor to certify that the iron or steel used in a road or bridge pursuant to this section is made

in whole or in substantial part in the United States.

§ 2878. Statement of non-collusion in bids or proposals to public authority. Every bid or proposal hereafter made to a public authority or to any official of any public authority created by the state or any political subdivision, where competitive bidding is required by statute, rule, regulation or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury: Non-collusive bidding certification.

"(a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition."

(b) A bid shall not be considered for award nor shall any award be made where (a) (1) (2) and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (a) (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (a).

2. Any bid hereafter made to any public authority or to any official of any public authority created by the state or any political subdivision, by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

§ 2878-a. Purchasing of products. 1. All products purchased shall be recycled products, which meet contract specifications, unless the only available product does not contain recycled content, and provided that the cost of the recycled product does not exceed a cost premium of ten percent above the cost of a comparable product that is not a recycled product or, if at least fifty percent of the secondary materials utilized in the manufacture of that product are generated from the waste stream in New York state, the cost of the recycled product does not exceed a cost premium of fifteen percent above the cost of a comparable product that is not a recycled product. For the purpose of this section and until July first, nineteen hundred ninety-six, "recycled product" shall mean any product which has been manufactured from secondary materials, as defined in subdivision one of section two hundred sixty-one of the economic development law, and meets secondary material content requirements adopted by the office of general services under subdivision one of section one hundred seventy-seven of the state finance law for products available to the public authority under state contract or, if no such contract for such product is available to the public authority, any product which meets the secondary material content requirements adopted by the public authority with respect to a specific commodity procurement by the public authority. On and after July first, nineteen hundred ninety-six, "recycled product" shall mean, for the purposes of this section, any product which has been manufactured from secondary materials, as defined in subdivision one of section two hundred sixty-one of the economic development law, and which meets the requirements of subdivision two of section 27-0717 of the environmental conservation law and regulations promulgated pursuant thereto.

2. Whenever a public authority, corporation or commission shall purchase or cause the purchase of printing on recycled paper, it shall require the printed material to contain the official state recycling emblem established pursuant to subdivision two of section 27-0717 of the environmental conservation law and regulations promulgated pursuant thereto if such paper has been approved by the department of environmental conservation as satisfying the requirements of such statute and regulations, or, if such paper has not been so approved, require the printed material to include a printed statement which indicates the percentages of pre-consumer and post-consumer recycled material content of such paper.

§ 2878-b. Source separation of wastes. 1. No later than September first, nineteen hundred eighty-nine each public authority, corporation or commission shall devise and institute a program to source separate waste paper generated within its facilities.

Such program shall include marketing arrangements and appropriate procedures to ensure the recovery of discarded paper in a noncontaminated condition. This program may be phased in, utilizing those office facilities most conducive to operation of a source separation program, but shall be fully implemented by July first, nineteen hundred ninety.

2. No later than July first, nineteen hundred ninety, each public

authority, corporation or commission shall devise and institute a program to source separate all other waste generated within its facilities that is not covered by this section. Such program shall include marketing arrangements and appropriate procedures to ensure the recovery of waste for which the full avoided costs of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, transportation and sale of said material less the amount received from the sale of said material. This program may be phased in, utilizing those office facilities most conducive to operation of a source separation program but shall be fully implemented by July first, nineteen hundred ninety-one.

3. A public authority, corporation or commission occupying facilities made available or provided by the office of general services may comply with the provisions of this section by participating in a program conducted by the office of general services pursuant to subdivisions four and five of section one hundred seventy-seven of the state finance law.

§ 2878-c. Certain contracts involving personal protective equipment and medical supplies. 1. Notwithstanding any other provisions of law, all contracts over fifty thousand dollars in value made and awarded by any state authority for the purchase of personal protective equipment or medical supplies shall require that the personal protective equipment or medical supply items be produced or made in whole or substantial part in the United States.

2. For purposes of this section:

(a) "personal protective equipment" means all equipment worn to minimize exposure to medical hazards, including gloves, masks, face shields, eye protection, respirators, medical hair and shoe coverings, and disposable gowns and aprons.

(b) "medical supplies" means materials necessary to respond to health emergencies or pandemics, including and without limitation ventilators, medical test kits, and vaccines.

(c) "United States" means the United States, its territories, or possessions.

3. The provisions of this section shall not apply if the head of the state authority purchasing the personal protective equipment or medical supplies, in his or her sole discretion, determines that such provisions would not be in the public interest; that obtaining such personal protective equipment or medical supplies in the United States would increase the cost of the contract by an unreasonable amount; that such personal protective equipment or medical supplies cannot be produced or made in the United States in sufficient and reasonably available quantities and of satisfactory quality or design to meet the state authority's requirements; or that purchasing personal protective equipment or medical supplies manufactured outside of the United States is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare.

4. Nothing in this section is intended to contravene any existing treaties, laws, trade agreements, or regulations of the United States or subsequent trade agreements entered into between any foreign countries and the state or the United States.

5. Subject to the provisions of this section, the department of economic development, in consultation with the office of general services and the division of the budget, shall be authorized to establish rules and regulations for the effective administration of this section.

§ 2879. Procurement contracts. 1. Every public authority and public benefit corporation, a majority of the members of which consist of persons either appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, (such entities to be hereinafter in this section referred to as "corporation") shall adopt by resolution comprehensive guidelines which detail the corporation's operative policy and instructions regarding the use, awarding, monitoring and reporting of procurement contracts. Guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

2. For purposes of this section, procurement contracts shall mean any written agreement for the acquisition of goods or services of any kind, in the actual or estimated amount of five thousand dollars or more.

3. The guidelines approved by the corporation shall include, but not be limited to the following:

(a) A description of the types of goods purchased, and for procurement contracts for services, a description of those areas of responsibility and oversight requiring the use of personal services and the reasons for the use of personal services in such areas.

(b) Requirements regarding the selection of contractors, which shall include provisions:

(i) for the selection of such contractors on a competitive basis, and provisions relating to the circumstances under which the board may by resolution waive competition, including, notwithstanding any other provision of law requiring competition, the purchase of goods or services from: (A) small business concerns, or sellers of goods or technology that are recycled or remanufactured, or, for corporations not defined as a state authority in section three hundred ten of the executive law, those certified as minority or women-owned business enterprises in an amount not to exceed five hundred thousand dollars without a formal competitive process, and (B) for corporations defined as a state authority in section three hundred ten of the executive law those certified as minority or women-owned business enterprises and service-disabled veteran-owned business enterprises for any state authority as defined in section forty of the veterans' services law, in an amount not to exceed one million five hundred thousand dollars without a formal competitive process;

(ii) describing when the award of procurement contracts shall require approval of the board by resolution, provided that any contract involving services to be rendered over a period in excess of one year shall require the approval of the board by resolution and an annual review of the contract by the board;

(iii) setting forth responsibilities of contractors;

(iv) as used in this subparagraph, the term "professional firm" shall be defined as any individual or sole proprietorship, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture, engineering or surveying.

The corporation shall not refuse to negotiate with a professional firm solely because the ratio of the "allowable indirect costs" to direct labor costs of the professional firm or the hourly labor rate in any labor category of the professional firm exceeds a limitation generally set by the corporation in the determination of the reasonableness of the estimated cost of services to be rendered by the professional firm, but rather the corporation should also consider the reasonableness of cost based on the total estimated cost of the service of the professional firm which should include, among other things, all the direct labor costs of the professional firm for such services plus all "allowable indirect costs," other direct costs, and negotiated profit of the professional firm. "Allowable indirect costs" of a professional firm are defined as those costs generally associated with overhead which cannot be specifically identified with a single project or contract and are considered reasonable and allowable under specific state contract or allowability limits.

(c) An identification of those areas or types of contracts for which minority or women-owned business enterprises may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises. For the purposes of this section, a minority business enterprise means any business enterprise, including a sole proprietorship, partnership or corporation that is:

(i) at least fifty-one percent owned by one or more minority group members or in the case of a publicly-owned business at least fifty-one percent of the common stock or other voting interests of which is owned by one or more minority group members;

(ii) an enterprise in which the minority ownership is real, substantial and continuing;

(iii) an enterprise in which the minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and

(iv) an enterprise authorized to do business in New York state, independently owned and operated, and not dominant in its field.

(d) For the purposes of this section, a minority group member means a United States citizen or permanent resident noncitizen who is and can demonstrate membership in one of the following groups:

(i) Black persons having origins in any of the Black African racial groups not of Hispanic origin;

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(iii) Asian and Pacific Islander persons having origins in any of the Far East, Southeast Asia, the Indian sub-continent or the Pacific Islands; or

(iv) Native American persons having origins in any of the original peoples of North America.

(e) For the purposes of this section, a women-owned business enterprise means a business enterprise, including a sole proprietorship, partnership or corporation which is:

(i) at least fifty-one percent owned by one or more United States citizens or permanent resident noncitizens who are women or in the case of a publicly-owned business at least fifty-one percent of the common stock or other voting interests of which is owned by United States citizens or permanent resident noncitizens who are women;

(ii) an enterprise in which the ownership interest of women is real, substantial and continuing;

(iii) an enterprise in which the women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and

(iv) an enterprise authorized to do business in New York state, independently owned and operated, and not dominant in its field.

(f) Requirements for the designation of one or more senior staff of the corporation to oversee the corporation's programs established to promote and assist: (i) participation by certified minority or women-owned business enterprises in the corporation's procurement opportunities and facilitation of the award of procurement contracts to such enterprises; (ii) the utilization of certified minority and women-owned business enterprises as subcontractors and suppliers by entities having procurement contracts with the corporation; and (iii) the utilization of partnerships, joint ventures or other similar arrangements between certified minority and women-owned business enterprises and other entities having procurement contracts with the corporation. Such staff shall be familiar with the procurement of the types of construction, financial, legal or professional services utilized by the corporation, report directly to the corporation's executive director, president or chief executive officer and either directly or through their designees participate in the procurement process.

(g) Requirements for providing notice, in addition to any other notice of procurement opportunities required by law, to professional and other organizations that serve minority and women-owned business enterprises providing the types of services procured by the corporation.

(h) Procedures for maintaining lists of qualified certified minority and women-owned business enterprises, including professional firms that have expressed an interest in doing business with the corporation and ensuring that such lists are updated regularly. The corporation shall also consult the lists of certified minority and women-owned business enterprises maintained by the department of economic development pursuant to article fifteen-A of the executive law.

(i) The establishment of appropriate goals for participation by minority or women-owned business enterprises in procurement contracts awarded by the corporation and for the utilization of minority and women-owned enterprises as subcontractors and suppliers by entities having procurement contracts with the corporation. Statewide numerical participation target goals shall be established by each authority based on the findings of the two thousand ten disparity study.

(j) Requirements to conduct procurements in a manner that will enable the corporation to achieve the maximum feasible portion of the goals established pursuant to paragraph (i) of this subdivision and that eliminates barriers to participation by minority and women-owned business enterprises in the corporation's procurements. Such procurement requirements shall include the following:

(A) Measures and procedures to ensure that certified businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the corporation's identification of those state contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the corporation's achievement of the maximum feasible portion of the goals for state contracts to such businesses;

(B) Provisions designating the division of minority and women-owned business development to certify and decertify minority and women-owned business enterprises for all corporations through a single process that meets applicable state and federal requirements;

(C) A requirement that each contract solicitation document accompanying each solicitation set forth the expected degree of minority and women-owned business enterprise participation based, in part, on:

I. the potential subcontract opportunities available in the prime procurement contract; and

II. the availability of certified minority and women-owned business enterprises to respond competitively to the potential subcontract opportunities;

(D) A requirement that each corporation provide a current list of certified minority business enterprises to each prospective contractor;

(E) Provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority and women-owned business enterprise portion of the joint venture;

(F) Provisions under which the corporation may waive obligations of the contractor relating to minority and women-owned business enterprise participation after a showing of good faith efforts to comply with the requirements of this act pursuant to the waiver provisions contained in subdivision six of section three hundred thirteen of the executive law;

(G) A requirement that the corporation verify that minority and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(H) In the implementation of this section, the contracting corporation shall:

I. consider, where practicable, the severability of construction projects and other bundled contracts;

II. implement a program that will enable the corporation to evaluate each contract to determine the appropriateness of the goal pursuant to paragraph (i) of this subdivision;

III. consider compliance with the requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuates the purpose of this section; and

IV. consult the most recent disparity study pursuant to article fifteen-A of the executive law.

(k) A listing of the types of provisions to be contained in procurement contracts, including provisions concerning the nature and monitoring of the work to be performed, the use of corporate supplies and facilities, the use of corporate personnel and any other provisions.

(l) Provisions regarding procurement contracts which involve former officers or employees of the corporation.

(m) Procedures regarding procurement contracts which are exempt from the publication requirements of article four-C of the economic development law.

(n) Policies to promote the participation by New York state business enterprises and New York state residents in procurement contracts, including, but not limited to:

(i) providing for the corporation to collect and to consult the specifications of New York state business enterprises in developing specifications for any procurement contract for the purchase of goods where possible, practicable, feasible and consistent with open bidding, except for procurement contracts for which the corporation would be expending funds received from another state. The corporation shall, where feasible, make use of the stock item specification forms prepared by the commissioner of general services, and where necessary, consult with the commissioner of the office of general services, in developing such specifications and make such determinations; and

(ii) with the cooperation of the department of economic development and through cooperative efforts with contractors, providing for the notification of New York state business enterprises of opportunities to participate as subcontractors and suppliers on procurement contracts let by the corporation in an amount estimated to be equal to or greater than one million dollars and promulgating procedures which will assure compliance by contractors with such notification. Once awarded the contract such contractors shall document their efforts to encourage the participation of New York state business enterprises as suppliers and subcontractors on procurement contracts equal to or greater than one million dollars. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has (a) solicited bids, in a timely and adequate manner, from New York state business enterprises including certified minority and women-owned business, or (b) contacted the New York state department of economic development to obtain listings of New York state business enterprises, or (c) placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York state, or (d) participated in bidder outreach conferences. If the contractor determines that New York state business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made. If the contractor does not intend to use subcontractors on the contract, the contractor shall provide a statement verifying such intent; and

(iii) except for procurement contracts for which the corporation would be expending funds received from another state, the corporation shall include in all bid documents provided to potential bidders a statement that information concerning the availability of New York state subcontractors and suppliers is available from the New York state department of economic development, which shall include the directory of certified minority and women-owned businesses, and it is the policy of New York state to encourage the use of New York state subcontractors and suppliers, and to promote the participation of minority and women-owned businesses where possible, in the procurement of goods and services; and

(iv) with the cooperation of the community services division of the department of labor and through cooperative efforts with contractors, providing for the notification of New York state residents of employment opportunities arising in New York state out of procurement contracts let by the corporation in an amount estimated to be equal to or greater than one million dollars; and promulgating procedures which will assure compliance by contractors with such notification by requiring contractors to submit post-award compliance reports documenting their efforts to provide such notification through listing any such positions with the community services division, or providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements; and

(v) including in each set of documents soliciting bids on procurement contracts to let by the corporation a statement notifying potential bidders located in foreign countries that the corporation may assign or otherwise transfer offset credits created by such procurement contract to third parties located in New York state; providing for the assignment or other form of transfer of offset credits created by such procurement contracts, directly or indirectly, to third parties located in New York state, in accordance with the written directions of the commissioner of economic development; and providing for the corporation to otherwise cooperate with the department of economic development in efforts to get foreign countries to recognize offset credits assigned or transferred to third parties located in New York state created by such procurement contracts; and

(vi) promulgating procedures which will assure compliance with the federal equal employment opportunity act of 1972 (P.L. 92-261), as amended, by contractors of the corporation.

(o) For the purposes of this section, a "New York state business enterprise" means a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by the corporation and which are substantially manufactured, produced or assembled in New York state, or services which are sought by the corporation and which are substantially performed within New York state.

(p) For the purposes of this section, a "New York resident" means a natural person who maintains a fixed, permanent and principal home located within New York state and to which such person, whenever temporarily located, always intends to return.

4. Each corporation shall have the power from time to time to amend such procurement contract guidelines in accordance with the provisions

of this section.

5. (a) Each corporation shall notify the commissioner of economic development of the award of a procurement contract for the purchase of goods or services from a foreign business enterprise in an amount equal to or greater than one million dollars simultaneously with notifying the successful bidder therefor. No corporation shall thereafter enter into a procurement contract for said goods or services until at least fifteen days has elapsed, except for procurement contracts awarded on an emergency or critical basis, or where the commissioner of economic development waives the provisions of this sentence. The notification to the commissioner of economic development shall include the name, address and telephone and facsimile number of the foreign business enterprise, a brief description of the goods or services to be obtained pursuant to the proposed procurement contract, the amount of the proposed procurement contract, the term of the proposed procurement contract, and the name of the individual at the foreign business enterprise or acting on behalf of the same who is principally responsible for the proposed procurement contract. Such notification shall be used by the commissioner of economic development solely to provide notification to New York state business enterprises of opportunities to participate as subcontractors and suppliers on such procurement contracts, to promote and encourage the location and development of new business in the state, to assist New York state business enterprises in obtaining offset credits from foreign countries, and to otherwise investigate, study and undertake means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of New York state business enterprises, industry and commerce.

(b) As used in this section, the following terms shall have the following meanings, unless a different meaning appears from the context:

(i) "Foreign business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale, lease or other form of exchange, goods which are sought by the corporation and which are substantially produced outside New York state, or services, other than construction services, sought by the corporation which are substantially performed outside New York state. For purposes of construction services, foreign business enterprise shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which has its principal place of business outside New York state.

(ii) "New York state business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale or lease or other form of exchange, goods which are sought by the corporation and which are substantially manufactured, produced or assembled in New York state, or services, other than construction services, which are sought by the corporation and which are substantially performed within New York state. For purposes of construction services, a New York state business enterprise shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which has its principal place of business in New York state.

(iii) "Discriminatory jurisdiction" shall mean any other country, nation, province, state or political subdivision thereof which employs a preference or price distorting mechanism to the detriment of or otherwise discriminates against a New York state business enterprise in the procurement of goods and services by the same or a non-governmental entity influenced by the same. Such discrimination may include, but is not limited to, any law, regulation, procedure or practice, terms or license, authorization, or funding or bidding rights which requires or encourages any agency or instrumentality of the state or political subdivision thereof or non-governmental entity influenced by the same to discriminate against a New York state business enterprise.

(c) In including any additional business enterprises on invitations to bid for the procurement of goods or services, the chief executive officer of the corporation shall not include any foreign business enterprise which has its principal place of business located in a discriminatory jurisdiction contained on the list prepared by the commissioner of economic development pursuant to subdivision six of section one hundred sixty-five of the state finance law, except, however, business enterprises which are New York state business enterprises as defined by this section. The corporation may waive the application of the provisions of this section whenever the chief executive officer of the corporation determines in writing that it is in the best interests of the state to do so. The chief executive officer of the corporation shall deliver each such waiver to the commissioner of economic development.

(d) A corporation shall not enter into a contract with a foreign business enterprise which has its principal place of business located in a discriminatory jurisdiction contained on the list prepared by the commissioner of economic development pursuant to subdivision six of section one hundred sixty-five of the state finance law. The provisions of this section may be waived by the chief executive officer of the corporation if the chief executive officer of the corporation determines in writing that it is in the best interests of the state to do so. The chief executive officer of the corporation shall deliver each such waiver to the commissioner of economic development.

6. Each corporation, as part of the guidelines established pursuant to subdivision three of this section, shall establish policies regarding the preparation of publicly available reports on procurement contracts entered into by such corporation. Such policies shall provide, at the minimum, for the preparation of a report no less frequently than annually, summarizing procurement activity by such corporation for the period of the report, including a listing of all procurement contracts entered into, all contracts entered into with New York state business enterprises and the subject matter and value thereof, all contracts entered into with certified minority or women-owned business enterprises and the subject matter and value thereof, all referrals made and all penalties imposed pursuant to section three hundred sixteen of the executive law, all contracts entered into with foreign business enterprises, and the subject matter and value thereof, the selection process used to select such contractors, all procurement contracts which were exempt from the publication requirements of article four-C of the economic development law, the basis for any such exemption and the status of existing procurement contracts.

7. Each corporation shall annually prepare and approve a report on procurement contracts which shall include the guidelines, as specified in subdivision three of this section, an explanation of the guidelines and any amendments thereto since the last annual report. Such report on procurement contracts may be a part of any other annual report that the

corporation is required to make.

8. (a) Each corporation shall annually submit its report on procurement contracts to the division of the budget and copies thereof to the department of audit and control, the department of economic development, the senate finance committee and the assembly ways and means committee. Such report shall include the total number and total dollar value of contracts awarded to certified minority and women-owned business enterprises pursuant to subparagraph (i) of paragraph (b) of subdivision three of this section, shall distinguish by contract type awards made pursuant to the authority provided under subparagraph (i) of paragraph (b) of subdivision three of this section, and shall additionally specify by contract type awarded pursuant to clause (B) of subparagraph (i) of paragraph (b) of subdivision three of this section and specify the total number, total dollar value and the percentage of the total dollar value of contracts awarded to minority and women-owned business entities and service disabled and veteran-owned business entities for the reporting period, as compared to the prior reporting year. Further, such report shall specify the total number, total dollar value and percentage of contracts that exceed five hundred thousand dollars awarded to minority and women owned business enterprises and service-disabled veteran-owned businesses for the reporting period as compared to the prior reporting period.

(b) Each corporation shall make available to the public copies of its report on procurement contracts upon reasonable request therefor.

9. Nothing contained in this section shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this section.

§ 2879-a. Comptroller approval of contracts. 1. Except as set forth in subdivision three of this section, where the comptroller determines pursuant to his or her authority to supervise the accounts of public corporations, that contracts or categories of contracts in excess of one million dollars (a) to be awarded by a state authority to a single source, a sole source or pursuant to any other method of procurement that is not competitive, or (b) which are to be paid in whole or in part from monies appropriated by the state to a state authority for such contractual expenditure, require supervision in the form of prior review and approval of such contracts, and the comptroller so notifies such authority of such determination, then any such contract entered into subsequent to such notification shall be submitted to the comptroller for his or her approval and shall not be a valid enforceable contract unless it shall first have been approved by the comptroller. Such notification shall identify the process for submission, the categories of contracts at issue and the time period for which such submission is to take place. The comptroller shall promulgate such rules and regulations as may be necessary to carry out his or her responsibilities under this section, including but not limited to the standards for determining which contracts will be subject to his or her review and for approving such contracts.

2. Where the comptroller, pursuant to subdivision one of this section, has notified a state authority that any contract or category of contracts shall be subject to his or her approval, such authority shall include or cause to be included in each such contract a provision informing the other party that such contract is subject to the comptroller's approval pursuant to the comptroller's authority to supervise the accounts of public corporations. If the comptroller has not approved or disapproved any contract subject to his or her approval within ninety days of submission to his or her office, such contract shall become valid and enforceable without such approval.

3. This section shall not apply to: (a) contracts entered into for the issuance of commercial paper or bonded indebtedness, other than contracts with the state providing for the payment of debt service subject to an appropriation; (b) contracts entered into by an entity established under article ten-C of this chapter that are for: (i) projects approved by the department of health or the public health council in accordance with articles twenty-eight, thirty-six or forty of the public health law or article seven of the social services law; (ii) projects approved by the office of mental health, the office for people

with developmental disabilities, or the office of alcoholism and substance abuse services in accordance with articles sixteen, thirty-one, or thirty-two of the mental hygiene law; (iii) services, affiliations or joint ventures for the provision or administration of health care services or scientific research; (iv) payment for direct health care services or goods used in the provision of health care services; or (v) participation in group purchasing arrangements; (c) contracts entered into for the procurement of goods, services or both goods and services made to meet emergencies arising from unforeseen causes or to effect repairs to critical infrastructure that are necessary to avoid a delay in the delivery of critical services that could compromise the public welfare; (d) contracts of purchase or sale of energy, electricity or ancillary services made by an authority on a recognized market for goods, services, or commodities in question in accordance with standard terms and conditions of purchase or sale at a market price; (e) contracts for the purchase, sale or delivery of power or energy, fuel, costs and services ancillary thereto, or financial products related thereto, with a term of less than five years; and (f) contracts for the sale or delivery of power or energy and costs and services ancillary thereto for economic development purposes pursuant to title one of article five of this chapter or article six of the economic development law, provided, however, that the authority shall file copies of any such contract with the comptroller within sixty days after the execution of such contract.

4. The provisions of this section do not grant or diminish any power or right to review contracts beyond or from that which the comptroller may have pursuant to his or her authority to supervise the accounts of public authorities. If any provisions of this section or its application to any person or circumstance is held invalid by a court of last resort, then this section shall be deemed to be invalid in its entirety.

§ 2879-b. Labor peace. 1. As used in this section:

(a) "Contractor" means a company undertaking a covered project, or the operator of a hotel or convention center that is part of a covered project.

(b) "Substantial proprietary interest" means the authority: (i) owns fee title or a leasehold interest in the project of at least forty years; or (ii) provides financing for the project, whether by direct loan or indirectly by a guarantee, subsidy, deposit, credit enhancement or similar method.

(c) "Covered project" means any project in which an authority enters into an agreement for a development after the effective date of this section, where: (i) a hotel is one of the principal functions of the project; (ii) the entity the authority enters into an agreement with or its contractor or subcontractor contracts for the development of such hotel or convention center; (iii) the authority has a substantial proprietary interest in the project, or in the hotel or convention center; and (iv) the hotel or convention center will have more than fifteen employees.

(d) "Labor peace agreement" means an agreement between the contractor and a labor organization that represents a substantial number of hotel or convention center employees in the state, which requires that the labor organization and its members refrain from engaging in labor activity that will disrupt the hotel's operations, including strikes, boycotts, work stoppages, corporate campaigns, picketing or other economic action against the covered project.

(e) "Public authority" shall mean a state public authority.

2. No public authority shall enter into any agreement or contract under which the public authority has a substantial proprietary interest in a covered project unless the agreement or contract requires as a material condition that the contractor or a subcontractor thereof enter into a labor peace agreement with a labor organization that represents hotel employees in the state, for a period of at least five years.

3. Any contractor or subcontractor covered by subdivision two of this section shall incorporate the terms of the labor peace agreement in any contract, subcontract, lease, sublease, operating agreement, concessionaire agreement, franchise agreement or other agreement or instrument giving a right to any person or entity to own or operate a hotel or convention center.

4. Notwithstanding any provision of this section, a public authority may enter into an agreement or contract wherein the public authority has a substantial proprietary interest in a covered project without a contractor entering into a labor peace agreement, if the authority determines that the project would not be able to go forward if a labor peace agreement was required, or the costs of the project to the public authority would be substantially increased by such requirement. Such a determination shall be supported by a written finding by the public authority setting forth the specific basis for such determination, which may include experience with similar projects, earlier requests for proposal for the same project, or a detailed evaluation of potential bidders. Such written determination shall be included in any public materials provided to any board or agency official in connection with the project and shall be maintained by the authority.

§ 2879-c. Iranian energy sector divestment. 1. As used in this section:

a. "Energy sector" shall have the same meaning as defined in paragraph (a) of subdivision one of section one hundred sixty-five-a of the state finance law.

b. "Financial institution" shall have the same meaning as defined in paragraph (b) of subdivision one of section one hundred sixty-five-a of the state finance law.

c. "Investment" shall have the same meaning as defined in paragraph (c) of subdivision one of section one hundred sixty-five-a of the state finance law.

d. "Iran" shall have the same meaning as defined in paragraph (d) of subdivision one of section one hundred sixty-five-a of the state finance law.

e. "Person" shall have the same meaning as defined in paragraph (e) of subdivision one of section one hundred sixty-five-a of the state finance law.

2. For purposes of this section, a person engages in investment activities in Iran if:

a. The person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

b. The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran.

3. Notwithstanding any other provision of this chapter or any other law to the contrary, no state or local public authority or an interstate or international authority, or subsidiary thereof, shall enter into any contract for work or services performed or to be performed or goods sold or to be sold, with a person that is identified on a list created pursuant to paragraph (b) of subdivision three of section one hundred sixty-five-a of the state finance law as a person engaging in investment activities in Iran as described in subdivision two of this section.

4. Notwithstanding any other provision of this chapter or any other law to the contrary, every contract entered into with a state or local public authority or an interstate or international authority for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by and affirmed by the person entering into the contract as true under the penalties of perjury:

a. "By signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law."

b. Notwithstanding paragraph a of this subdivision, the statement of non-investment in the Iranian energy sector may be submitted electronically.

c. A contract shall not be considered nor shall any contract be entered into where the condition set forth in paragraph a of this subdivision has not been complied with; provided, however, that if in any case the person cannot make the foregoing certification, the person shall so state and shall furnish with the contract a signed statement which sets forth in detail the reasons therefor. A public authority may award or enter into a contract with a person who cannot make the certification pursuant to paragraph a of this subdivision on a case-by-case basis if:

(1) The investment activities in Iran were made before the effective date of this section, the investment activities in Iran have not been expanded or renewed after the effective date of this section, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) The public authority makes a determination that the goods or services are necessary for the public authority to perform its functions and that, absent such an exemption, the public authority would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

§ 2880. Prompt payment. 1. Definitions. As used in this section, the following terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Corporation" means every public authority and public benefit corporation a majority of the governing board members of which are either appointed by the governor or serve as members by virtue of their service as an officer of a state department, division, agency, board or bureau, or combination thereof.

(b) "Contract" means an enforceable agreement entered into between a corporation and a contractor.

(c) "Contractor" means any person, partnership, private corporation or association:

(i) selling materials, equipment, or supplies or leasing property or equipment to a corporation;

(ii) constructing, reconstructing, rehabilitating or repairing buildings, highways or other improvements for or on behalf of a corporation; or

(iii) rendering or providing services to a corporation pursuant to a contract.

(d) "Designated payment office" means the office designated by the corporation to which a proper invoice is to be submitted by a contractor.

(e) "Prompt payment" means payment of a debt due and owing by a corporation before interest accrues thereon pursuant to a statement adopted in accordance with this section.

(f) "Proper invoice" means a written request for a contract payment that is submitted by a contractor setting forth the description, price and quantity of goods, property, or services delivered or rendered, in such form and supported by such other substantiating documentation as the corporation may reasonably require.

(g) "Receipt of an invoice" means (i) the date on which a proper invoice is actually received in the designated payment office, or (ii) the date on which the corporation receives the purchased goods, property, or services covered by the proper invoice, whichever is later.

(h) "Set-off" means the reduction by the corporation of a payment due to a contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the contractor to the corporation.

(i) "Statement" means the rules and regulations adopted by a corporation pursuant to subdivision two of this section and any amendments thereto.

2. Statement adoption. Within one hundred twenty days after either the effective date of this section or the beginning of the existence of the respective corporation, whichever is later, each corporation shall promulgate rules and regulations detailing its prompt payment policy.

3. Statement contents. (a) The statement shall include, but not be limited to, a reference to this section and the following for each type or category of contract as determined by the corporation:

(i) a description of the procedure to be followed by a contractor in requesting payment under a contract;

(ii) a schedule setting forth the time in which the corporation will make prompt payment under a contract;

(iii) a declaration that interest will be paid when prompt payment is not made and a statement of the rate at which such interest will accrue;

(iv) a list of the sources of funds available to the corporation to pay an interest penalty on each type or category of contract; and

(v) a list of facts and conditions which in the opinion of the corporation's governing body reasonably justify extension of the date by which contract payment must be made in order for the corporation not to become liable for interest payments in accordance with subdivision seven of this section.

(b) Such facts and conditions may include, but shall not be limited to, the following when:

(i) in accordance with specific statutory or contractual provisions, payment must be preceded by an inspection period or by an audit to determine the resources applied or used by a contractor in fulfilling the terms of the contract;

(ii) the necessary state government appropriation required to authorize payment has yet to be enacted;

(iii) a proper invoice must be examined by the federal government prior to payment; and

(iv) such date by which contract payment must be made is modified in accordance with subdivision eight of this section.

4. Statement amendment. Each corporation shall have the power to amend its statement by promulgating amended rules and regulations.

5. Statement filing. Each corporation shall, within thirty days after the statement's adoption, file a copy of such statement, and amendments thereto, with the state comptroller, the state director of the budget, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

6. Contract incorporation. The statement in effect at the time of creation of a contract is hereby incorporated into and made a part of that contract.

7. Interest eligibility and computation. (a) In order for the corporation not to be liable for the payment of interest, contract payment must be made within thirty calendar days, excluding legal holidays, after the receipt of an invoice for the amount of the contract payment due; except when the contract payment is of the type where the facts and conditions are as defined pursuant to subparagraph (v) of paragraph (a) of subdivision three of this section. Any time taken to satisfy or rectify any of the facts or conditions described in subdivision three (except for subparagraph (iv) of paragraph (b) of subdivision three) of this section shall extend the date by which contract payment must be made in order for the corporation not to become liable for interest payments by an equal period of time.

(b) A corporation, which must process payments through the state department of audit and control, the department of taxation and finance, or some other entity not under the corporation's control, shall not be liable for interest due to the process time taken by such entity.

(c) Notwithstanding any other provision of law to the contrary, interest shall be computed at the rate equal to the overpayment rate set by the commissioner of taxation and finance pursuant to subsection (e) of section one thousand ninety-six of the tax law.

(d) A corporation shall not be liable for payment of interest when such interest as computed pursuant to the provisions of paragraph (c) of this subdivision is less than ten dollars.

8. Each corporation shall have fifteen calendar days after receipt of an invoice by the corporation at its designated payment office to notify the contractor of (a) defects in the delivered goods, property, or services, (b) defects in the invoice, or (c) suspected improprieties of any kind; and the existence of such defects or improprieties shall prevent the commencement of the time period specified in subdivision seven of this section. When a corporation fails to notify a contractor of such defects or suspected improprieties within fifteen calendar days

of receiving the invoice, the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the fifteenth day and the day that notification was transmitted to the contractor. If the corporation, in such situations, fails to provide reasonable grounds for its contention that a defect or impropriety exists, the date by which contract payment must be made in order for the corporation not to become liable for interest payments shall be calculated from the date of receipt of an invoice.

9. Notwithstanding any provision of the public service law or any tariffs promulgated pursuant to that law to the contrary, the provisions of this section shall provide the sole basis for determining and making interest payments on invoices submitted by public utilities to corporations.

10. A proper invoice submitted by the contractor shall be required to initiate any payment, except where the contract provides that the contractor will be paid at predetermined intervals without having to submit an invoice for each such scheduled payment and, for the purposes of determining eligibility for payment of interest and subject to the exception and time-to-rectify provisions of subdivisions three and seven of this section, the date by which contract payment must be made in order for the corporation not to become liable for interest payments shall be the payment due date specified in accordance with the contract.

11. Annual report. (a) Each corporation shall annually prepare a report on the scope and implementation of its prompt payment policy which shall include, but not be limited to:

(i) A listing of the types or categories of contracts which the corporation entered into during the twelve month period covered by the report, together with a brief indication of whether each such type or category of contract was subject to the prompt payment requirements promulgated by the corporation and, if not, why not;

(ii) The number and amounts of interest payments made for contracts arranged according to each such type or category;

(iii) The number of interest chargeable days and the total number of days taken to process each late contract payment; and

(iv) A summary of the principal reasons that such late payments occurred.

(b) Within ninety days after the completion of its fiscal year, each corporation shall file copies of the report required by paragraph (a) of this subdivision with the state comptroller, the state director of the budget, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

12. Public access. (a) Each corporation shall make available to the public, upon a reasonable request therefor, copies of its statement and annual report.

(b) Each contractor doing business with a corporation shall be given a copy of that corporation's statement.

13. Inapplicability of section. The provisions of this section shall not apply to payments due and owing by a corporation:

(a) under the eminent domain procedure law;

(b) as interest allowed on judgments rendered by a court pursuant to any provision of law other than those contained in this section;

(c) to the federal government; to any state agency or its instrumentalities; to any duly constituted unit of local government including, but not limited to, counties, cities, towns, villages, school districts, special districts, or any of their related instrumentalities; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;

(d) in situations where the corporation exercises a legally authorized set-off against all or part of the payment due the contractor.

14. The provisions of this section shall not apply to the facilities development corporation or the state university construction fund.

15. Judicial review. Any determination made by a corporation pursuant to this section which prevents the commencement of the time in which interest will be paid shall be subject to judicial review in a proceeding pursuant to article seventy-eight of the civil practice law and rules. Such proceedings shall only be commenced in the absence, or

upon completion, of other review procedures specified in the contract or by regulation.

16. Court action or other legal processes. (a) Notwithstanding any other provisions of law to the contrary, the liability of a corporation, insofar as incurring an obligation to make an interest payment to a contractor pursuant to the terms of this section is concerned, shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in paragraph (a) of this subdivision, any interest obligation incurred by a corporation after the date specified therein pursuant to any provision of law other than this section shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.

§ 2880-a. Contracts for the financing of local water supply systems. Notwithstanding any other provisions of this title or the provisions of any general, special or local law, any public benefit corporation created pursuant to article five of this chapter which is authorized by law to produce, develop, distribute and sell water, water services, facilities and commodities shall have the power:

1. to enter into contracts, with any entity specified in subdivision two of this section, providing for the financing of the acquisition and construction of improvements to the water supply system or water distribution system of such entity, the terms of which may include, among other provisions, provisions requiring such entity to purchase water only from such public benefit corporation during the term of such contract, which term shall be limited to the lesser of (a) thirty years or (b) the probable useful life of the items for which any bonds are issued by such public benefit corporation to finance the acquisition and construction of improvements to such water supply system or water distribution system, and

2. to issue bonds, in accordance with the applicable provisions of this chapter, to finance the acquisition and construction of improvements to any water supply system or water distribution system owned by any water authority, municipality, county, town, village, water district or Indian tribe to which such public benefit corporation is authorized by law to furnish water.

Title 5

FUNDS AND ACCOUNTS

OF PUBLIC AUTHORITIES

§ 2890. Funds and accounts of public authorities. Notwithstanding any inconsistent provision of this chapter or any other general, special or local law, every authority or commission hereafter created by this chapter is hereby empowered to establish such funds and accounts as it may deem necessary subject to such agreements as such authority or commission shall conclude with the holders of its bonds or notes.

TITLE 5-A

DISPOSITION OF PROPERTY BY PUBLIC AUTHORITIES

§ 2895. Definitions. For the purposes of this title, unless a different meaning is required by the context:

1. "Contracting officer" shall mean the officer or employee of a public authority who shall be appointed by resolution of the board of the public authority to be responsible for the disposition of property.

2. "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section twenty-eight hundred ninety-seven of this title.

3. "Property" shall mean personal property in excess of five thousand dollars in value, real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

§ 2896. Duties of public authorities with respect to the disposal of property. 1. Every authority, as defined in section two of this chapter, shall adopt by resolution comprehensive guidelines which shall (a) detail the public authority's operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of property, and (b) designate a contracting officer who shall be responsible for the public authority's compliance with, and enforcement of, such guidelines. Such guidelines shall be consistent with, and shall require the public authority's contracting activities to comply with this section, the authorities enabling legislation and any other applicable law for the disposal of property, except that such guidelines may be stricter than the provisions of this section, the authorities enabling legislation and any other applicable law for the disposal of property if the public authority determines that additional safeguards are necessary to assure the integrity of its disposition activities. Guidelines approved by the public authority shall be annually reviewed and approved by the governing body of the public authority. On or before the thirty-first day of March in each year, the public authority shall file with the comptroller a copy of the guidelines most recently reviewed and approved by the public authority, including the name of the public authority's designated contracting officer. At the time of filing such guidelines with the comptroller, every public authority shall also post such guidelines on the public authority's internet website. Guidelines posted on the public authority's internet website shall be maintained on such website at least until the procurement guidelines for the following year are posted on such website.

2. Each public authority shall:

a. maintain adequate inventory controls and accountability systems for all property under its control;

b. periodically inventory such property to determine which property shall be disposed of;

c. produce a written report of such property in accordance with subdivision three of this section;

d. transfer or dispose of such property as promptly as possible in accordance with section twenty-eight hundred ninety-seven of this title.

3. a. Each public authority shall publish, not less frequently than annually, a report listing all real property of the public authority. Such report shall include a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the public authority and the name of the purchaser for all such property sold by the public authority during such period.

b. The public authority shall deliver copies of such report to the comptroller, the director of the budget, the commissioner of general services, the legislature and the authorities budget office.

§ 2897. Disposal of public authority property. 1. Supervision and direction. Except as otherwise provided in this section, the contracting officer designated by each public authority shall have supervision and direction over the disposition of property of such public authority.

2. Custody and control. The custody and control of the property of a public authority, pending its disposition, and the disposal of such

property, shall be performed by the public authority in possession thereof or by the commissioner of general services when so authorized under this section.

3. Method of disposition. Subject to section twenty-eight hundred ninety-six of this title, any public authority may dispose of property for not less than the fair market value of such property by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the contracting officer deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, that no disposition of real property, or any interest in real property, shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction, and, provided further, that no disposition of any other property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar property, shall be made without a similar appraisal.

4. Sales by the commissioner of general services. When it shall be deemed advantageous to the state, any public authority may enter into an agreement with the commissioner of general services where under such commissioner may dispose of property of such public authority under terms and conditions agreed to by the public authority and the commissioner of general services. In disposing of any such property of a public authority, the commissioner of general services shall be bound by the terms of this title and references to the contracting officer shall be deemed to refer to such commissioner.

5. Validity of deed, bill of sale, lease, or other instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of any public authority, purporting to transfer title or any other interest in property of a public authority under this title shall be conclusive evidence of compliance with the provisions of this title insofar as concerns title or other interest of any bona fide grantee or transferee

who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.

6. Bids for disposal; advertising; procedure; disposal by negotiation; explanatory statement. a. All disposals or contracts for disposal of property of a public authority made or authorized by the contracting officer shall be made after publicly advertising for bids except as provided in paragraphs c and f of this subdivision.

b. Whenever public advertising for bids is required under paragraph a of this subdivision:

(i) the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property;

(ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and

(iii) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the state, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

c. Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to paragraphs a and b of this subdivision but subject to obtaining such competition as is feasible under the circumstances, if:

(i) the personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that, if it were disposed of under paragraphs a and b of this subdivision, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;

(ii) the fair market value of the property does not exceed fifteen thousand dollars;

(iii) bid prices after advertising therefor are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

(iv) the disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(v) under those circumstances permitted by subdivision seven of this section; or

(vi) such action is otherwise authorized by law.

d. (i) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

(A) any personal property which has an estimated fair market value in excess of fifteen thousand dollars;

(B) any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses (C) and (D) of this subparagraph;

(C) any real property disposed of by lease, if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars;

(D) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

(ii) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under section twenty-eight hundred ninety-six of this title not less than ninety days in advance of such disposal, and a copy thereof shall be preserved in the files of the public authority making such disposal.

e. Disposals and contracts for disposal of real property by the canal corporation may be made by negotiated sale rather than public auction provided that all of the following conditions have been satisfied:

(i) The canal corporation has determined that: such real property is no longer necessary or useful to the purposes of the canal corporation;

disposal of such real property complies with all applicable provisions of the canal law; and disposal of such real property is in the best interest of the canal corporation;

(ii) An appraisal of the fair market value of such property has been made by an independent appraiser and included in the record of the transaction;

(iii) The fair market value of such real property is greater than fifteen thousand dollars but not greater than seventy-five thousand dollars;

(iv) Such real property was improved prior to April first, nineteen hundred ninety-two under a municipal permit or a permit issued pursuant to section one hundred of the canal law, thereby creating an encroachment on canal corporation real property;

(v) The purchaser of such real property is, or will be, the owner of the improvement that either fully or partially encroaches on canal corporation real property; and

(vi) The consideration paid for such real property will be not less than the fair market value of the real property exclusive of the value, fair market or otherwise, of the encroaching improvements.

f. Notwithstanding anything to the contrary in this section, disposals for use of the thruway authority's fiber optic system, or any part thereof, may be made through agreements based on set fees that shall not require public auction, provided that:

i. the thruway authority has determined the disposal of such property complies with all applicable provisions of this chapter;

ii. the thruway authority has determined that disposal of such property is in the best interest of the thruway authority;

iii. the set fees established by the thruway authority for use of the fiber optic system, or part thereof, shall be based on an independent appraisal of the fair market value of the property; and

iv. any public authority, state agency, municipality, not-for-profit hospital organized under section forty-three hundred one of the insurance law, public library, or institution of higher education located in New York state shall be required only to pay the actual cost of providing for use of the fiber optic system, but not exceeding the fair market value determined pursuant to subparagraph (iii) of this paragraph. For purposes of this paragraph, "public authority" shall refer to entities defined in section two of the public authorities law. For purposes of this paragraph, "institution of higher education" shall refer to entities as defined in subdivisions two and three of section six hundred one of the education law.

Disposals of the fiber optic system, or any part thereof, through agreements based on set fees shall not require the explanatory statements required by this section. Any disposal of property, contract for disposal of property or agreement made pursuant to this paragraph shall not be deemed valid and enforceable unless it shall first have been approved by both the comptroller and the attorney general.

7. Disposal of property for less than fair market value. a. No asset owned, leased or otherwise in the control of a public authority may be sold, leased, or otherwise alienated for less than its fair market value except if:

(i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;

(ii) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or

(iii) in the event a public authority seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the authority's mission, purpose or governing statutes, such authority shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly. Denial by the governor shall take the form of a signed certification by the governor. Denial by either house of the legislature shall take the form of a resolution by such house. The governor and each house of the legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the legislature receives notification of a proposed transfer during the months of July through December, the legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the governor, senate, and assembly, the public authority may effectuate such transfer. Provided, however, that with respect to a below market transfer by a local authority that is not within the purpose, mission or governing statute of the local authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which such local authority resides, and the transfer is of property obtained by the authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

b. In the event a below fair market value asset transfer is proposed, the following information must be provided to the authority board and the public:

(i) a full description of the asset;

(ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board;

(iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;

(iv) a statement of the value to be received compared to the fair market value;

(v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and

(vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

c. Before approving the disposal of any property for less than fair market value, the board of an authority shall consider the information described in paragraph b of this subdivision and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

TITLE 6
EMINENT DOMAIN TAKING; PROPERTY OF PUBLIC BENEFIT CORPORATION

§ 2900. Compensation; eminent domain taking. When property of a public benefit corporation is taken in the exercise of the power of eminent domain for a purpose substantially different from that for which it is held by such public benefit corporation, just compensation to the public benefit corporation shall be made in the same manner, to the same extent and subject to the same limitations as though it were private property.

TITLE 7
INVESTMENTS OF PUBLIC AUTHORITIES

§ 2925. Investments of funds by public authorities and public benefit corporations; general provisions. 1. Every public authority and every public benefit corporation whether or not such corporation is otherwise governed by this chapter, (such entities to be hereinafter in this title referred to as "corporation") shall by resolution adopt comprehensive investment guidelines which detail the corporation's operative policy and instructions to officers and staff regarding the investing, monitoring and reporting of funds of the corporation. The investment guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

2. Funds of the corporation, for purposes of this title, shall consist of all moneys and other financial resources available for investment by the corporation on its own behalf or on behalf of any other entity or individual.

3. The investment guidelines approved by the corporation shall include, but not be limited to the following:

(a) A detailed list of the permitted investments of the corporation, which shall be consistent with the appropriate provisions of law relating to the corporation and any additional requirements pursuant to any contract with bondholders and noteholders.

(b) Procedures and provisions to fully secure the corporation's financial interest in investments; provided that the guidelines may include a description of the circumstances under which the corporation's financial interest in investments may be less than fully secured.

(c) A requirement that the corporation shall enter into written contracts pursuant to which investments are made, unless the corporation shall by resolution determine that a written contract is not practical or that there is not a regular business practice of written contracts with respect to a specific investment or transaction, in which case the corporation shall adopt procedures covering such investment or transaction. Such contracts and procedures shall include provisions:

(i) deemed necessary and sufficient to secure in a satisfactory manner the corporation's financial interest in each investment;

(ii) covering the use, type and amount of collateral or insurance for each investment;

(iii) establishing a method for valuation of collateral, and procedures for monitoring the valuation of such collateral on a regular basis;

(iv) for the monitoring, control, deposit and retention of investments and collateral which shall include, in the case of a repurchase agreement, a requirement that the obligations purchased be physically delivered for retention to the corporation or its agent (which shall not be an agent of the party with whom the corporation enters into such repurchase agreement), unless such obligations are issued in book-entry form, in which case the corporation shall take such other action as may be necessary to obtain title to or a perfected security interest in such obligations.

(d) Standards for the diversification of investments, including diversification with respect to types of investments and firms with which the corporation transacts business.

(e) Standards for the qualification of investment bankers, brokers, agents, dealers and other investment advisers and agents which transact business with the corporation, such as criteria covering quality, reliability, experience, capitalization, size and any other factors that, in the judgment of the corporation, make a firm qualified to transact business with the corporation.

(f) Provisions for reporting on the investments of the corporation, including provisions for an annual independent audit of all investments, the results of which shall be available to the board at the time the annual review and approval of investment guidelines is conducted by the corporation.

4. Each corporation shall have the power from time to time to amend such investment guidelines in accordance with the provisions of this title.

5. Each corporation shall direct the preparation and filing with the board of quarterly reports, or reports covering such other period as may be approved by the corporation, from a designated officer or employee regarding any new investments, the inventory of existing investments, and the selection of investment bankers, brokers, agents, dealers or auditors.

6. Each corporation shall annually prepare and approve an investment report which shall include the investment guidelines, as specified in

subdivision three of this section, amendments to such guidelines since the last investment report, an explanation of the investment guidelines and amendments, the results of the annual independent audit, the investment income record of the corporation and a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and adviser rendering investment associated services to the corporation since the last investment report. Such investment report may be a part of any other annual report that the corporation is required to make.

7. (a) Each corporation, a majority of the members of which consist of persons appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, shall annually submit its investment report to the division of the budget and copies thereof to the department of audit and control, the senate finance committee and the assembly ways and means committee.

(b) Each corporation, other than a corporation included under paragraph (a) of this subdivision, shall annually submit its investment report to the chief executive officer and chief fiscal officer of each municipality for the benefit of which it was created and to the department of audit and control.

(c) Each corporation shall make available to the public copies of its investment report upon reasonable request therefor.

8. Nothing contained in this section shall be deemed to alter, affect the validity of, modify the terms of or impair any contract, agreement or investment of funds made or entered into in violation of, or without compliance with, the provisions of this title.

§ 2926. Interest rate exchange or similar agreements for court facilities and combined occupancy structures and health facilities. 1. In connection with the issuance of bonds, notes, or other obligations, or in connection with such bonds, notes, or other obligations already outstanding, for court facilities and combined occupancy structures pursuant to section sixteen hundred eighty-b of this chapter, and health facilities pursuant to paragraph (b) of subdivision one of section eight of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three, the dormitory authority shall have the power to:

(a) enter into interest rate exchange or similar agreements with any person under such terms and conditions as the dormitory authority may determine, including provisions as to default or early termination and indemnification by the dormitory authority or any other party thereto for loss of benefits as a result thereof; and

(b) procure insurance, letters of credit or other credit enhancement with respect to agreements described in paragraph (a) of this subdivision; and

(c) provide security for the payment or performance of its obligations with respect to agreements described in paragraph (a) of this subdivision from such sources and with the same effect as authorized by applicable law with respect to security for its bonds, notes or other obligations; and

(d) modify, amend, replace, or enter into new agreements, for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty downgrade, default, or other potential economic loss.

2. Any interest rate exchange or similar agreement entered into pursuant to subdivision one of this section shall be subject to the following limitations:

(a) any such agreement shall be in the form of a written contract with a counterparty to provide for an exchange of payments based upon interest rates, and shall be for exchanges in currency of the United States of America only; and

(b) the counterparty thereto shall have credit ratings from at least two nationally recognized statistical rating agencies that are within the three highest investment grade categories, or the payment obligations of the counterparty shall be unconditionally guaranteed by an entity with such credit ratings; and

(c) the written contract shall require that, should the rating of the counterparty, if its payment obligations are not unconditionally guaranteed by another entity, or should the rating of the entity unconditionally guaranteeing the payment obligations of the counterparty, if so secured, fall below the rating required by paragraph (b) of this subdivision, that the obligations of such counterparty shall be fully and continuously collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America, with a net market value of at least one hundred two percent of the net market value of the contract to the dormitory authority, and such collateral shall be deposited with the dormitory authority or an agent thereof; and

(d) the total notional amount of such interest rate exchange or similar agreements entered into by the dormitory authority shall not exceed an amount equal to twenty per centum of the total amount of bonds, notes or other obligations outstanding or to be issued on behalf of a participating municipality pursuant to section sixteen hundred eighty-b of this chapter; provided, however, that such total notional amount shall not include the notional amount of interest rate exchange or similar agreements entered into for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty downgrade, default, or other potential economic loss; and

(e) the total notional amount of such interest rate exchange or similar agreements entered into by the dormitory authority shall not exceed an amount equal to twenty per centum of the total amount of bonds, notes or other obligations outstanding or to be issued on behalf of a participating municipality pursuant to paragraph (b) of subdivision one of section eight of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three; provided, however, that such total notional amount shall not include the notional amount of interest rate exchange or similar agreements entered into for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty downgrade, default, or other potential economic loss.

3. (a) Prior to authorizing the approval of any contract for interest rate exchange or similar agreement pursuant to subdivision one of this section, the board of the dormitory authority shall adopt written guidelines addressing the following:

(i) the conditions under which such contracts can be entered into;

(ii) the methods by which such contracts are to be solicited and procured;

(iii) the form and content such contracts shall take;

(iv) the aspects of risk exposure associated with such contracts;

(v) standards and procedures for counterparty selection;

(vi) the procurement of credit enhancement, liquidity facilities, or the setting aside of reserves in connection with such contracts;

(vii) collateralization or other requirements for securing the financial interest in such contracts;

(viii) the methods to be used to reflect such contracts in the dormitory authority's financial statements;

(ix) financial monitoring and periodic assessment of such contracts by the dormitory authority; and

(x) such other matters relating thereto as the board of the dormitory authority shall deem necessary and proper.

(b) The dormitory authority shall issue a report to the director of the budget, the chairpersons of the senate finance committee and the assembly ways and means committee, and the state comptroller, on or before March first in any state fiscal year in which it enters into or continues to be a party to a contract for interest rate exchange or similar agreement. Such report shall list all such contracts entered into pursuant to this section, and shall include, but not be limited to, the following information for each such contract, as applicable:

(i) a description of the contract, including a summary of the terms and conditions thereof and the method of procurement;

(ii) any amounts which were required to be paid and received, and any amounts which actually were paid and received thereunder;

(iii) any credit enhancement, liquidity facility or reserves associated therewith including an accounting of all costs and expenses incurred, whether or not in conjunction with the procurement of credit enhancement or liquidity facilities;

(iv) a description of each counterparty;

(v) an assessment of the counterparty risk, termination risk, and other risks associated therewith.

4. The dormitory authority shall not enter into any interest rate exchange or similar agreement pursuant to this section unless the lease,

sublease, or other agreement between the participating municipality and the dormitory authority:

(a) expressly authorizes the dormitory authority to enter into such agreements with respect to bonds, notes or other obligations outstanding or to be issued in connection with court facilities and combined occupancy structures or health facilities for that participating municipality; and

(b) further obligates the participating municipality to pay to the dormitory authority any and all amounts payable by the authority under, or as a result of, such interest rate exchange or similar agreement.

§ 2927. Investment of funds by public authorities and public benefit corporations in deposits insured by the federal deposit insurance corporation.

Notwithstanding any inconsistent provision of this chapter or any other general, special or local law, every corporation whether or not such corporation is otherwise governed by this chapter, may temporarily invest moneys not required for immediate expenditure in accordance with the following conditions:

1. the moneys are invested through a bank or trust company located and authorized to do business in this state selected by the corporation;

2. the selected bank or trust company arranges for the redeposit of the moneys in certificates of deposit and other deposit accounts in one or more banking institutions, as defined in section nine-r of the banking law, for the account of the corporation;

3. the full amount of principal and accrued interest of each such deposit is insured by the federal deposit insurance corporation;

4. the selected bank or trust company in this state acts as custodian for the corporation with respect to the funds redeposited pursuant to this section; and

5. at the same time that the corporation's moneys are redeposited pursuant to this section, the selected bank or trust company in this state receives an amount of deposits from customers of other financial institutions equal to or greater than the amount of the moneys invested by the corporation through the selected bank or trust company in this state.

TITLE 8

INTERNAL CONTROL RESPONSIBILITIES OF PUBLIC AUTHORITIES

§ 2930. Definitions. For the purposes of this title, the following terms shall have the following meanings:

1. "Internal control". A process that integrates the activities, plans, attitudes, policies, systems, resources and efforts of the people of an organization working together, and that is designed to provide reasonable assurance that the organization will achieve its objectives and mission. The objectives of an internal control system include, but are not limited to: the safeguarding of assets; checking the accuracy and reliability of accounting data and financial reporting; promoting the effectiveness and efficiency of operations; ensuring compliance with applicable laws and regulations; and encouraging adherence to prescribed managerial policies. Internal control review processes are used periodically to evaluate the ongoing internal control system and to assess and monitor the implementation of necessary corrective actions.

2. "Internal audit". An appraisal activity established by the management of an organization for the review of operations as a means of assuring conformity with management policies and the effectiveness of internal control, and conducted in conformance with generally accepted standards for internal auditing.

3. "Covered authority". Any public authority or public benefit corporation, other than a bi-state authority or public benefit corporation, a majority of whose members are appointed by the governor or serve as members by virtue of holding state offices to which they were appointed by the governor, or any combination thereof.

§ 2931. Internal control responsibilities. The governing board of each covered authority shall: 1. establish and maintain for the authority guidelines for a system of internal control that are in accordance with this article and internal control standards;

2. establish and maintain for the authority a system of internal control and a program of internal control review. The program of internal review shall be designed to identify internal control weaknesses, identify actions that are needed to correct these weaknesses, monitor the implementation of necessary corrective actions and periodically assess the adequacy of the authority's ongoing internal controls;

3. make available to each member, officer and employee a clear and concise statement of the generally applicable managerial policies and standards with which he or she is expected to comply. Such statement shall emphasize the importance of effective internal control to the authority and the responsibility of each member, officer and employee for effective internal control;

4. designate an internal control officer, who shall report to the head of the authority, to implement and review the internal control responsibilities established pursuant to this section; and

5. implement education and training efforts to ensure that members, officers and employees have achieved adequate awareness and understanding of internal control standards and, as appropriate, evaluation techniques.

§ 2932. Internal audit responsibilities. 1. The governing board of each covered authority or its designee shall determine, and periodically review the determination of, whether an internal audit function within the covered authority is required. Establishment of such function shall be based upon an evaluation of exposure to risk, costs and benefits of implementation, and any other factors that are determined to be relevant. In the event it is determined that an internal audit function is required, the governing board of each covered authority shall establish an internal audit function which operates in accordance with generally accepted professional standards for internal auditing. Any such internal audit function shall be directed by an internal audit director who shall report directly to the governing board of the authority. Internal audit director appointments shall be based on appropriate internal auditing credentials of the proposed appointee, consistent with generally accepted standards for internal auditing, including internal auditing education and experience. The internal audit function shall evaluate the authority's internal controls and operations, identify internal control weaknesses that have not been corrected and make recommendations to correct these weaknesses.

2. In the event the governing board does not establish an internal audit function pursuant to subdivision one of this section it shall nevertheless establish and maintain the program of internal control review required by section twenty-nine hundred thirty-one of this title.

TITLE 9

INTEREST RATES ON PUBLIC AUTHORITY BONDS AND NOTES

§ 2960. Interest rates. Notwithstanding any other provisions of this chapter or the provisions of any other general, special or local law, any public authority may agree or contract to pay interest on its certificates, notes or bonds, including those now outstanding, at such rate or rates, without limit, as may be necessary for an authority to sell such notes or bonds.

TITLE 10

STATE GOVERNMENTAL COST RECOVERY SYSTEM

§ 2975. Recovery of state governmental costs from public authorities and public benefit corporations. 1. Notwithstanding any other provision of law to the contrary, every public authority and every public benefit corporation created by or pursuant to New York state law at least three of whose members are appointed by the governor, whether such authority or corporation is otherwise governed by this chapter (such entities, as so constituted, to be hereafter in this title referred to as "public benefit corporations"), shall reimburse to New York state an allocable share of state governmental costs attributable to the provision of services to public benefit corporations, as determined herein. The payment of such costs by public benefit corporations is a valid and proper purpose for which available authority funds may be applied.

2. (a) Annually the director of the division of the budget of the state of New York (such person to be hereafter in this title referred to as the "director of the budget"), in consultation with the state comptroller, shall determine the total amount of expenses incurred or to be incurred during the state's fiscal year in connection with the provision of central governmental services to public benefit corporations. Such expenses, in addition to the direct costs of personal service, shall include indirect costs of employee benefits, maintenance and operation, state equipment and facilities, rental for space occupied in state leased facilities or the fair market rental value of space occupied in state owned facilities, and contractual services, all as attributable to the provision of otherwise unreimbursed services to public benefit corporations by the New York state department of audit and control, department of law, executive chamber, division of the

budget, the legislature, and such agencies, boards or commissions as the director of the budget determines provide such services to public benefit corporations.

(b) On or before November first, two thousand three and on or before November first of each year thereafter, the director of the budget shall determine the amount owed under this section by each public benefit corporation. The director of the budget may reduce, in whole or part, the amount of such assessment if the payment thereof would necessitate a state appropriation for the purpose, or would otherwise impose an extraordinary hardship upon the affected public benefit corporation. The aggregate amount assessed under this section in any given state fiscal year may not exceed sixty-five million dollars.

3. The state treasurer shall impose and collect such assessments, which shall be paid no later than March thirty-first following the imposition of the assessments, and pay the same into the state treasury to the credit of the general fund.

3-a. A direct portion of these funds shall be allocated to fund the authorities budget office established by section four of this chapter.

4. The provisions of subdivisions two and three of this section shall not apply to any public benefit corporation which enters into a contract or agreement with the director of the budget which otherwise provides for cost recovery to the state and includes a provision that, in accordance with this subdivision, subdivisions two and three of this section shall not apply to such public benefit corporation. The circumstances for the entry into such contract or agreement may include, but shall not be limited to, the following:

(a) where such contract or agreement is for an amount which equals or exceeds the amount of the assessment provided by subdivision two of this section; or

(b) where the payment of all or a portion of the assessment provided by subdivision two of this section would necessitate, in the judgment of the director of the budget, an appropriation therefor by the state.

5. On or before June first, nineteen hundred ninety, and annually on

or before June first, the director of the budget shall report to the respective chairpersons of the assembly ways and means committee and senate finance committee the amount of cost recovery obtained pursuant to this title and all contracts and agreements entered into pursuant to subdivision four of this section for the state fiscal year ending on the preceding March thirty-first.

§ 2976. Cost recovery on the issuance of certain bonds. 1. Notwithstanding any other law to the contrary, public benefit corporations (which for purposes of this section shall include industrial development agencies created pursuant to title one of article eighteen-A of the general municipal law or any other provision of law and the New York city housing development corporation created pursuant to article twelve of the private housing finance law) which issue bonds, notes or other obligations shall pay to the state a bond issuance charge upon the issuance of such bonds in an amount determined pursuant to subdivision two of this section. Such charge shall be paid to the state department of taxation and finance, upon forms prescribed therefor, no later than fifteen days from the end of the month within which such bonds are issued.

2. The bond issuance charge shall be computed by multiplying the principal amount of bonds issued by the percentage set forth in the schedule below, provided that: (a) the charge applicable to the principal amount of single family mortgage revenue bonds shall be seven one-hundredths of one percent; (b) the issuance of bonds shall not include the remarketing of bonds; and (c) the issuance of bonds shall not include the refunding of bonds, notes or other obligations.

SCHEDULE

Principal Amount of Bonds Issued	Percentage Charge
a. $20,000,000 or less	0%
b. More than $20,000,000	.35%

3. The provisions of subdivisions one and two of this section shall not apply to any public benefit corporation which enters into a contract or agreement with the director of the budget which otherwise provides

for cost recovery to the state under this section and includes a provision that, in accordance with this subdivision, subdivisions one and two of this section shall not apply to such public benefit corporation. The circumstances for the entry into such contract or agreement may include, but shall not be limited to, those where the amount to be paid thereunder equals or exceeds the amount of the bond issuance charge which would otherwise be applicable pursuant to subdivisions one and two of this section.

4. The provisions of subdivisions one and two of this section shall not apply to recovery act bonds issued by the state of New York municipal bond bank agency in connection with local American Recovery and Reinvestment Act pursuant to section two thousand four hundred thirty-six-b of this chapter.

§ 2977. Applicability of title. 1. The provisions of this title shall not be construed to, nor shall they be implemented in such a manner as to:

(a) require the application of monies pledged to the security of bonds, notes or other obligations in violation of applicable bond covenants; or

(b) otherwise impair the rights of bondholders of the public benefit corporations affected by this title.

2. To the extent precluded by interstate or international compact which creates any public benefit corporation, the provisions of this title shall not apply to any such public benefit corporation until the passage of legislation, by the other party to such compact, which validates or has the same effect as this title.

TITLE 11

WRONGFUL DEATH ACTIONS

§ 2980. Wrongful death; notice of claim. No wrongful death action against a public authority or public benefit corporation shall be commenced unless a notice of claim has been served on the authority or corporation in accordance with the provisions of section fifty-e of the general municipal law.

§ 2981. Wrongful death; limitation period. A wrongful death action against a public authority or public benefit corporation shall be commenced within two years of the happening of the death.

§ 2982. Scope of title. Except where such an action is statutorily required to be brought only in the court of claims, this title shall be applicable to all wrongful death actions brought against a public authority or public benefit corporation, notwithstanding any inconsistent provisions of law, general, special or local, or any limitation contained in the provisions of any city charter.

§ 2985. Owner liability for failure of operator to comply with toll collection regulations. 1. Notwithstanding any other provision of law, every public authority which operates a toll highway bridge and/or tunnel facility is hereby authorized and empowered to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with the toll collection regulations of such public authority in accordance with the provisions of this section.

2. The owner of a vehicle shall be liable for a civil penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of toll collection regulations, and such violation is evidenced by information

obtained from a photo-monitoring system, provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of a violation of toll collection regulations for the same incident.

3. For purposes of this section, the term "owner" shall mean any person, corporation, partnership, firm, agency, association, lessor or organization who, at the time of the violation and with respect to the vehicle identified in the notice of liability: (a) is the beneficial or equitable owner of such vehicle; or (b) has title to such vehicle; or (c) is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or (d) subject to the limitations set forth in subdivision ten of this section, uses such vehicle in its vehicle renting and/or leasing business; and includes (e) a person entitled to the use and possession of a vehicle subject to a security interest in another person. For purposes of this section, the term "photo-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a toll collection facility which automatically produces one or more photographs, one or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of toll collection regulations. For purposes of this section, the term "toll collection regulations" shall mean: those rules and regulations of a public authority providing for and requiring the payment of tolls and/or charges prescribed by such public authority for the use of bridges, tunnels or highways under its jurisdiction or those rules and regulations of a public authority making it unlawful to refuse to pay or to evade or to attempt to evade the payment of all or part of any toll and/or charge for the use of bridges, tunnels or highways under the jurisdiction of such public authority. For purposes of this section, the term "vehicle" shall mean every device in, upon or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

4. A certificate, sworn to or affirmed by an agent of the public authority which charged that the violation occurred, or a facsimile

thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo-monitoring system shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding charging a violation of toll collection regulations, provided that any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection and admission into evidence in any proceeding to adjudicate the liability for such violation.

5. An owner found liable for a violation of toll collection regulations pursuant to this section shall for a first violation thereof be liable for a monetary penalty not to exceed fifty dollars or two times the toll evaded whichever is greater; for a second violation thereof both within eighteen months be liable for a monetary penalty not to exceed one hundred dollars or five times the toll evaded whichever is greater; for a third or subsequent violation thereof all within eighteen months be liable for a monetary penalty not to exceed one hundred fifty dollars or ten times the toll evaded whichever is greater.

6. An imposition of liability pursuant to this section shall be based upon a preponderance of evidence as submitted. An imposition of liability pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the motor vehicle operating record, furnished pursuant to section three hundred fifty-four of the vehicle and traffic law, of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

7. (a) A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of toll collection regulations. Such notice shall be mailed no later than thirty days after the alleged violation. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the mailing of the notice.

(b) A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of toll collection regulations pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the photo-monitoring system which recorded the violation or other document locator number.

(c) The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(d) The notice of liability shall be prepared and mailed by the public authority having jurisdiction over the toll facility where the violation of toll collection regulations occurred.

8. (a) Adjudication of the liability imposed upon owners by this section shall be by the entity having jurisdiction over violations of the rules and regulations of the public authority serving the notice of liability or where authorized by an administrative tribunal and all violations shall be heard and determined in the county in which the violation is alleged to have occurred, or in New York city and upon the consent of both parties, in any county within New York city in which the public authority operates or maintains a facility, and in the same manner as charges of other regulatory violations of such public authority or pursuant to the rules and regulations of such administrative tribunal as the case may be.

(b) Upon exhaustion of remedies pursuant to this section or section twenty-nine hundred eighty-five-a of this title, as applicable, the New York state bridge authority, thruway authority, triborough bridge and tunnel authority, metropolitan transportation authority, and port authority of New York and New Jersey, a bi-state agency created by compact set forth in chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, shall have the power to enter judgments for unpaid liabilities, provided that such unpaid liabilities include the failure to pay tolls, fees, or other charges or the failure to have such tolls, fees or other charges dismissed or transferred in response to three or more notices of violation issued within a five year period charging the registrant of a motor vehicle with a violation of toll collection regulations, and to enforce such judgments, without court proceedings, in the same manner as the enforcement of money judgments in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within the state of New York, after a period of notice pursuant to paragraph (c) of this subdivision. The applicable tolling authority shall not enforce such judgments until thirty days have elapsed from issuing a notice pursuant to paragraph (c) of this subdivision.

(c) Prior to entering judgments for unpaid liabilities pursuant to paragraph (b) of this subdivision, the applicable tolling authority shall notify the person subject to such judgment, by first class mail, that such person is at risk of entry of a judgment against them if they fail to pay such unpaid liabilities. The form and content of such notice shall be prescribed by the applicable tolling authority, and shall contain a warning to advise the person that failure to pay the applicable unpaid liabilities within a period of not less than thirty days of such notice will result in the enforcement of a judgment against them, and shall further contain information about the process to dispute such liabilities, consistent with this section or section twenty-nine hundred eighty-five-a of this title, as applicable.

9. If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was stolen, but not as yet reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations pursuant to this section that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court or other entity having

jurisdiction.

10. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision seven of this section shall not be liable for the violation of the toll collection regulation provided that he or she sends to the public authority serving the notice of liability and to the court or other entity having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the original notice of liability. Failure to send such information within such thirty day time period shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section and shall be subject to liability for the violation of toll collection regulations, provided that the public authority mails a notice of liability to the lessee within ten days after the court, or other entity having jurisdiction, deems the lessee to be the owner. For purposes of this subdivision the term "lessor" shall mean any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or otherwise wherein the said lessee has the exclusive use of said vehicle for any period of time. For purposes of this subdivision, the term "lessee" shall mean any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of one or more vehicles and has exclusive use thereof for any period of time.

11. Except as provided in subdivision ten of this section, if a person receives a notice of liability pursuant to this section it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the individual who received the notice of liability pursuant to this section was not the owner of the vehicle at the time the violation occurred. If the owner liable for a violation of toll collection regulations pursuant to this section was not the

operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

12. "Electronic toll collection system" shall mean a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which information is used to charge the account the appropriate toll or charge. In adopting procedures for the preparation and mailing of a notice of liability, the public authority having jurisdiction over the toll facility shall adopt guidelines to ensure adequate and timely notice to all electronic toll collection system account holders to inform them when their accounts are delinquent. An owner who is an account holder under the electronic toll collection system shall not be found liable for a violation of this section unless such authority has first sent a notice of delinquency to such account holder and the account holder was in fact delinquent at the time of the violation.

13. Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of toll collection regulations.

14. Notwithstanding any other provision of law, all photographs, microphotographs, videotape or other recorded images prepared pursuant to this section shall be for the exclusive use of a public authority in the discharge of its duties under this section and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless such action or proceeding relates to the imposition of or indemnification for liability pursuant to this section. The public authority shall not sell, distribute or make available in any way, the names and addresses of electronic toll collection system account holders, without such account holders' consent to any entity that will use such information for any commercial purpose provided that the foregoing restriction shall not be deemed to preclude the exchange of such information between any entities with jurisdiction over and or operating a toll highway bridge and/or tunnel facility.

*** § 2985-a. Payment of tolls under the tolls by mail program.** 1. This section shall not apply to the payment of tolls by means of an electronic toll device that transmits information through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title.

2. For purposes of this section, the following terms shall have the following meanings:

(a) "Cashless tolling facility" shall mean a toll roadway, bridge or tunnel facility that does not provide for the immediate on-site payment in cash of a toll owed for the use of such facility.

(b) "Owner" shall mean any person, corporation, partnership, firm, agency, association, lessor or organization who, at the time of incurring an obligation to pay a toll at a cashless tolling facility, and with respect to the vehicle identified in the toll bill or notice of violation: (i) is the beneficial or equitable owner of such vehicle; or (ii) has title to such vehicle; or (iii) is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or (iv) subject to the limitations set forth in subdivision ten of section twenty-nine hundred eighty-five of this title, uses such vehicle in its vehicle renting and/or leasing business; or (v) is a person entitled to the use and possession of a vehicle subject to a security interest in another person.

(c) "Toll bill" shall mean a notice sent to an owner notifying such owner that the owner's vehicle has been used or operated in or upon a cashless tolling facility and the owner has incurred an obligation to pay a toll.

(d) "Notice of violation" shall mean a notice sent to an owner notifying such owner that a toll incurred at a cashless tolling facility by the owner has not been paid at the place and time and in the manner established for collection of such toll in the toll bill and that an administrative violation fee is being imposed for each such unpaid toll.

(e) "Billing cycle" shall mean a period not to exceed thirty calendar days once tolls have posted for purposes of consolidated toll billing.

(f) "Initial billing cycle" shall mean a period not to exceed fifteen business days after identifying the owner or other party responsible for paying the toll for the purpose of consolidated toll billing for an obligation to pay a toll bill for the first time at a cashless tolling facility in a six-month period.

(g) "Tolls by mail program" shall mean any program operated by or on behalf of a public authority to send a toll bill to an owner whose vehicle crosses a cashless tolling facility without a valid electronic device that successfully transmits information through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title.

(h) "Declaration of dispute" shall mean a submission by an owner disputing all or any portion of a toll, fee, penalty, or other obligation incurred by an owner whose vehicle crosses a cashless tolling facility, in such form as the public authority shall provide in regulations and through display on the authority's website.

3. In the case of an owner who incurs an obligation to pay a toll for the first time in six months under the tolls by mail program at a cashless tolling facility, a toll bill shall be sent within ten business days after the end of the initial billing cycle and of each subsequent billing cycle. In the case of all other owners incurring an obligation to pay a toll at a cashless tolling facility, a toll bill shall be sent at the end of the next billing cycle. Toll bills shall be sent to the owner by first class mail, and may additionally be sent by electronic means of communication upon the affirmative consent of the owner, by or on behalf of the public authority which operates such cashless tolling facility. The owner shall have thirty days from the date of the toll bill to pay the incurred toll. The toll bill shall include: (i) the total amount of the incurred tolls due, (ii) the date by which payment of the incurred tolls is due, (iii) any administrative fees, (iv) the address for receipt of payment and methods of payment for the toll, (v) the procedure for contesting any toll and the contact information for the relevant toll payer advocate office and customer service center, (vi) information related to the failure to timely pay or respond to the notice of liability, in addition to the possibility that a judgment can be entered for repeat unpaid liabilities that could lead to a vehicle

being towed or immobilized, (vii) a website address or hyperlink for the owner to access time-stamped photographs or footage of each toll incurred by electronic means, (viii) information related to the availability of the toll payer advocate to discuss payment options, and (ix) other information required by law or by the public authority. Each toll bill shall identify the date, time, location, license plate number, and jurisdiction of the license plate for each toll that has been incurred. Each toll bill shall include an image of the license plate of the vehicle being used or operated on the toll facility. If the owner fails to pay the initial toll bill, a second toll bill shall be sent in the next billing cycle, which shall also indicate the overdue toll or tolls and any administrative or late fees due.

4. In the case of an owner who does not pay a toll incurred under the tolls by mail program on a cashless facility at the place and time and in the manner established for collection of such toll in the second toll bill, a notice of violation shall be sent notifying the owner that the toll is unpaid and administrative violation fees are being imposed. The notice of violation shall be sent to the owner by first class mail, and may additionally be sent by electronic means of communication upon the affirmative consent of the owner, by or on behalf of the public authority which operates such cashless tolling facility. The notice of violation shall include: (i) the total amount of unpaid tolls and administrative violation fees due, (ii) the date by which payment of the tolls and administrative violation fees is due, (iii) the address for receipt of payment and methods of payment for the toll, (iv) the procedure for contesting any toll and the contact information for the relevant toll payer advocate office and customer service center, (v) information related to the failure to timely pay or respond to the notice of liability, in addition to the possibility that a judgment can be entered for repeat unpaid liabilities that could lead to a vehicle being towed or immobilized, (vi) a website address or hyperlink for the owner to access time-stamped photographs or footage of each toll incurred by electronic means, (vii) information related to the availability of the toll payer advocate to discuss payment options, and (viii) other information required by law or by the public authority. Each notice of violation shall identify the date, time, location,

license plate number, and jurisdiction of the license plate for each unpaid toll that has been incurred.

5. Any fee or administrative violation fee that is assessed on a notice of violation pursuant to subdivision four of this section shall be dismissed if the notice of violation was not sent within ninety days of the second toll bill, provided that any toll or tolls incurred remain due and payable and provided further that such dismissal shall not apply in the event that exceptional circumstances, including but not limited to technological failures, have delayed the timely mailing of the notice of violation and the public authority has posted notice of such circumstances prominently on its website within a reasonable time of becoming aware of such circumstances, which shall be adequate record of such circumstances.

6. Any toll bill or notice of violation required to be sent pursuant to this section by first class mail may also be sent, with consent of the owner, by electronic means of communication by or on behalf of the public authority. It shall be the sole responsibility of the owner to provide and update the address used for electronic means of communication to the owner by the public authority. A manual or automatic record of electronic communications prepared in the ordinary course of business shall be adequate record of electronic notice.

7. Any owner who incurs an obligation to pay a toll under the tolls by mail program at a public authority's cashless tolling facility shall have an option to receive alerts by electronic means of communication that a toll has been incurred. Such alerts shall be provided to the owner who has elected to receive such alerts no more than seventy-two hours after the owner is identified. Each public authority shall create an online registration for an electronic means of communication alert that a toll has been incurred under the tolls by mail program at a cashless tolling facility. In the event an owner chooses to receive an electronic means of communication alert of a toll incurred, it shall be the owner's sole responsibility to provide and update any mobile numbers, electronic mail addresses, or any other addresses used for electronic means of communication to which alerts are sent. A manual or

automatic record of electronic communications prepared in the ordinary course of business shall be adequate record of electronic notice.

8. If an owner receives a notice of violation pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. If an owner receives a notice of violation pursuant to this section for any time period during which the vehicle was stolen, but not as yet reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations pursuant to this section that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court or other entity having jurisdiction.

9. An owner who is a lessor of a vehicle to which a notice of violation was issued pursuant to subdivision four of this section shall not be liable for the violation of the toll collection regulations provided the owner sends to the public authority serving the notice of violation and to the court or other entity having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the original notice of violation. Failure to send such information within such thirty-day time period shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section and shall be subject to liability for the violation of the toll collection regulations, provided that the public authority mails a notice of violation to the lessee within ten business days after the public authority deems the lessee to be the owner. For purposes of this

subdivision the term "lessor" shall mean any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or otherwise wherein the said lessee has the exclusive use of said vehicle for any period of time. For purposes of this subdivision, the term "lessee" shall mean any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of one or more vehicles and has exclusive use thereof for any period of time.

10. Except as provided in subdivision nine of this section, if a person receives a notice of violation pursuant to this section it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the individual who received the notice of violation pursuant to this section was not the owner of the vehicle at the time the violation occurred. If the owner liable for a violation of toll collection regulations pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

11. Any public authority that operates a cashless tolling facility shall: (i) maintain a website and toll-free phone number for any person to receive updated information on any tolls or fees which are outstanding; and (ii) establish procedures for owners to dispute any tolls and violation fees incurred in connection with toll bills, including a requirement that written determinations in such disputes shall be issued within forty-five days of receipt of the owner's declaration of dispute. Such information shall be prominently displayed on such public authority's toll bills, notices of violation and website.

12. Every public authority that operates a cashless tolling facility shall develop policies and procedures for the establishment on a case-by-case basis of a written payment plan agreement for an owner's unpaid tolls and administrative violation fees incurred at a cashless tolling facility, subject to the availability of sufficient resources for the public authority to administer such payment plans. Information related to payment plans shall be made available upon the owner's

request to the public authority's customer service center. The public authority shall not charge any additional amount or fee for enrollment in a payment plan agreement. Owners shall fully comply with all payment plan agreement terms and conditions and shall be subject to payment plan agreement default provisions.

13. Every public authority that operates a cashless tolling facility shall establish an office of such authority's toll payer advocate, designed to further assist owners who remain unsatisfied after first attempting resolution in writing of their concern with, and receiving written determination from, such authority's customer service center. The office of the toll payer advocate shall also endeavor to identify any systemic issues and recommend reasonable improvements regarding the use of and process involved with the payment of tolls under the tolls by mail program at cashless tolling facilities to the public authority.

14. A public authority that operates a cashless tolling facility, including the officers, employees, contractors and agents of such public authority, shall not report to a consumer reporting agency, as defined in 15 U.S.C. § 1681a, any toll, fee, penalty or other obligation incurred by an owner related to use of a cashless tolling facility.

15. Nothing in this section shall prohibit a public authority from collecting any toll or fee in the event that an owner does not properly register a vehicle pursuant to the laws, rules and regulations of this state, or any other state, territory, district, province, nation or other jurisdiction.

16. Nothing in this section shall require a public authority to perform any action or forbear from performing any action that would in the public authority's sole discretion impair any covenant with the holders of any of the public authority's bonds, notes or other obligations.

* NB Effective provided that the state of New Jersey has enacted legislation having an identical effect (see chapter 56 of 2024, Part WW Subpart B)

TITLE 12

WHISTLEBLOWER ACCESS AND ASSISTANCE PROGRAM

Section 2986. Whistleblower access and assistance program.

§ 2986. Whistleblower access and assistance program. 1. Definitions. a. "Employees of state and local authorities" means those persons employed at state and local authorities, including but not limited to: full-time and part-time employees, those employees on probation, and temporary employees.

b. "Attorney general" shall mean the attorney general of the state of New York.

c. "Whistleblower" shall mean any employee of a state or local authority who discloses information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, concerning the authority's investments, travel, acquisition of real or personal property, the disposition of real or personal property and the procurement of goods and services.

2. The director of the authorities budget office, after consultation with the attorney general, shall develop and recommend to the legislature a whistleblower access and assistance program which shall include, but not be limited to:

a. evaluating and commenting on whistleblower programs and policies by state and local authorities pursuant to paragraph (e) of subdivision one of section twenty-eight hundred twenty-four of this article;

b. establishing toll-free telephone and facsimile lines available to employees at state and local authorities;

c. offering advice regarding employee rights under applicable state and federal laws and advice and options available to all persons; and

d. offering an opportunity for employees of state and local authorities to identify concerns regarding any issue at a state or local authority.

3. Any communications between an employee and the authorities budget office pursuant to this section shall be held strictly confidential by the authorities budget office, unless the employee specifically waives in writing the right to confidentiality, except that such confidentiality shall not exempt the authorities budget office from disclosing such information, where appropriate, to the state inspector general in accordance with section fifty-five of the executive law, or prevent disclosure to any law enforcement authority.

TITLE 12-A

PUBLIC AUTHORITIES LOBBYING CONTACTS

Section 2987. Lobbying contacts.

§ 2987. Lobbying contacts. 1. Definitions. As used in this title:

a. "lobbyist" shall have the same meaning as defined in section one-c of the legislative law.

b. "lobbying" shall mean and include any attempt to influence:

(i) the adoption or rejection of any rule or regulation having the force and effect of law by a public authority, and

(ii) the outcome of any rate making proceeding by a public authority.

c. "contact" shall mean any conversation, in person or by telephonic or other remote means, or correspondence between any lobbyist engaged in the act of lobbying and any person within a state authority who can make or influence a decision on the subject of the lobbying on behalf of the authority, and shall include, at a minimum, all members of the governing board and all officers of the state authority.

2. Every state authority shall maintain a record of all lobbying contacts made with such authority.

3. Every member, officer or employee of a state authority who is contacted by a lobbyist shall make a contemporaneous record of such contact containing the day and time of the contact, the identity of the lobbyist and a general summary of the substance of the contact.

4. Each state authority shall adopt a policy implementing the requirements of this section. Such policy shall appoint an officer to whom all such records shall be delivered. Such officer shall maintain such records for not less than seven years in a filing system designed to organize such records in a manner so as to make such records useful to determine whether the decisions of the authority were influenced by lobbying contacts.

ARTICLE 10

NEW YORK STATE MUNICIPAL ASSISTANCE CORPORATION ACT

TITLE I

SHORT TITLE; GENERAL DEFINITIONS; LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSES

§ 3001. Short title. This article shall be known and may be cited as the "New York State Municipal Assistance Corporation Act".

§ 3002. Legislative findings and statement of purposes. It is hereby found and declared that, by reason of the severe economic and social dislocations of recent years, there has been a great increase in the need and demand for public services at a time when financing such services has become increasingly difficult, and that, due to a general decline in investor acceptance of local government securities and to almost unprecedented interest rates, a number of municipalities in this state have, despite the financial soundness of their obligations, recently faced increased difficulty in selling a sufficient amount of their securities to enable them to refund their outstanding obligations or to meet their cash requirements. For the immediate future, this increased difficulty has caused concern that such municipalities may be unable to provide, without interruption, many services essential to their inhabitants while also meeting their obligations to the holders of their outstanding securities as they come due. It is in the public interest and is the policy of this state to assist municipalities attempting to provide, without interruption, services essential to their inhabitants while meeting their obligations to the holders of their outstanding securities. The impairment of the credit of the municipalities within the state may affect the ability of the state to issue its own obligations at normal interest rates. Such effect is a matter of state concern. It is further declared that the state should exercise its power in the interest of such municipalities and should implement such policy by authorizing on behalf of each municipality which is found by the legislature to require the state's assistance and which expressly requests such assistance, the creation of a state instrumentality to be a body corporate and politic, having full powers to borrow money and to issue its bonds and notes for the purpose of providing to that municipality assistance sufficient to enable it to avoid the interruption of services essential to its inhabitants while meeting its obligations to the holders of its outstanding securities. It is further declared to be in the public interest and is the policy of this state that each such instrumentality shall provide financial assistance to a municipality only if that municipality agrees to make and observe such changes in its record keeping, accounting, budgeting and financial management practices as that instrumentality may be authorized, by the special law creating it, to require as a condition of providing financial assistance.

§ 3003. Definitions. As used in this article, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

1. "Municipality" means any city in the state.

2. "State" means the state of New York.

3. "Governor" means the governor of the state of New York.

4. "Comptroller" means the comptroller of the state of New York.

5. "Director of the budget" means the director of the budget of the state of New York.

6. "Legislature" means the legislature of the state of New York.

7. "Special law" means the special law of the legislature pursuant to which a municipal assistance corporation is created.

8. "Municipal assistance corporation" means a corporation created pursuant to section three thousand ten of this article.

9. "Bonds" and "notes" means bonds and notes, respectively, issued by a municipal assistance corporation pursuant to this article.

10. "Obligations" means bonds and notes.

11. "Amortized value" means for securities purchased at a premium above or a discount below par, the value as of any given date obtained

by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (a) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (b) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

12. "Revenues" means all federal or state aid, rents, fees, charges, payments and other income and receipts paid or payable to a municipal assistance corporation or for the account of a municipal assistance corporation, including any payment permitted or required to be made to such a corporation by this article.

13. "Board of directors" means the board of directors of a municipal assistance corporation.

TITLE II

GENERAL PROVISIONS RELATING TO MUNICIPAL ASSISTANCE CORPORATIONS

§ 3010. Creation; purposes and general powers of a municipal assistance corporation. A municipal assistance corporation shall be created by a special law of the legislature. The purposes of a municipal assistance corporation shall be to assist a municipality attempting to provide, without interruption, services essential to its inhabitants while meeting its obligation to the holders of its outstanding securities. Such assistance shall be provided through the issuance and sale of bonds and notes and paying or lending funds received from such sale to the municipality, or through the exchange of its obligations for obligations of the municipality. To carry out the aforesaid purposes, a municipal assistance corporation shall have, in addition to any powers specifically granted in the special act creating such municipal assistance corporation, the following powers: (1) to sue and be sued, (2) to have a seal and alter the same at pleasure; (3) to make and alter by-laws for its organization and internal management and, subject to agreements with noteholders or bondholders, to make rules and regulations governing the use of its property and facilities; (4) to make and execute contracts, leases, subleases and all other instruments or agreements necessary or convenient for the exercise of its powers and functions under this title; (5) to purchase real or personal property necessary and convenient for its corporate purposes; to execute and deliver deeds for real property held in its own name; and to sell or otherwise dispose of such real or personal property that, in the judgment of the municipal assistance corporation, is no longer necessary for its corporate purposes; (6) to appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation; (7) to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement; (8) subject to other provisions of law, to lend or otherwise transfer to the municipality for which the municipal assistance corporation was created such sums of money as are not required for other purposes; (9) to borrow money and to issue notes or bonds and to fund or refund the same, and to provide for the rights of the holders of its obligations; (10) subject to the provisions of any contract with noteholders or bondholders to invest any funds held in funds or accounts (except as hereafter provided), or any funds not required for immediate use or disbursement, at the discretion of the municipal assistance corporation, in obligations of the municipality being assisted or obligations of the state or federal government, obligations the principal of and interest on which are guaranteed by such municipality, the state or federal government, or obligations of agencies of such municipality, the state or federal government which may, from time to time, be legally purchased by savings banks of the state as investments of funds belonging to them or in their control and which have been approved by the comptroller or in a secured time deposit or other interest-bearing accounts secured by such obligations; provided, however, that no funds held in a capital reserve fund may be invested in obligations of or guaranteed by the municipality being assisted or of any of its agencies; (11) subject to the provisions of any contract with noteholders or bondholders, to purchase notes or bonds of the corporation; (12) to procure insurance against any loss in such amounts and from such insurers as it deems desirable; (13) to engage the services of consultants on a contract basis for rendering professional and technical assistance and advice; (14) subject to the approval of the director of the budget to contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from any other source and to comply with the terms and conditions thereof; (15) as security for the payment of the principal of and interest on any bonds or notes so issued and any agreements made in connection therewith to pledge all or part of its property or revenues; (16) to require any municipality to which assistance is provided under this article or any authority, agency or other body established by or on behalf of such municipality to make available all books and records, and to furnish copies of all financial statements, budgets, forecasts, projections and related information as may be requested; (17) to pay the expenses of the operation of the corporation, including but not limited to the repayment to the state of any advance to the corporation under any agreement between the corporation and the director of the budget out of any revenues available to the corporation and not otherwise pledged except the proceeds of its notes and bonds; and (18) in connection with any agreement by the federal government or any agency or instrumentality thereof to guarantee the payment of the principal of or the interest on the obligations issued by the municipality for which the municipal assistance corporation was created, to enter into one or more agreements with the federal government or any agency or instrumentality thereof in respect of such guarantee containing terms and conditions required by the secretary of the treasury pursuant to the federal act authorizing the issuance of such guarantees and to comply with such terms and conditions, including, without limitation, a requirement that the corporation make deposits or cause monies to be deposited in a fund or funds established in connection with the issuance of guaranteed obligations or funds pursuant to the terms and conditions of such guarantee; and (19) to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this article or in the special act creating such municipal assistance corporation.

§ 3011. Administration of a municipal assistance corporation. 1. Unless otherwise provided in a special law, a municipal assistance corporation shall be administered by a board of directors appointed by the governor with the advice and consent of the senate. The number and qualifications of such directors and their terms of office shall be set forth by a special law. The comptroller of the state of New York, or his representative shall be entitled to attend and participate in the meetings of the board of directors but shall have no vote.

2. The governor shall designate as chairman one of the directors appointed by him. The chairman shall preside over all meetings of the board of directors and shall have such other duties as may be prescribed by the board of directors.

3. The directors of a municipal assistance corporation shall serve without salary or other compensation, but each director shall be entitled to reimbursement for actual and necessary expenses incurred in

the performance of his or her official duties as a director of the corporation. The directors, except as otherwise provided by law, may engage in private employment, or in a profession or business. The directors of a municipal assistance corporation shall be deemed to be state officers for the purposes of sections seventy-three and seventy-four of the public officers law. Notwithstanding such provisions of the public officers law or of any other law, a municipal assistance corporation or any other state instrumentality (including any state agency, trust fund or public benefit corporation) may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any corporation, trust, association, partnership or other entity in which any director of such municipal assistance corporation has a financial interest, direct or indirect, and a municipal assistance corporation may engage in any such transaction with any other such state instrumentality with which any director of such municipal assistance corporation is affiliated as a state officer or employee, provided that such interest or affiliation is disclosed to such other state instrumentality and to the municipal assistance corporation, and, in the case of transactions with the municipal assistance corporation, such interest or affiliation is disclosed in the minutes of the board of directors of the municipal assistance corporation, and provided further that no director having such a financial interest or affiliation shall participate in any decision of the board of directors of the municipal assistance corporation authorizing or affecting such transaction.

4. A special law may provide for the appointment of one or more representatives to the board of directors. Such representative shall be entitled to receive notice of and to attend the meetings of the board of directors but shall not be entitled to vote. Such representative shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties as a representative to the corporation but shall not be entitled to a per diem allowance, unless specifically provided in the special law.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or political division of the state, any governmental entity operating any public

school or college or other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit his office or employment by reason of his acceptance or appointment as a director, officer, employee or agent of a municipal assistance corporation nor shall service as such director, officer, employee or agent of a municipal assistance corporation be deemed incompatible or in conflict with such office or employment.

6. Except as otherwise provided by special law, a majority of the whole number of authorized directors shall constitute a quorum for the transaction of any business and shall be required for the taking of any action or for the exercise of any power by the board of directors of a municipal assistance corporation. No vote at such meeting shall be cast by proxy. A municipal assistance corporation may delegate to one or more of its directors, or officers, agents and employees, such powers and duties as the directors may deem proper.

7. A municipal assistance corporation may appoint such officers, employees and agents as it may require, prescribe their duties and fix their compensation.

§ 3012. Issuance of notes and bonds of a municipal assistance corporation. 1. (a) A municipal assistance corporation shall have the power and is hereby authorized from time to time to issue its notes and bonds in conformity with applicable provisions of the uniform commercial code, in such principal amounts as such corporation shall determine to be necessary within the limits of authorized indebtedness prescribed in the special law creating such corporation, to provide sufficient funds for achieving its corporate purposes, including the making of payments to or purchase of obligations of, the municipality for which the corporation was created, to make payments of interest on its notes and bonds, to establish reserves to secure such notes and bonds and to make deposits into a fund or funds established pursuant to any agreement entered into by such corporation with the federal government or an agency or instumentality thereof in accordance with subparagraph eighteen of section three thousand ten of this article.

(b) A municipal assistance corporation shall have the power, from time to time, to issue (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its other corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(c) Except as may otherwise be expressly provided by a municipal assistance corporation, every issue of its notes and bonds shall be general obligations of the municipal assistance corporation payable out of any revenues of such corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

(d) Such notes and bonds shall be authorized by resolution of a municipal assistance corporation, shall bear such date and shall mature at such time or times as such resolution may provide. The bonds may be issued as serial bonds or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate or rates, be in such denominations and in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution may provide.

(e) The notes or bonds of the municipal assistance corporation may be exchanged for obligations of the municipality being assisted or may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by such corporation, and the corporation may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. Subsequent to July first, nineteen hundred seventy-five, no notes or bonds of a municipal assistance corporation may be sold at private sale unless such sale and the terms thereof have been approved in writing by (a) the comptroller where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

2. Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(b) pledging all or any part of the assets of the corporation to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) limitations on the purposes to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds of any issue thereof;

(e) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;

(f) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) vesting in a trustee or trustees such property, rights, powers and duties in trust as the corporation may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this title or limiting the rights, powers and duties of such trustee;

(h) the acts or omissions to act which shall constitute a default in the obligations and duties of the corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in event of such default, including the right to appointment of a receiver; providing, however, that such rights and remedies shall not be inconsistent with the laws of the state and the other provisions of this article; and

(i) any other matters of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

3. Any pledge made by a municipal assistance corporation shall be valid and binding from the time when the pledge is made. The revenues or property so pledged and thereafter received by the municipal assistance corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the municipal assistance corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed to protect such pledge except in the principal office of the municipal assistance corporation.

4. Neither the directors of a municipal assistance corporation nor any other person executing the notes or bonds of such corporation shall be subject to any personal liability or accountability by reason of the issuance thereof.

5. A municipal assistance corporation subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor, to purchase notes or bonds of such corporation, which shall thereupon be cancelled.

6. Anything in this article ten to the contrary notwithstanding, any agreement or agreements with the holders of notes or bonds issued by any municipal assistance corporation created by or pursuant to any title of this article shall contain a clause stating in substance that any provision in this article or in any such agreement or agreements which relate to taxes imposed under article twelve or sections eleven hundred seven or eleven hundred eight of the tax law of the state or to the funds created by sections ninety-two-b, ninety-two-d or ninety-two-e of the state finance law shall be deemed executory only to the extent of the moneys available to the state in such funds from time to time and no liability on account thereof shall be incurred by the state beyond the moneys available in such funds.

7. In the discretion of the directors of a corporation the notes or

bonds may be secured by a trust indenture by and between such corporation and a trustee, which may be any trust company or bank having the powers of a trust company in the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the noteholders or bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its corporate powers and the custody, may provide by such trust indenture for the payment of the proceeds of the notes or bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the corporation. If the notes or bonds shall be secured by a trust indenture, the noteholders or bondholders shall have no authority to appoint a separate trustee to represent them.

8. Whether or not the notes and bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the notes and bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes and bonds for registration.

§ 3013. Moneys of a municipal assistance corporation. 1. All moneys of a corporation from whatever source derived may be paid to the treasurer of the corporation and be deposited forthwith in a bank or banks in the state designated by such corporation. The moneys in such account may be paid by the treasurer or other agent duly designated by the corporation on requisition of the chairman of the board of directors of the municipal assistance corporation or of such person or persons as the corporation may authorize to make such requisitions. All deposits of such moneys, may, if required by the corporation, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits, provided, however, that no funds or accounts held in the capital reserve fund may be invested in obligations of or guaranteed by the municipality being assisted or of any of its agencies. Such obligations may either be deposited with the treasurer or be held by a trustee or agent satisfactory to the corporation. The comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the corporation, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

2. Subject to the provisions of subdivision three of this section, any moneys of a corporation, including the proceeds of notes or bonds, not required for immediate use may be invested in obligations of the municipality being assisted or in obligations of the state or federal government, obligations of the principal of and interest on which are guaranteed by such municipality, the state or federal government, or obligations of agencies of such municipality, of the state or of the federal government which may, from time to time, be legally purchased by savings banks of the state as investment of funds belonging to them, or in secured time deposit or other interest-bearing accounts secured by such obligations; provided, however, that no funds held in a capital reserve fund may be invested in obligations of or guaranteed by the municipality being assisted or of any of its agencies.

3. A corporation shall have power to contract with holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the corporation, of any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the corporation, and all banks and trust companies are authorized to give such security for such deposits.

4. Subject to the provisions of any contract with noteholders or bondholders and to the approval of the comptroller, the corporation shall prescribe a system of accounts.

§ 3014. Conditions on payment of funds to or purchase of obligations of municipality. 1. A corporation shall require, in connection with any payment of funds to, or purchase or exchange of the obligations of, the municipality being assisted, or the extension of other benefits thereto, that such municipality agree to observe such conditions with respect to expenditure control, record keeping, accounting, budgeting, financial management and other practices of such municipality as may be set forth in or permitted under the special law creating such corporation. Such agreement may provide such remedies for failure to observe such conditions as shall be necessary or desirable to accomplish the purposes of this article and such special law and are authorized or permitted thereunder.

2. Notwithstanding the provisions of any other law, general, special or local, inconsistent with the provisions hereof, any municipality may sell notes and bonds authorized to be issued pursuant to the local finance law by private sale to the corporation or to receive moneys from the corporation as herein provided and such municipality is hereby authorized to agree to and undertake any agreements made pursuant to the terms hereof.

§ 3015. Agreement with the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued by a corporation under this act that the state will not limit or alter the rights hereby vested in such corporation to fulfill the terms of any agreements made with the said holders thereof, or in any way impair the rights and remedies of such holders until such notes and bonds together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. A corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 3016. State or state-aided municipality not liable on notes and bonds. The notes, bonds or other obligations of a municipal assistance corporation shall not be a debt of either the state or the municipality being assisted, and neither the state nor such municipality shall be liable thereon, nor shall they be payable out of any funds other than those of such corporation; and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 3017. Remedies of noteholders and bondholders. 1. In the event that a corporation shall default in the payment of principal of or interest on or sinking fund payment on, any issue of notes or bonds after the same shall become due, whether at maturity or otherwise or in the event that a corporation shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of such corporation is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five percentum in principal amount of such notes or bonds then outstanding, shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the corporation to carry out any agreement with such holders and to perform its duties under this act;

(b) bring suit upon such notes or bonds;

(c) by action or suit, require the corporation to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the noteholder or bondholder trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the principal office of the corporation is located.

4. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, the corporation and to the attorney general of the state.

§ 3018. Notes and bonds as legal investments. The notes and bonds of a corporation are hereby made securities in which all public officers and bodies of this state and all political subdivisions of the state and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. Such notes and bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all political subdivisions of the state and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 3019. Exemption from taxation. 1. It is hereby determined that the creation of a corporation and the carrying out of its corporate purpose is in all respects a public and governmental purpose for the benefit of the people of the state and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that a corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this act.

2. The property of a corporation and its income and operations shall be exempt from taxation.

3. The notes and bonds of a corporation issued pursuant to authority granted in the special act creating it or this act and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts and other moneys received or to be received, pledged to pay, or secure the payment of, such notes or bonds shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 3020. Actions against a municipal assistance corporation; indemnification. 1. Except in an action for wrongful death, an action against a municipal assistance corporation for personal injury or property damage or founded on tort shall not be commenced more than one year and ninety days after the cause of action shall have accrued nor unless a notice of claim shall have been served on a director of such corporation, or an officer or employee thereof designated by the corporation for such purpose, within the time limited by, and in compliance with the requirements of section fifty-e of the general municipal law. An action against a municipal assistance corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. The venue of every action, suit or special proceeding brought against a corporation shall be laid in the county in which the principal office of such corporation is located.

3. a. The state shall save harmless and indemnify directors, officers and employees of and representatives to a corporation, all of whom shall

be deemed officers and employees of the state for purposes of section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, employee or representative occurring in the discharge of his duties and within the scope of his service on behalf of such corporation, including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations of a corporation (or those of any other public corporation if such loss allegedly resulted from its dealing with a municipal assistance corporation). In the event of any such claim, demand, suit or judgment, a director, officer or employee of or representative to a municipal assistance corporation shall be saved harmless and indemnified, notwithstanding the limitations of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he reasonably believed to be in the best interest of such corporation or not to have had reasonable cause to believe that his conduct was lawful.

b. In connection with any such claim, demand, suit, or judgment, any director, officer or employee of or representative to the corporation shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the attorney general determines based upon his investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such individuals be represented by the same counsel. If the individual or group of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the comptroller. Reasonable attorney's fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the individual is entitled to representation under the terms and conditions of this section by the chairman of the board of directors of the corporation upon the audit and warrant of the comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers or employees of and representatives to the corporation by section seventeen of the public officers law, by action of the corporation, or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of and representatives to the corporation, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 3021. Assistance by state officers, departments, boards and commissions. 1. The department of audit and control, department of law, and all other state agencies may render such services to a corporation within their respective functions as may be requested by such corporation.

2. Upon request of a corporation, any state agency is hereby authorized and empowered to transfer to the corporation such officers and employees as it may deem necessary from time to time to assist such corporation in carrying out its functions and duties under this act. Officers and employees so transferred shall not lose or forfeit their civil service status or rights.

* TITLE III

MUNICIPAL ASSISTANCE CORPORATION FOR THE CITY OF NEW YORK

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3030. Short title.** This title shall be known and may be citied as the "Municipal Assistance Corporation for the city of New York Act".
* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3031. Legislative findings and statement of purposes.** The legislature hereby finds and declares that it is necessary for a municipal assistance corporation to be created to assist the city of New York in providing essential services to its inhabitants without interruption and in creating investor confidence in the soundness of the obligations of such city so that it may retain its ability to sell its obligations to the public.

The legislature further finds that it is in the interest of the state of New York and the city of New York that the long-term construction programs of the New York city transit authority and the New York city school construction authority continue to be fully funded, and that the remaining commitments of the municipal assistance corporation for the city of New York to provide funds for such capital programs be funded with the proceeds of debt obligations, including securities of the municipal assistance corporation for the city of New York, provided, however, that funding for such programs shall to the extent practicable be provided by the city of New York.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3032. Definitions.** As used in this title, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

1. "Corporation" means the corporate governmental agency created by section three thousand thirty-three of this chapter.

2. "City" means the city of New York.

3. "Mayor" means the mayor of the city of New York.

4. "City comptroller" means the comptroller of the city of New York.

5. "City budget director" means the director of management and budget of the city of New York.

6. "Short-term obligations" means tax anticipation notes, revenue anticipation notes, bond anticipation notes, budget notes and urban renewal notes.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3033. Creation of the municipal assistance corporation for the city of New York; authorized indebtedness.** 1. There is hereby created the municipal assistance corporation for the city of New York. The corporation shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation. It shall have the powers, privileges and duties of a corporation under title two of this article and under this title. The corporation shall continue for a term ending the later of July first, two thousand eight or one year after all its liabilities have been fully paid and discharged. Upon the termination of the existence of the corporation, all of its rights and property shall pass to and be vested in the state.

2. Subject to the provisions of any contract with noteholders or bondholders, the corporation shall not issue bonds and notes in an aggregate principal amount exceeding ten billion dollars, excluding (i) bonds and notes issued to refund outstanding bonds and notes and (ii) notes issued for the purpose described in subparagraph (d) of section three thousand thirty-seven of the this article, provided, however, that no bonds or notes shall be issued for any purpose other than to pay for items which are permitted by law to be included in the city's capital budget or to make deposits into the capital reserve funds established pursuant to sections three thousand thirty-six and three thousand thirty-six-a of this article if at the time such bonds or notes are issued or as a result of their issuance the aggregate principal amount of bonds and notes issued by the corporation, exclusive of bonds and notes issued for any purpose described in clause (i) or (ii) of this subdivision, exceeds eight billion eight hundred million dollars.

2-a. In addition to the authority provided in subdivision two of this section, the corporation may, until June thirtieth, nineteen hundred seventy-eight, issue notes in an aggregate principal amount which the mayor certifies to the corporation is required by the city to provide, without interruption, services essential to its inhabitants while meeting its obligation to the holders of its outstanding securities to June thirtieth, nineteen hundred seventy-eight, but not to exceed five hundred million dollars. Such notes shall finally mature no later than June thirtieth, nineteen hundred seventy-eight. Such notes shall not be renewable. The terms of issuance of such notes shall not contain any provision creating rights in the holders of such notes to convert such notes to or exchange such notes for bonds of the corporation. The corporation shall pay the proceeds of such notes to the city to be used to provide services essential to its inhabitants without regard to the provisions of section three thousand thirty-seven of this title.

2-b. In addition to the authority provided in subdivisions two and two-a of this section, the corporation may, not later than June thirtieth, nineteen hundred ninety-seven issue bonds and notes in an aggregate principal amount not to exceed one billion five hundred million dollars (excluding any bonds or notes issued to fund the bond reserve fund established pursuant to section three thousand thirty-six-b of this title and any bonds or notes issued to refund outstanding bonds or notes) for the purpose of funding capital projects within the city pursuant to section three thousand thirty-seven-a of this title; provided, however, that such authority shall decrease from time to time by such amounts as the city shall have made available to fund such capital projects; and provided further, that the authority provided in this subdivision shall be exercised pursuant to a memorandum of agreement among the governor, the mayor and the chairman of the corporation, which agreement shall provide that the corporation shall not issue such bonds or notes in any fiscal year in the event and to the extent that the city makes available proceeds from the issuance of its bonds to fund such capital projects; and which agreement shall also provide for certain operating assistance to be made available by the corporation to the city; and provided further, that bonds issued or to be issued to refund bonds of the corporation shall be excluded from such limitation only if the present value of the aggregate debt service on the refunding bonds shall not have at the time of their issuance exceeded the present value of the aggregate debt service on the bonds they were issued to refund, such present value in each case being calculated by using the effective interest rate of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment date thereof to the date of issue of the refunding bonds and to the price bid therefor, or to the proceeds received by the corporation from the sale thereof, in each case including estimated accrued interest. The rate of interest on bonds which bear interest at a variable rate which shall be used in determining such present values shall be the rate at which such bonds bear interest on the date the refunding bonds are issued. Notwithstanding any other provision of law, no such bond or note of the corporation shall mature more than nineteen years from the date of the original issue of such bond or note and, in any event, not later than July first, two thousand eight.

3. (a) No note or bond (i) shall mature more than thirty years from the date of the original issue of such note or bond and, in any event, not later than July first, two thousand eight or (ii) shall be issued on a date later than December thirty-first, nineteen hundred eighty-four, unless such note or bond is a renewal or refunding of an outstanding note or bond.

(b) No bond shall be issued by the corporation for a purpose set forth in subparagraph (d) of section three thousand thirty-seven of this article and any note issued for such a purpose shall mature not later than the end of the fiscal year in which it is originally issued.

(c) Whenever all or a portion of a series of notes or bonds of the corporation is issued for a purpose set forth in section three thousand thirty-seven of this article, to the extent that the payment of the proceeds of such series is evidenced by a bond or bonds of the city, not more than one year following a scheduled payment of principal on any such city bond (including sinking fund installments), a substantially equal payment of principal (including sinking fund installments) shall be scheduled with respect to the notes or bonds included in such series of the corporation.

(d) Whenever all or a portion of a series of bonds or notes of the corporation is issued for a purpose set forth in section three thousand thirty-seven-a of this title, the payment of the proceeds of such series of bonds or notes to the city shall be evidenced by a bond or bonds of the city issued in accordance with applicable provisions of the state constitution and local finance law then in effect at the time any such bond or bonds are issued; provided, however, that principal payments on any such issue of city bonds shall in no event be scheduled to fall on a date later than the date on which falls a corresponding amount of scheduled principal payments on the series of bonds of the corporation originally issued to provide such proceeds or issued to refund notes of the corporation issued to provide such proceeds.

4. If the bond resolution or other resolution pursuant to which any obligations of the corporation are issued shall designate, with the approval of any emergency financial control board then established for the city or, if none, then with the approval of the mayor, the corporation may hereafter issue obligations which shall, upon maturity, at the election of the holder thereof if so provided in such obligations, be receivable at full face value and in lieu of cash in payment of any tax of the city, any installment of estimated tax of the city, or any interest or penalties thereon. Any obligations of the corporation so received in payment of any such tax or installment of estimated tax or interest or penalties shall be presented to the corporation for payment to the city.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per sub 1.

*** § 3034. Administration of the corporation.** 1. The corporation shall be administered by a board of directors, consisting of nine directors, none of whom shall be officers or employees of the federal government or of the state or political subdivisions thereof. All of the directors shall be appointed by the governor with the advice and consent of the senate, provided that four of such directors shall be appointed upon written recommendation of the mayor. Of the directors initially appointed upon the written recommendation of the mayor, one shall serve for a term ending December thirty-first, nineteen hundred seventy-six; one shall serve for a term ending December thirty-first, nineteen hundred seventy-seven; one shall serve for a term ending December thirty-first, nineteen hundred seventy-eight; and one shall serve for a term ending December thirty-first, nineteen hundred seventy-nine. Of the remaining directors initially appointed by the governor, one shall serve for a term ending December thirty-first, nineteen hundred seventy-six; one shall serve for a term ending December thirty-first, nineteen hundred seventy-seven; one shall serve for a term ending December thirty-first, nineteen hundred seventy-eight; and two shall serve for a term ending December thirty-first, nineteen hundred seventy-nine. Each director shall hold office until his successor has been appointed and qualified. Thereafter each director appointed by the governor shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of his predecessor's term.

2. The speaker and the minority leader of the assembly, the president pro-tem and the minority leader of the senate, the city board of estimate acting by majority vote, and the vice-chairman of the city council, shall each be entitled to appoint a representative to the board of directors. Each such representative shall be entitled to receive notice of and to attend all meetings of the board of directors but shall not be entitled to vote. No representative shall be an employee or officer of the federal, state or city governments. Each representative shall serve at the pleasure of the appointing official or body, shall be eligible for reappointment, and shall hold office until his successor has been appointed.

3. The corporation shall have the power to make and execute contracts to pay the expenses of operation of the emergency financial control board for the city of New York, within the appropriation available therefor and including the repayment to the state of any advance to such board under any agreement between the board and the director of the budget, out of any revenues available to the corporation and not otherwise pledged except the proceeds of its notes and bonds.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3035. Exchange of notes or bonds of the corporation for short-term obligations of the city.** 1. The corporation may issue its notes or bonds in exchange for short-term obligations of the city, provided that the principal amount of the corporation's notes or bonds issued in any such exchange shall not exceed the principal amount of such short-term obligations and accrued interest thereon at the stated rate to the date of such exchange.

2. (a) Upon or at any time after receipt of the short-term obligations of the city exchanged in accordance with subdivision one hereof, the corporation may deliver any or all of such short-term obligations to the city for cancellation, without receiving payment of principal or interest in respect thereof, in which event the city shall thereupon cancel such obligations without making any payment of principal amount or accrued interest thereon and the city shall have no further liability with respect thereto. Notwithstanding the foregoing, the corporation shall not deliver at any time bond anticipation notes received pursuant to subdivision one to the city for cancellation without receiving payment of principal or interest in respect thereof unless the mayor and the city comptroller shall have requested in writing that such short-term obligations be delivered for cancellation.

(b) Upon or at any time after receipt of the short-term obligations of the city exchanged in accordance with subdivision one hereof the corporation may exchange any or all of such short-term obligations for other short-term obligations issued by the city pursuant to the local finance law and the corporation may exchange any or all of such bond anticipation notes included in such short-term obligations for bonds of the city issued pursuant to the local finance law, all on such terms and conditions as the corporation may deem proper.

3. The corporation shall not exchange any of its bonds or notes for short-term obligations of the city pursuant to subdivision one hereof unless (a) the city shall have agreed to observe the conditions set forth in section three thousand thirty-eight of this chapter, subject to such modifications as are permitted thereunder and as the corporation may then approve, and (b) the board of directors of the corporation shall have determined that the terms of such exchange will not prejudice the rights of holders of other bonds and notes of the city.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3036. Payments to the corporation; funds of the corporation.** 1.

Not less than one hundred twenty days before the beginning of each fiscal year of the corporation (but not later than July 1, 1975 for the fiscal year ending June 30, 1976), the chairman of the board of directors of the corporation shall certify to the state comptroller and to the mayor a schedule setting forth the cash requirements of the corporation for such fiscal year and the time or times when such cash is required. The total amount so certified by such chairman for such fiscal year shall be equal to: (i) the amounts which are required to be deposited in the capital reserve fund authorized to be created and established pursuant to subdivision three of this section during such fiscal year in order to maintain such capital reserve fund of the corporation at the level required in accordance with subdivision five of this section; (ii) the amounts required to be deposited in the debt service fund of the corporation to pay all interest and all payments of principal and redemption premium, if any, on notes and bonds secured by such debt service fund maturing or otherwise coming due during such fiscal year; and (iii) the amounts required to be deposited in the operating fund of the corporation, as determined by the corporation, to meet the operating requirements and other expenses of the corporation during such fiscal year. If any increase shall occur in the cash requirements specified above, or if payments are required at a time or times earlier than previously certified or if the city shall for any reason fail to make timely payment of the principal and accrued interest due on any obligation issued by the city to the corporation and maturing within the same fiscal year, such chairman shall certify a revised schedule of cash requirements for such fiscal year to the state comptroller and to the mayor. The schedule accompanying each certification (or revision thereof) shall provide for such payment dates as the corporation deems appropriate to assure that sufficient funds will be available from the sources identified below to enable it to meet its current obligations as they come due. Upon receipt of such certification, or any revision thereof, the state comptroller shall pay such amount to the corporation for deposit in the appropriate funds, in accordance with such certification from the special account established for the corporation in the municipal assistance tax fund, in accordance with subdivision one of section ninety-two-d of the state finance law, including any amount transferred to the municipal assistance tax fund from the stock transfer tax fund pursuant to subdivision four of section 92-b of the state finance law. Any such payment shall be made within thirty days of receipt of the certification or at the time specified in the certification, whichever is later; provided that any such amounts shall have been first appropriated by the state for such purpose or shall have been otherwise made available. Any amount so paid to the corporation shall be deducted from the amount otherwise payable to the city from the municipal assistance tax fund established by section ninety-two-d of the state finance law and shall not obligate the state to make, nor entitle the city to receive, any additional payments.

2. Notwithstanding subdivision one of this section, prior to any transfers from the stock transfer tax fund to the municipal assistance tax fund, moneys, if any, payable to any other public benefit corporation from such fund pursuant to the provision of any law, the effective date of which is prior to the effective date of this title, shall be paid in full to such other corporation.

3. The corporation shall create and establish a special fund (herein referred to as capital reserve fund), and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds secured by such capital reserve fund of the corporation, as the same mature or otherwise become due, the purchase of such bonds of the corporation, the payment of interest of such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. If the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision three of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes, such excess moneys may be withdrawn from the capital reserve fund by the

corporation; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing or otherwise due or becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the corporation to any other fund of the corporation to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding.

4. In order further to assure the maintenance of the capital reserve fund, there shall be annually appropriated and paid to the corporation for deposit in the capital reserve fund such sum, if any, as shall be certified by the chairman to the governor and director of the budget as necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. The chairman of the board of directors of the corporation shall, annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore the capital reserve fund to the amount aforesaid; and the sum or sums so certified, if any, shall be appropriated and paid to the corporation during the then current state fiscal year.

5. The corporation shall not issue bonds at any time if the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation secured by such capital reserve fund then outstanding will exceed the amount of the capital reserve fund requirement with respect to such capital reserve fund at the time of issuance, unless the corporation, at the time of such issuance, shall deposit in the capital reserve fund from the proceeds of the bonds so to

be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation secured by such capital reserve fund then outstanding (such amount is herein sometimes referred to as the capital reserve fund requirement). Notwithstanding the foregoing provisions of this subdivision for each of the calendar years set forth below the capital reserve fund requirement, as of any date of calculation, shall equal the percentage set forth opposite such calendar year of the amount of principal and interest maturing or otherwise due or becoming due during such calendar year on all bonds of the corporation secured by such capital reserve fund outstanding on such date:

Calendar Year	Percentage
1975	0%
1976	0%
1977	25%
1978	50%
1979	75%
1980	100%

6. In computing the amount of the capital reserve fund for the purposes of this section securities in which all or a portion of such fund shall be invested shall be valued at par or if purchased at other than par, at amortized value.

7. The corporation shall create a debt service fund and an operating fund and may create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

8. The fiscal year of the corporation shall be the same as the fiscal year of the city.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3036-a. Further payments to the corporation; additional funds of the corporation.** 1. In addition to the total amount certified by such chairman for such fiscal year, all as referred to in subdivision one of section three thousand thirty-six, the chairman shall at the same time certify to the state comptroller and to the mayor a schedule setting forth additional cash requirements of the corporation which shall be equal to: (i) the amounts which are required to be deposited in the capital reserve fund authorized to be created and established pursuant to subdivision two of this section (in this section called the capital reserve fund) during such fiscal year in order to maintain the capital reserve fund at the level required in accordance with subdivision four of this section; (ii) the amounts required to be deposited in the bond service fund of the corporation to pay all interest and all payments of principal and redemption premium, if any, on notes and bonds payable from the sources hereinafter identified in this section and maturing or otherwise coming due during such fiscal year; and (iii) the amounts required to be deposited in the operating fund of the corporation heretofore established, as determined by the corporation, to meet the operating requirements and other expenses of the corporation during such fiscal year. If any increase shall occur in such additional cash requirements specified above, or if payments are required at a time or times earlier than previously certified or if the city shall for any reason fail to make timely payment of the principal and accrued interest due on any obligation issued by the city to the corporation and maturing within the same fiscal year, such chairman shall certify a revised schedule of such additional cash requirements for such fiscal year to the state comptroller and to the mayor. The schedule accompanying each certification (or revision thereof) shall provide for such payment dates as the corporation deems appropriate to assure that sufficient funds will be available from the sources identified below to enable it to meet its current obligations under this section as they come due. Upon receipt of such certification, or any revision thereof, the state comptroller shall pay such amount to the corporation for deposit in the appropriate funds referred to in this section, in accordance with such certification from the special account established for the corporation in the municipal assistance state aid fund in accordance with subdivision one of section ninety-two-e of the state finance law and, subject to agreements with outstanding bond and note holders of the corporation, from the special account established for the corporation in the municipal assistance tax fund, in accordance with subdivision one of section ninety-two-d of the state finance law, including any amount transferred to the municipal assistance tax fund from the stock transfer tax fund pursuant to subdivision four of section ninety-two-b of the state finance law. Any such payment shall be made within thirty days of receipt of the certification or at the time specified in the certification, whichever is later; provided that any such amounts shall have been first appropriated by the state for such purpose or shall have been otherwise made available. Any amount paid to the corporation from such municipal assistance state aid fund shall be deducted from the amount otherwise payable to the city as per capita aid pursuant to sections fifty-four and ninety-two-e of the state finance law and shall not obligate the state to make, nor entitle the city to receive, any additional payments of per capita aid. Any amount so paid to the corporation from the municipal assistance tax fund shall, in addition to the amount deducted pursuant to subdivision one of section three thousand thirty-six, be deducted from the amount otherwise payable to the city from the municipal assistance tax fund and shall not obligate the state to make, nor entitle the city to receive, any additional payments from such municipal assistance tax fund.

2. The corporation shall create and establish a capital reserve fund as an additional special fund, and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) any proceeds of sale or notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds secured by such capital reserve fund of the corporation, as the same mature or otherwise become due, the purchase of such bonds of the corporate, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be

paid when such bonds are redeemed prior to maturity. If the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes secured by such capital reserve fund, such excess moneys may be withdrawn from the capital reserve fund by the corporation; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing or otherwise becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the corporation to any other fund of the corporation to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding.

3. In order further to assure the maintenance of the capital reserve fund, there shall be annually appropriated and paid to the corporation for deposit in the capital reserve fund such sum, if any, as shall be certified by the chairman to the governor and director of the budget as necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. The chairman of the board of directors of the corporation shall, annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore the capital reserve fund to the amount aforesaid; and the sum or sums so certified, if any, shall be appropriated and paid to the corporation during the then current state fiscal year.

4. The corporation shall not issue bonds secured by the capital reserve fund at any time if the amount of principal and interest

maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other such bonds of the corporation then outstanding will exceed the amount of the capital reserve fund requirement at the time of issuance, unless the corporation, at the time of such issuance, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation secured by such capital reserve fund then outstanding (such amount is herein sometimes referred to as the capital reserve fund requirement). Notwithstanding the foregoing provisions of this subdivision for each of the calendar years set forth below the capital reserve fund requirement, as of any date of calculation, shall equal the percentage set forth opposite such calendar year of the amount of principal and interest maturing or otherwise due or becoming due during such calendar year on all bonds of the corporation secured by the capital reserve fund outstanding on such date:

Calendar Year	Percentage
1975	0%
1976	0%
1977	25%
1978	50%
1979	75%
1980	100%

5. In computing the amount of the capital reserve fund for the purposes of this section securities in which all or a portion of such fund shall be invested shall be valued at par or if purchased at other

than par, at amortized value.

6. The corporation shall create a bond service fund.
* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3036-b. Further payments to the corporation; additional funds of the corporation.** 1. In addition to the total amount certified by such chairman for such fiscal year, all as referred to in subdivision one of each of sections three thousand thirty-six and three thousand thirty-six-a of this title, the chairman shall at the same time certify to the state comptroller and to the mayor a schedule setting forth additional cash requirements of the corporation which shall be equal to: (i) the amounts required to be deposited in the bond payment fund of the corporation to pay all interest and all payments of principal and redemption premium, if any, on bonds and notes payable from the sources hereinafter identified in this section and maturing or otherwise coming due during such fiscal year; (ii) the amounts required to be deposited in the operating fund of the corporation heretofore established, as determined by the corporation, to meet the operating requirements and other expenses of the corporation during such fiscal year to the extent not otherwise provided for; and (iii) the amounts required to be deposited in the bond reserve fund created and established pursuant to the agreements of the corporation made with the holders of its bonds or notes issued pursuant to subdivision two-b of section three thousand thirty-three of this title during such fiscal year in order to maintain the bond reserve fund at the level required in accordance with the agreements of the corporation made with the holders of its bonds or notes issued pursuant to subdivision two-b of section three thousand thirty-three of this title. If any increase shall occur in such additional cash requirements specified above, or if payments are required at a time or times earlier than previously certified or if the city shall, for any reason, fail to make timely payment of the principal and accrued interest due on any obligation issued by the city to the corporation and maturing within the same fiscal year, such chairman shall certify a revised schedule of such additional cash requirements for such fiscal year to the state comptroller and to the mayor. The schedule accompanying each certification, or revision thereof, shall provide for such payment dates as the corporation deems appropriate to assure that sufficient funds will be available from the sources identified below to enable it to meet its current obligations under this section as they come due. Upon receipt of such certification, or any revision thereof, the state comptroller shall pay such amount to the corporation for deposit in the appropriate funds referred to in this section, in accordance with such certification and subject to agreements with holders of outstanding bonds and notes of the corporation, from the special account established for the corporation in the municipal assistance state aid fund in accordance with subdivision one of section ninety-two-e of the state finance law and from the special account established for the corporation in the municipal assistance tax fund in accordance with subdivision one of section ninety-two-d of the state finance law, including any amount transferred to the municipal assistance tax fund from the stock transfer tax fund pursuant to subdivision four of section ninety-two-b of the state finance law. Any such payment shall be made within thirty days of receipt of the certification or at the time specified in the certification, whichever is later; provided that any such amounts shall have been first appropriated by the state for such purpose or shall have been otherwise made available. Any amount paid to the corporation from such municipal assistance state aid fund, in addition to the amount deducted pursuant to subdivision one of section three thousand thirty-six-a of this title, shall be deducted from the amount otherwise payable to the city as per capita aid pursuant to sections fifty-four and ninety-two-e of the state finance law and shall not obligate the state to make, nor entitle the city to receive, any additional payments of per capita aid. Any amount so paid to the corporation from the municipal assistance tax fund, in addition to the amount deducted pursuant to subdivision one of each of section three thousand thirty-six or three thousand thirty-six-a of this title, shall be deducted from the amount otherwise payable to the city from the municipal assistance tax fund and shall not obligate the state to make, nor entitle the city to receive, any additional payments from such municipal assistance tax fund.

2. The provisions of subdivision four of section three thousand thirty-six and subdivision three of section three thousand thirty-six-a of this title shall not apply to any bonds or notes issued pursuant to subdivision two-b of section three thousand thirty-three of this title, including any bonds or notes issued to fund the bond reserve fund established pursuant to this section or to refund any such bond or note, and the principal of and interest on any such bond or note shall not be payable from or secured by the capital reserve funds established pursuant to sections three thousand thirty-six and three thousand thirty-six-a of this title.

3. The corporation shall create a bond payment fund.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3037. Payments to or purchases of obligations of the city.** In the event that the mayor from time to time certifies to the corporation an amount required by the city to enable it (a) to pay, at maturity, the principal of and interest on any short-term obligations of the city, or (b) to pay for any item which is permitted by law to be included in the city's capital budget for the fiscal year for which such certification is made, including payments to reimburse the general fund for moneys advanced and expended for any such item, or (c) to make any payment in a fiscal year to the extent the mayor certifies such payment will have the effect of reducing from the then existing level the city's requirements for an advance by the state, during such fiscal year or the succeeding fiscal year, of state assistance moneys payable to the city, or (d) to meet its seasonal borrowing requirements for the fiscal year in which such certification is made, or (e) to pay operating expenses of the city other than those included in subparagraph (b), (c) or (d) hereof, the corporation may (i) pay to the city, or (ii) purchase from the city obligations hereafter issued by the city in an amount equivalent to, part or all of such certified amount. Moneys paid to the city pursuant to clause (i) or (ii) of this section shall be held in trust for the payment of short-term obligations or shall be used to make the payment for which such moneys have been so certified. Any obligations issued by the city and purchased by the corporation pursuant to this section in consideration of the payments made to the city pursuant to subparagraph (a) or (e) hereof shall mature on a date not later than fifteen years from the original date of issue of such obligations. The corporation shall not make any payment to the city, or purchase any obligations from the city, pursuant to this section unless the city shall have agreed to observe the conditions set forth in section three thousand thirty-eight of this chapter, subject to such modifications as are permitted thereunder. The outstanding amounts paid to the city for operating expenses which are described in subparagraph (e) hereof pursuant to clause (i) and clause (ii) of this section shall not exceed two billion dollars, provided that not more than nine hundred million dollars shall be obligations maturing in a fiscal year succeeding the fiscal year in which issued (of which not less than seven hundred fifty million dollars shall be applied for welfare or public education purposes, as to which state assistance payments have been or will be advanced to the city) and shall be evidenced by city obligations, and any balance shall be short term obligations payable in the fiscal year in which issued.

The outstanding amounts paid to the city for a purpose set forth in subparagraph (b) hereof, other than to pay for expense items permitted to be included in the capital budget of the city pursuant to subdivision five of section three thousand thirty-eight of this article, shall be evidenced by city bonds. Nothing herein shall be construed to prevent the corporation from acquiring from the city obligations issued by the city pursuant to the local finance law which evidence amounts paid to the city by the corporation for other purposes.

Nothing contained in this article shall be deemed to create an object or purpose or to establish or extend a period for which a city bond may be issued pursuant to the local finance law, or to create authority for the city to issue a bond payable from a tax on real estate levied outside the limit imposed by the state constitution on the amount to be raised by tax on real estate for local purposes other than debt service, or to modify, amend, repeal, or rescind any other provision of the local finance law governing the issuance by the city of its bonds or the payment of principal and interest thereon.

At all times after receipt of short-term obligations, other than bond anticipation notes, of the city acquired pursuant to this section, the corporation shall have the same rights and powers with respect to such short-term obligations as the corporation shall have with respect to short-term obligations, other than bond anticipation notes, of the city received pursuant to subdivision one of section three thousand thirty-five of this article. The corporation shall have the same rights and powers with respect to bond anticipation notes and bonds so received as the corporation shall have with respect to bond anticipation notes received pursuant to subdivision one of section three thousand thirty-five; provided that the corporation shall not deliver any bond received pursuant to this section for cancellation unless the city pays the principal amount and accrued interest thereon or pays accrued interest and exchanges such bond for another bond of the city in equal principal amounts in refunding thereof, and provided further that the corporation may not sell or transfer to any person other than the city any bond of the city acquired by it pursuant to this section unless the mayor and the city comptroller have requested in writing that the corporation sell or transfer such bond and, if such bond be sold or transferred at private sale, unless the terms of such sale have been approved by the city comptroller.

For purposes of this section, the term "seasonal borrowing requirements" means amounts which are required by the city to enable it to pay current operating expenses, provided such expenses are included in an expense budget of the city balanced in accordance with the provisions of section three thousand thirty-eight of this title and such amounts are required solely because the city's revenues and expenditures, even when in balance on an annual basis, are not received and disbursed at equivalent rates throughout the year.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3037-a. Funding capital projects.** The amounts paid to the city for purposes set forth in subparagraph (b) of section three thousand thirty-seven of this title, in addition to all other authorized amounts, shall include amounts required by the city (i) to fund eight hundred sixty-five million dollars of capital commitments to the New York city transit authority in accordance with the following schedule for the fiscal years ending on June thirtieth in the following years: nineteen hundred ninety, seventy million dollars; nineteen hundred ninety-one, seventy million dollars; nineteen hundred ninety-two, seventy-five million dollars; nineteen hundred ninety-three, one hundred million dollars; nineteen hundred ninety-four, one hundred ten million dollars; and nineteen hundred ninety-five, four hundred forty million dollars; and (ii) to fund six hundred million dollars of capital commitments to the New York city school construction authority in eight equal annual installments of seventy-five million dollars beginning in the fiscal year ending on June thirtieth, nineteen hundred ninety. All such amounts shall be paid by the corporation to the city in accordance with the provisions of paragraph (d) of subdivision three of section three thousand thirty-three of this title.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3038. Conditions on extension of benefits to the city.** The corporation shall, at the time of any exchange of the corporation's bonds and notes for short-term obligations of the city pursuant to subdivision two of section three thousand thirty-five of this chapter or any payment of funds of the corporation to the city or of any purchase from the city of its obligations pursuant to section three thousand thirty-seven of this chapter, require the city to agree to observe and perform the conditions set forth below in this section, with such limitations as to the implementation of such conditions as the corporation may, subject to any contract with bondholders or noteholders, then approve; provided, however, that no such specific limitations shall be so substantial as to effectively constitute a waiver of any such conditions. Any such conditions may thereafter, in the discretion of the corporation, subject to any contract with bondholders or noteholders, be further limited. Such conditions shall cease to apply when all notes and bonds have been repaid or when the corporation has accumulated in its capital reserve funds or otherwise an amount equal to the principal of all outstanding notes and bonds and interest accrued thereon. The city shall have the right at any time to pay the corporation an amount which, when added to the capital reserve funds, shall equal the principal of all outstanding notes and bonds and interest accrued thereon and redemption premium if any. If the city makes such payment at a time when the corporation has outstanding notes or bonds that are not then callable, the city shall agree to pay the corporation on demand an amount equal to the amount, if any, by which the amount of interest on such notes or bonds shall exceed the corporation's income from the investment of its funds. Subject to the foregoing, the conditions that the corporation shall require the city to observe and perform shall be as follows:

1. The city shall deliver a certificate, executed by the mayor and the city comptroller in form prescribed by the corporation, (a) representing that the city is in compliance with the conditions described below in this section as the corporation may specify, (b) undertaking to comply with any of such specified conditions as the corporation may then require and (c) stating that all local legislative and executive action then required to permit such compliance by the city has been taken. The corporation may require the delivery with such certificate of an opinion of the city's corporation counsel that all such legislative and executive action has been taken.

2. (a) The city shall, within ninety days after the first such agreement, initiate steps to adopt as the city's method of accounting for purposes of reporting to the corporation with respect to the city's financial condition and compliance with the conditions of this section, the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the state comptroller, in consultation with the city comptroller, for application to the city. The city shall complete the transition to such

accounting method as promptly as reasonably practicable thereafter and, in any event, so that the audited financial statements for the fiscal year ending June thirtieth, nineteen hundred seventy-eight shall be prepared in accordance with such accounting methods, except as provided below in this subdivision. It is recognized that the adoption of such accounting principles may result in substantial adjustments from the accounting principles now followed by the city. The corporation and the city shall consult, over the course of the introduction and adoption of such accounting system and the accounting methods referred to in section eight of the New York state financial emergency act for the city of New York, and until the expiration of the fiscal year ending June thirtieth, nineteen hundred seventy-eight, the corporation and the city may formulate a mutually acceptable method of phasing such adjustments into the accounting system described in this paragraph over such reasonable period, not exceeding ten years, as the corporation may determine to be appropriate and the financial statements and other information to be furnished to the corporation may, notwithstanding any other provision of this section three thousand thirty-eight be prepared in accordance with such determination.

(b) For the fiscal year ending June thirtieth, nineteen hundred seventy-nine, and for each fiscal year thereafter, the city's expense budget shall be prepared in accordance with the provisions of section eight of the New York state financial emergency act for the city of New York.

3. The city shall take such action as may be necessary to enable the state comptroller, or at his election an independent certified public accounting firm retained by the city but satisfactory to the state comptroller, to perform an annual audit and to furnish to the corporation an annual report, for the fiscal year ending June thirtieth, nineteen hundred seventy-eight upon the financial statements of the city. For each subsequent fiscal year the city shall take such action as may be necessary to enable a nationally recognized independent certified public accounting firm selected and retained by the city at its cost in accordance with the provisions of section seven-a of the New York state financial emergency act for the city of New York to perform an annual audit and to furnish to the corporation an annual report upon the

financial statements of the city. Each such report shall be prepared in accordance with the accounting method prescribed under subdivision two of this section. The city shall make available for inspection and copying all books, records, work papers and other data and material as required by the state comptroller or the independent certified public accounting firm conducting such audit and the city shall make its officers and employees available to and shall cooperate with such auditors so as to permit such annual audit to be completed and the report issued to the city and to the corporation within one hundred twenty days after the close of the fiscal year. Such report shall be made available to the public promptly thereafter.

4. Beginning with the fiscal year ending June thirtieth, nineteen hundred seventy-seven and for each fiscal year thereafter, the city shall deliver a proposed expense budget to the corporation. Delivery to the corporation shall be made concurrently with the initial submission of the proposed expense budget to the board of estimate and the city council, but in any event not later than fifty days prior to the beginning of such fiscal year or such other date as the corporation may approve upon the request of the city. Beginning with the fiscal year ending June thirtieth, nineteen hundred seventy-eight, and for each fiscal year thereafter, the proposed expense budget submitted to the corporation shall be prepared in accordance with the accounting methods referred to in subdivision two of this section. Such budget shall be identical to the proposed expense budget submitted to the board of estimate and city council. The proposed expense budget delivered to the corporation shall be accompanied by (i) a statement setting forth in detail the assumptions of income and expense used in its preparation, (ii) for the fiscal year ending June thirtieth, nineteen hundred seventy-eight, a reconciliation of the differences, if any, between such proposed expense budget and the proposed expense budget based on the applicable accounting methods set forth in subdivision two a of this section but without adjustments or modifications permitted by this title, and for each subsequent fiscal year a reconciliation between such proposed expense budget and the proposed budget based on the principles described in section eight of the New York state financial emergency act for the city of New York, and (iii) a certificate of the mayor stating

that such assumptions are reasonable and that operation within the budget is feasible and explaining the reasons for any differences therein from the proposed expense budget described in clause (ii) above. Subject to and in accordance with the provisions of section eight of the New York state financial emergency act for the city of the New York, as the same may be amended from time to time, the city shall in every fiscal year adopt and maintain an expense budget in which the total of all income items equals or exceeds the total of all expenditure items. For the fiscal year ending June thirtieth, nineteen hundred seventy-eight and each subsequent fiscal year the total of all income items shall also equal or exceed the total of all expenditure items in each expense budget as adopted by the city, after the adjustments, if any, required to conform to the accounting methods referred to in subdivision two of this section (except as may be modified by the application of subdivision five of this section) and the city shall also maintain a budget balanced in accordance with such accounting principles. Prior to July first, nineteen hundred eighty-two and notwithstanding any other provision of this section to the contrary, any expense item in the expense budget for any fiscal year, which item relates to contributions by the city or other public employer to any retirement system or pension fund, shall include only the amounts which, under the provisions of law, rules or regulations expressly prescribing the method of determining employer contributions to such retirement system or pension fund and the time of payment thereof, are due and payable in such fiscal year, and no such expense item shall include amounts for any such contribution which, under such laws, rules or regulations, do not become due and payable in such fiscal year.

5. The city shall, over a period of six fiscal years, beginning with its fiscal year ending June thirtieth, nineteen hundred seventy-seven, eliminate from its capital budget those expenses that are properly includable only in its expense budget, as determined in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the state comptroller, in consultation with the city comptroller, for application to the city. The determination of which items are properly includable only in the city's expense budget shall be made in accordance

with the aforesaid accounting principles regardless of any act of the legislature prior or subsequent to the effective date of this title otherwise classifying such items. To implement the foregoing:

(a) The mayor and the city comptroller shall, not later than October thirty-first, nineteen hundred seventy-five, certify to the corporation, a list, to the best of their information, of the expense items in the city's capital budget for the fiscal year ending June thirtieth, nineteen hundred seventy-six, and the amount of each such item;

(b) The comptroller (or the independent certified public accounting firm then retained pursuant to subdivision three of this section) shall prepare a determination of and shall report upon the expense items and the amount thereof in the city's capital budget for the fiscal year ending June thirtieth, nineteen hundred seventy-six and for each subsequent fiscal year, in accordance with the aforesaid accounting principles. Such report shall also include a statement as to the city's compliance with the conditions of this subdivision for the fiscal year reported upon and in the budget for the succeeding fiscal year;

(c) Unless the corporation shall approve the inclusion of a greater amount with respect to any such fiscal year, the aggregate amount of all such expense items included in the capital budget, including judgments and claims related to other than capital projects, for the fiscal year ending June thirtieth, nineteen hundred seventy-seven and for the following fiscal year shall be reduced at the cumulative rate of ten percent per year from the aggregate amount for the nineteen hundred seventy-six fiscal year set forth in the report provided for under paragraph (b) of this subdivision (or set forth in the certification under paragraph (a) of this subdivision if such report has not then been prepared). For the fiscal year ending June thirtieth, nineteen hundred seventy-nine the maximum aggregate amount of all such expense items included in the capital budget shall be four hundred fifty million dollars and for each of the following two fiscal years the aggregate amount of all such expense items included in the capital budget shall be substantially reduced from the aggregate amount for the nineteen hundred seventy-nine fiscal year. For the fiscal year ending June thirtieth, nineteen hundred eighty-two and thereafter, no such expense items shall be included in the city's capital budget;

(d) For the fiscal year ending June thirtieth, nineteen hundred seventy-seven and continuing thereafter, the city shall not include any new or additional item in its capital budget which, in accordance with the aforesaid accounting principles, is properly includable only in its expense budget; and

(e) To implement this subdivision, and in order to provide full disclosure of all expense items properly includable only in the expense budget, the city shall include in its expense budget for each fiscal year by appropriation all expense items which are included in its capital budget for such fiscal year pursuant to paragraph (c) of this subdivision including judgments and claims related to other than capital projects, such items shall be stated separately and distinctly and the city may include in such expense budget as items of income, in addition to all other items of income properly includable in such expense budget pursuant to this section, all amounts to be applied to the payment of such expense items, which amounts may be derived from any source available to the city during such fiscal year, provided that such income shall be listed separately and distinctly.

6. If after the adoption of the expense budget for any fiscal year, any increase therein, or an increase in total expenditures shall be proposed, the mayor shall cause such proposal to be submitted to the corporation concurrently with its submission to the board of estimate and the city council, together with a statement of the source of current income or other identifiable and currently available funds required for the payment of such additional amounts.

7. Commencing at such time as the corporation may specify, but not later than December 1, 1975 the city budget director shall deliver to the corporation, not less than thirty days before each fiscal quarter (except, within thirty days after the commencement of the first fiscal quarter), an expenditure plan to implement the city expense budget for such fiscal quarter and within amounts based on current income or other identifiable and currently available funds. The city budget director shall deliver to the corporation within thirty days after the end of each such fiscal quarter covered by an expenditure plan, an operations report reflecting results of city operations for such fiscal quarter and whether the city has operated within the related expenditure plan. Each

expenditure plan and operations report shall be in such form as the corporation may specify and shall be certified by the city budget director and shall detail and report upon action taken by the city to maintain a balanced expense budget.

8. The city shall comply in all material respects with the expenditure limitations in its budgets as adopted or modified in accordance with subdivisions four and six of this section, and with section eight of the New York state financial emergency act for the city of New York as the same may from time to time be amended.

9. a. The city shall not, at any time issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven or in subparagraph eighteen of section three thousand ten of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corporation) to exceed (i) six billion six hundred million (hereinafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty per cent of the base debt limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five per cent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount may not exceed twenty per cent of the base debt limit, and during the fiscal year ending June 30, 1980 the additional amount may not exceed fifteen per cent of the base debt limit.

b. In addition to the foregoing limitation the city shall not, at any date, issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less (i) any notes or bonds which have been refunded or renewed and any notes or bonds in an amount equal to the aggregate principal amount of bond anticipation notes of the city acquired by the corporation, whether or not then held by the corporation (except bond anticipation notes of the city acquired by the corporation in consideration of the surrender by the corporation to the city of bond anticipation notes of the city), and any notes or bonds issued for a purpose set forth in subparagraph (b), (c) or (d) of section three thousand thirty-seven, in subdivision two-a of section three thousand thirty-three, or subparagraph eighteen of section three thousand ten of this article, and less any notes or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, (ii) any short-term obligations of the city then held by the corporation other than bond anticipation notes and (iii) any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred million dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars plus, in the discretion of the board of directors, until June thirtieth, nineteen hundred seventy-six, a further additional amount not exceeding two hundred million dollars.

c. Notwithstanding any other provision of this act, the corporation shall not have the authority to modify or waive the limitations on the aggregate amount of outstanding short-term obligations of the city permitted to be outstanding in excess of the limits specified in paragraphs (a) and (b) of this subdivision.

d. Not less than twenty days prior to the issuance of any short-term obligations by the city, other than such obligations to be issued to the corporation, on or after July first, nineteen hundred seventy-five, the city comptroller shall deliver to the corporation a notice of intent to issue such obligations, specifying the amount and proposed terms thereof and the authority under which such obligations are proposed to be issued, together with a certificate of the city budget director specifying the purpose and the proposed source of funds for the redemption thereof. The city comptroller and the city budget director shall provide such additional information and shall be available for consultation as the corporation may request. If, within ten days after the receipt of such a notice from the city, the corporation determines after consultation with the city comptroller and the city budget director, that the issuance of such obligations would violate the limitation of this subdivision, the corporation shall deliver to the city comptroller a certified copy of such determination within such 10-day period and the city comptroller shall not thereafter issue such obligations.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3039. Review by the corporation.** In order to determine whether the city has taken or is taking action to effect compliance with any conditions imposed pursuant to section three thousand thirty-eight of this chapter, the corporation may from time to time conduct a review of the records, accounts, budgets, forecasts, projections and other relevant materials of the city. The corporation may conduct such review by using (i) its own employees, (ii) its agents, or (iii) any state employees provided to the corporation for such purpose. The city shall make available for such review all books and records, and shall furnish copies of all financial statements, budgets, forecasts, projections, information or corrective action taken by the city in response to any notices from the corporation and all information related to the foregoing, as requested by the persons conducting such review, and shall make its officers and employees available to and shall otherwise cooperate with such persons to permit such review to be completed as promptly as possible.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3040. Remedies of the corporation.** 1. The corporation shall cause each proposed expense budget, including related revenue estimates, submitted to it pursuant to subdivision four of section thirty hundred thirty-eight of this chapter, each report on expense items in the capital budget submitted to it pursuant to subdivision five of such section, each proposed modification furnished to it pursuant to subdivision six of such section and each expenditure plan and operations report submitted to it pursuant to subdivision seven of such section, to be reviewed promptly by the corporation's staff or designee.

2. If, within forty-five days after such receipt of a proposed expense budget, report on expense items, expenditure plan or operations report, or, if within thirty days after such receipt of a proposed modification, the board of directors shall, in its judgment, determine that any such expense budget will not be balanced in accordance with the provisions of subdivision four of section three thousand thirty-eight, either by its terms or because income is overestimated or expenditures are underestimated therein, or that a report of proposed modification pursuant to subdivision six of section three thousand thirty-eight of this chapter reflects that the expense budget would thereafter not be balanced in accordance with the provisions of subdivision four of section three thousand thirty-eight, or that a condition imposed pursuant to such section has not been met or will not be met, with respect to such fiscal year, then the corporation shall promptly notify the mayor of such determination and shall review with him the manner in which corrective action may be taken in order to comply with such conditions.

3. In the event that the board of directors determines, following review with the mayor pursuant to subdivision two of this section that the corrective action necessary to cause compliance with the conditions of section thirty hundred thirty-eight of this chapter will not be taken, or determines as a result of a review made pursuant to section thirty hundred thirty-nine of this chapter or otherwise that the city is not in compliance with any of the conditions imposed pursuant to section

thirty hundred thirty-eight of this chapter or that any representation or undertaking contained in any certificate delivered pursuant to such section is materially incorrect or has not been complied with in all material respects, the corporation shall promptly certify a copy of such determination of noncompliance to the governor, the legislature, the state comptroller, the mayor, the board of estimate, the city council and the city comptroller and shall disclose such determination to the public.

4. The remedies described above in this section are not exclusive and, in addition thereto, the corporation shall have and may exercise all other rights and remedies provided by law.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

*** § 3041. Funds of the corporation.** The municipal assistance corporation for the city of New York shall not hereafter enter into any memorandum of agreement with the governor of the state of New York and the mayor of the city of New York, other than the agreement to be entered into pursuant to subdivision two-b of section three thousand thirty-three of this title, providing for the disposition of such revenues of such corporation as may be available from time to time after providing for the payment of principal, interest, and redemption premium on its outstanding bonds and notes, its operating expenses and its commitments under existing agreements, and, subject to any other provision of law, agreements with holders of its bonds or notes, or memoranda of agreement, and on the approval of the board, all funds generated by future actions of the corporation shall either be made available to the city of New York as such funds become available or applied by the corporation to pay principal, interest and redemption premium on its outstanding obligations.

* NB The corporation shall continue for a term ending the later of July 1, 2008 or one year after its liabilities have been fully paid and discharged per § 3033 sub 1.

TITLE 4

MUNICIPAL ASSISTANCE CORPORATION

FOR THE CITY OF TROY

§ 3050. Short title. This title shall be known and may be cited as the "Municipal Assistance Corporation for the City of Troy Act".

§ 3051. Legislative findings and statement of purposes. The legislature hereby finds and declares that it is necessary for a municipal assistance corporation to be created to assist the city of Troy in providing essential services to its inhabitants without interruption and in creating investor confidence in the soundness of the obligations of such city so that it may retain its ability to sell its obligations to the public.

The legislature further finds that it is in the interest of the state of New York and the city of Troy that certain capital programs of the city of Troy be funded, and certain cumulative deficits of the city of Troy be liquidated, with the proceeds of debt obligations, including securities of the municipal assistance corporation for the city of Troy.

§ 3052. Definitions. As used in this title, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

1. "Corporation" means the corporate governmental agency created by section three thousand fifty-three of this title.

2. "City" means the city of Troy.

3. "Chief executive officer" means the chief executive officer of the city as defined in subdivision five-a of section 2.00 of the local finance law.

4. "City comptroller" means the comptroller of the city of Troy.

5. "Short-term obligations" means tax anticipation notes, revenue anticipation notes, bond anticipation notes, budget notes and urban renewal notes.

6. "Bond or note facility" means any insurance policy, letter of credit or other credit enhancement with respect to bonds or notes of the corporation issued pursuant to this title.

§ 3053. Creation of the municipal assistance corporation for the city of Troy; authorized indebtedness. 1. There is hereby created the municipal assistance corporation for the city of Troy. The corporation shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation. It shall have the powers, privileges and duties of a corporation under title two of this article and under this title. The corporation shall continue for a term of one year after all its liabilities have been fully paid and discharged. Upon the termination of the existence of the corporation, all of its rights and property shall pass to and be vested in the state.

1-a. Notwithstanding the provisions of subdivision one of this section or any other provision of law, upon payment in full of all outstanding bonds or notes issued by the corporation under this title, and payment of all amounts required to be paid to the United States Treasury for tax-exempt bond rebate obligations, all remaining funds of the corporation not needed in the determination of the board of the corporation for operating expenses of the corporation, are hereby authorized and directed to be paid directly to the city of Troy. The determination of the board of the corporation of the amount of such funds available to be paid to the city of Troy shall be final and conclusive. In addition, upon payment of all outstanding obligations of the corporation, including after completion of audited financial statements of the corporation for the two thousand twenty-one fiscal year, as well as any shortened audit for any portion of the two thousand twenty-two fiscal year which may be determined by the board of the corporation to be in the public interest, the existence of the corporation may be terminated by resolution of the board of the corporation at any time, but in no event later than one year after all its liabilities have been paid.

2. Subject to the provisions of any contract with noteholders or bondholders, the corporation shall not issue bonds and notes in an aggregate principal amount exceeding seventy-one million dollars, excluding bonds and notes issued to fund the bond reserve fund established pursuant to section three thousand fifty-six of this title and any bonds or notes issued to refund outstanding bonds and notes of the corporation, for the purposes described in paragraphs (c), (d), (e), and (f) of subdivision one of section three thousand fifty-seven of this title.

2-a. In addition to the authority provided in subdivision two of this section, the corporation may, until December thirty-first, nineteen hundred ninety-nine, issue notes in an aggregate principal amount which the chief executive officer certifies to the corporation is required by the city to provide for purposes described in paragraph (b) of subdivision one of section three thousand fifty-seven of this title, without interruption, services essential to its inhabitants while meeting its obligation to the holders of its outstanding securities to

December thirty-first, nineteen hundred ninety-nine, but not to exceed two million dollars outstanding in the aggregate at any time (excluding notes to fund the bond reserve fund established pursuant to section three thousand fifty-six of this title). Such notes shall finally mature no later than December thirty-first, two thousand. Such notes shall mature within one year from their date of issue and may be renewed from time to time, but each renewal shall be for a period not to exceed one year. The terms of issuance of such notes shall not contain any provision creating rights in the holders of such notes to convert such notes to or exchange such notes for bonds of the corporation.

2-b. In addition to the authority provided in subdivisions two and two-a of this section, the corporation may, not later than December thirty-first, nineteen hundred ninety-eight issue bonds and notes in an aggregate principal amount not to exceed two million dollars (excluding any bonds or notes issued to fund the bond reserve fund established pursuant to section three thousand fifty-six of this title and any bonds or notes issued to refund outstanding bonds or notes) for the purpose of funding capital projects within the city pursuant to subdivision (a) of section three thousand fifty-seven of this title.

3. (a) No note or bond (i) shall mature more than thirty years from the date of the original issue of such note or bond and, in any event, not later than January first, two thousand thirty or (ii) shall be issued on a date later than December thirty-first, nineteen hundred ninety-nine, unless such note or bond is a renewal or refunding of an outstanding note or bond.

(b) No bond shall be issued by the corporation for a purpose set forth in paragraph (b) of subdivision one of section three thousand fifty-seven of this title.

(c) Whenever all or a portion of a series of notes or bonds of the corporation is issued for a purpose set forth in section three thousand fifty-seven of this title to the extent that the payment of the proceeds of such series is evidenced by a bond or bonds of the city, not more than one year following a scheduled payment of principal on any such city bond (including sinking fund installments), a substantially equal payment of principal (including sinking fund installments) shall be scheduled with respect to the notes or bonds included in such series of the corporation.

4. The corporation is authorized to procure a bond or note facility with respect to its bonds or notes issued pursuant to this section and as security for the principal of and interest on any bonds or notes issued pursuant to this section and for its obligations under any bond or note facility the corporation may pledge any part of its revenues or assets.

5. Whenever this title establishes a limit on the principal amount of bonds or notes that the corporation is authorized to issue, there shall not be counted against such limit (i) amounts certified by the chairman of the corporation as reasonable to be used to pay the cost of issuing such bonds or notes where such certification has been provided in writing to the state comptroller and the city of Troy, (ii) the amount of bonds or notes that would constitute interest under the Internal Revenue Code of 1986, as amended, and (iii) the portion of any bonds or notes issued to accomplish the purposes described in paragraphs (d) and (e) of subdivision one of section three thousand fifty-seven of this title to the extent necessary to pay interest to the date of redemption or maturity, redemption premium, if any, or other similar costs relating to the accomplishment of such purposes.

6. At the written request of the city, the corporation is authorized to pledge, subject to the prior pledge of the corporation's revenues and assets pursuant to its contracts with the holders of its bonds, notes or other obligations, any part of its revenues or assets not to exceed one hundred thousand dollars in any state fiscal year in favor of the commissioner of environmental conservation to secure obligations of the city related to post-closure care and potential corrective measures of the city's landfill.

§ 3054. Administration of the corporation. The corporation shall be administered by a board of directors, consisting of seven directors, none of whom shall be officers or employees of the federal government or of the state or political subdivisions thereof. Five of the directors shall be appointed by the governor. One of the directors shall be appointed by the majority leader of the senate and one of the directors shall be appointed by the speaker of the assembly. Each of the members of the board of directors shall serve at the pleasure of the appointed official. Directors of the corporation may also be members of the supervisory board created for the city of Troy pursuant to section ten of chapter seven hundred twenty-one of the laws of nineteen hundred ninety-four, as amended from time to time. The corporation shall have the power to make and execute contracts to pay the expenses of operation of the supervisory board for the city of Troy, within the appropriation available therefor.

§ 3055. Exchange of notes or bonds of the corporation for obligations of the city. 1. The corporation may issue its notes or bonds for the purposes described in paragraph (a), (b), (c), (d), (e) or (f) of subdivision one of section three thousand fifty-seven of this title and pay the proceeds thereof to the city in exchange for obligations of the city, provided that the principal amount of the corporation's notes or bonds issued in connection with any such exchange shall not exceed the principal amount of such obligations of the city and accrued interest thereon at the stated rate to the date of such exchange. The corporation may also issue its notes or bonds for the purposes described in paragraph (a), (c), (d), (e), or (f) of subdivision one of section three thousand fifty-seven of this title and pay the proceeds thereof to the city in exchange for the agreement by the city to repay such amounts in annual installments, subject to annual appropriation of such installments by the city council of the city of Troy, corresponding to the scheduled principal and interest payments on the corporation's bonds or notes issued to provide such proceeds provided that, excluding any agreements for repayment of amounts paid to the city in accordance with paragraph (d) of subdivision one of section three thousand fifty-seven of this title, such agreement shall provide that the first principal payment shall be made not later than two years after the date of such agreement or two years after the date of the first bond anticipation note or notes issued in anticipation of such agreement, provided that no such first principal payment shall be required to be made prior to January thirty-first, nineteen hundred ninety-nine, and further provided no principal payment shall be more than fifty per centum in excess of the smallest prior installment unless this agreement provides for substantially level or declining debt service payments.

2. (a) Upon or at any time after receipt of the obligations of the city exchanged in accordance with subdivision one of this section, the corporation may deliver any or all of such obligations to the city for cancellation, without receiving payment of principal or interest in respect thereof, in which event the city shall thereupon cancel such obligations without making any payment of principal amount or accrued interest thereon and the city shall have no further liability with respect thereto. Notwithstanding the foregoing, the corporation shall not deliver at any time obligations received pursuant to subdivision one of this section to the city for cancellation without receiving payment of principal or interest in respect thereof unless the chief executive officer shall have requested in writing that such obligations be delivered for cancellation.

(b) Upon or at any time after receipt of any short-term obligations of the city exchanged in accordance with subdivision one of this section the corporation may exchange any or all of such short-term obligations for other short-term obligations issued by the city pursuant to the local finance law and the corporation may exchange any or all of such bond anticipation notes included in such short-term obligations for bonds of the city issued pursuant to the local finance law, all on such terms and conditions as the corporation may deem proper.

3. The corporation shall not exchange any of its bonds or notes for obligations of the city pursuant to subdivision one of this section unless (a) the city shall have agreed to observe the conditions set forth in section three thousand fifty-eight of this title, subject to such modifications as are permitted thereunder and as the corporation may then approve, and (b) the board of directors of the corporation shall have determined that the terms of such exchange will not prejudice the rights of holders of other bonds and notes of the city.

§ 3056. Payments to the corporation; funds of the corporation. 1. Not less than one hundred twenty days before the beginning of each fiscal year of the corporation (but not later than October first, nineteen hundred ninety-five for the fiscal year ending December thirty-first, nineteen hundred ninety-five), the chairman of the board of directors of the corporation shall certify to the state comptroller and to the governor a schedule setting forth the cash requirements of the corporation for such fiscal year and the time or times when such cash is required. The total amount so certified by such chairman for such fiscal year shall be equal to: (i) the amounts required to be deposited in the debt service fund of the corporation to pay all interest and all payments of principal and redemption premium, if any, on bonds and notes payable from the sources hereinafter identified in this section and maturing or otherwise coming due during such fiscal year; (ii) the amounts required to be deposited in the operating fund of the corporation, as determined by the corporation, to meet the operating requirements and other expenses of the corporation during such fiscal year to the extent not otherwise provided for; (iii) the amounts required to be deposited in the bond reserve fund created and established pursuant to the agreements of the corporation made with the holders of its bonds or notes issued pursuant to section three thousand fifty-three of this title during such fiscal year in order to maintain the bond reserve fund level required in accordance with the agreements of the corporation made with the holders of its bonds or notes issued pursuant to section three thousand fifty-three of this title; (iv) the amount, if any, due to any provider of any bond or note facility, representing payments made by it as provided in the applicable resolution or trust indenture, including any related reasonable interest, fees or charges so provided; (v) the amount, if any, required to be rebated to the United States to provide for continued federal tax exemption for bonds and notes of the corporation; and (vi) the amount, if any, required to be paid to the commissioner of environmental conservation to secure obligations of the city related to post-closure care and potential corrective measures of the city's landfill. Such certification shall also set forth the amount which would be necessary to be appropriated and available for deposit into the special account established for the corporation under subdivision one of section ninety-two-e of the state finance law in the next succeeding state fiscal year to provide a minimum coverage ratio of one and one-half to one on the debt service payable by the corporation in such succeeding fiscal year; provided, however, that for the purposes of the foregoing calculation the term "debt service payable" shall include redemption premiums and the reasonably estimated amount of debt service on bonds and notes the corporation expects to issue after the date of the certification and prior to the close of such succeeding fiscal year, and shall also include the interest on but not the principal of any notes issued or expected to be issued by the corporation pursuant to subdivision two-a of section three thousand fifty-three of this title. In determining the amount certified as necessary to provide the minimum coverage ratio described in the preceding sentence, the chairman shall make estimates covering the period corresponding to the next succeeding state fiscal year of (a) the moneys available from other sources and pledged to the payment of debt service in accordance with any agreements between the corporation and the holders of its bonds or notes, (b) the amount of investment earnings on funds held by the corporation that the corporation will apply to the payment of debt service, and (c) the funding needed to meet the operating requirements and other expenses of the corporation. If any increase shall occur in such cash requirements specified above, or if payments are required at a time or times earlier than previously certified or if the city shall, for any reason, fail to make timely payment of the principal and accrued interest due on any obligation issued by the city to the corporation and maturing within the same fiscal year, or if the city shall fail to make timely payment of any amount due and owing from the city to the corporation under any contract or agreement between the city and the corporation, such chairman shall certify a revised schedule of such additional cash requirements for such fiscal year to the state comptroller and to the governor. Such chairman shall, as changed conditions or estimates may warrant, certify to the state comptroller and to the governor as to a revised amount which would be necessary to be appropriated and available for deposit into the corporation's special account under subdivision one of section ninety-two-e of the state finance law in order to maintain the minimum coverage ratio described above provided, however, that no such revised certification shall be made after the adoption by the legislature of a budget for the state fiscal year to which the certification pertains. The schedule accompanying each certification, or revision thereof, shall provide for such payment dates as the corporation deems appropriate to assure that sufficient funds will be available from the sources identified below to enable it to meet its current obligations under this section as they come due. Upon receipt of such certification, or any revision thereof, the state comptroller shall pay such amount to the corporation for deposit in the appropriate funds referred to in this section, in accordance with such certification and subject to agreements with holders of outstanding bonds and notes of the corporation, from the special account established for the corporation in the municipal assistance state aid fund in accordance with subdivision one of section ninety-two-e of the state finance law subject, however, to the provisions of paragraph (b) of subdivision five-a of such section, and from the special account established for the corporation in the municipal assistance tax fund in accordance with subdivision one of section ninety-two-d of the state finance law. Any such payment shall be made within thirty days of receipt of the certification or at the time specified in the certification, whichever is later; provided that any such amounts shall have been first appropriated by the state for such purpose or shall have been otherwise made available. Any amount paid to the corporation from such municipal assistance state aid fund shall be deducted from the amount otherwise payable to the city pursuant to sections fifty-four and ninety-two-e of the state finance law and, except as to amounts paid to the corporation pursuant to paragraph (b) of subdivision five-a of section ninety-two-e of the state finance law, shall not obligate the state to make, nor entitle the city to receive, any additional payments. Any amount so paid to the corporation from the municipal assistance tax fund shall be deducted from the amount otherwise payable to the city from the municipal assistance tax fund and shall not obligate the state to make, nor entitle the city to receive, any additional payments from such municipal assistance tax fund. The city shall pay to the corporation such additional payments as may be necessary to fund items (i), (ii), (iii), (iv), (v) and (vi) of this subdivision.

2. Nothing contained in this title shall be deemed to restrict the right of the state to amend, repeal, modify or otherwise alter sections fifty-four and ninety-two-e of the state finance law or section twenty of a chapter of the laws of nineteen hundred ninety-six entitled "AN ACT to amend chapter 721 of the laws of 1994 authorizing the city of Troy to issue serial bonds for the purpose of liquidating cumulative and projected deficits in the city's general fund, establishing a supervisory board, and establishing a debt service fund, in relation to granting a lien to the county of Rensselaer relating to certain taxes collected on behalf of such county by the city of Troy" which chapter added a new paragraph (b) to subdivision five-a of section ninety-two-e of the state finance law. The corporation shall not include within any resolution, contract or agreement with holders of the bonds or notes issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter sections fifty-four and ninety-two-e of the state finance law or the above described section twenty of such chapter of the laws of nineteen hundred ninety-six.

3. The corporation shall create a bond reserve fund, a debt service fund and an operating fund and may create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

4. The fiscal year of the corporation shall be the same as the fiscal year of the city.

§ 3057. Payments to or purchases of obligations of the city. 1. In the event that the chief executive officer from time to time certifies to the corporation an amount required by the city to enable it (a) to pay for any item which is permitted by law to be included in the city's capital budget for the fiscal year for which such certification is made, including payments to reimburse the general fund for moneys advanced and expended for any such item, or (b) to pay operating expenses of the city other than those included in this paragraph, or (c) to liquidate all or a portion of the city's cumulative deficits for the years nineteen hundred ninety-three through nineteen hundred ninety-five, both inclusive, or to pay, at maturity, or on the redemption date, the principal of and interest on obligations of the city issued for such purposes, or (d) to acquire, or cause to be acquired, all or a portion of the real or personal property leased by the city pursuant to one or more lease agreements between the city and the Troy local development corporation including the financing of the payment of any judgments or compromised or settled claims against the city relating thereto, or (e) to pay at maturity, or on the redemption date, the principal of and interest on obligations of the city previously issued to finance any item in the current or any prior fiscal year, or (f) to pay for the costs of closure of the city's landfill, the corporation may (i) pay to the city, or (ii) purchase from the city obligations hereafter issued by the city in an amount equivalent to, part or all of such certified amount.

2. Moneys paid to the city pursuant to subparagraph (i) or (ii) of paragraph (e) of subdivision one of this section shall be held in trust for the payment of city obligations or shall be used to make the payment for which such moneys have been so certified. The corporation shall not make any payment to the city, or purchase any obligations from the city, pursuant to this section unless the city shall have agreed to observe the conditions set forth in section three thousand fifty-eight of this title, subject to such modifications as are permitted thereunder.

3. In consideration of the payments made to the city for the purposes described in paragraph (a), (b), (c), (d), (e) or (f) of subdivision one of this section, the corporation shall purchase from the city obligations issued by the city in accordance with applicable provisions of the state constitution and local finance law then in effect at the time such obligations are issued in an amount equivalent to such payment. Nothing herein shall require the corporation to receive obligations issued by the city under the local finance law as a condition to making a total of seventy-one million dollars of payments in the aggregate to the city pursuant to paragraph (a), (c), (d), (e), or (f) of subdivision one of this section.

4. Nothing contained in this title shall be deemed to create an object

or purpose or to establish or extend a period for which a city bond may be issued pursuant to the local finance law, or to create authority for the city to issue a bond payable from a tax on real estate levied outside the limit imposed by the state constitution on the amount to be raised by tax on real estate for local purposes other then debt service, or to modify, amend, repeal, or rescind any other provision of the local finance law governing the issuance by the city of its bonds or the payment of principal and interest thereon.

5. At all times after receipt of obligations of the city acquired pursuant to this section, the corporation shall have the same rights and powers with respect to such obligations as the corporation shall have with respect to obligations of the city received pursuant to subdivision one of section three thousand fifty-five of this title; provided that the corporation shall not deliver any obligation received pursuant to this section for cancellation unless the city pays the principal amount and accrued interest thereon or pays accrued interest and exchanges such bond for another bond of the city in equal principal amounts in refunding thereof unless the chief executive officer shall have requested in writing that such obligations be delivered for cancellation, and provided further that the corporation may not sell or transfer to any person other than the city any obligation of the city acquired by it pursuant to this section unless the chief executive officer has requested in writing that the corporation sell or transfer such obligation and, if such obligation be sold or transferred at private sale, unless the terms of such sale have been approved by the city comptroller.

§ 3058. Conditions on extension of benefits to the city. The corporation shall, at the time of any exchange of the corporation's bonds and notes for obligations of the city pursuant to subdivision two of section three thousand fifty-five of this title or any payment of funds of the corporation to the city or of any purchase from the city of its obligations pursuant to section three thousand fifty-seven of this title, require the city to agree to observe and perform the conditions set forth below in this section, with such limitations as to the implementation of such conditions as the corporation may, subject to any contract with bondholders or noteholders, then approve; provided, however, that no such specific limitations shall be so substantial as to effectively constitute a waiver of any such conditions. Any such conditions may thereafter, in the discretion of the corporation, subject to any contract with bondholders or noteholders, be further limited. Such conditions shall cease to apply when all notes and bonds have been repaid or when the corporation has accumulated in its bond reserve funds or otherwise an amount equal to the principal of all outstanding notes and bonds and interest accrued thereon. The city shall have the right at any time to pay the corporation an amount which, when added to the bond reserve funds, shall equal the principal of all outstanding notes and bonds and interest accrued thereon and redemption premium if any. If the city makes such payment at a time when the corporation has outstanding notes or bonds that are not then callable, the city shall agree to pay the corporation on demand an amount equal to the amount, if any, by which the amount of interest on such notes or bonds shall exceed the corporation's income from the investment of its funds. Subject to the foregoing, the conditions that the corporation shall require the city to observe and perform shall be as follows:

1. The city shall deliver a certificate, executed by the chief executive officer in form prescribed by the corporation, (a) representing that the city is in compliance with the conditions described below in this section as the corporation may specify, (b) undertaking to comply with any of such specified conditions as the corporation may then require, and (c) stating that all local legislative and executive action then required to permit such compliance by the city has been taken. The corporation may require the delivery with such certificate of an opinion of the city's corporation counsel that all such legislative and executive action has been taken.

2. For the fiscal year ending December thirty-first, nineteen hundred ninety-six, and for each fiscal year thereafter, the city's budgets shall be prepared in accordance with the provisions of chapter seven hundred twenty-one of the laws of nineteen hundred ninety-four, as amended from time to time.

3. Each fiscal year the city shall take such action as may be necessary to enable an independent certified public accounting firm selected and retained by the city at its cost to perform an annual audit and to furnish to the corporation an annual report upon the financial statements of the city. Each such report shall be prepared in accordance with the generally accepted accounting principles. The city shall make available for inspection and copying all books, records, work papers and other data and material as required by the independent certified public accounting firm conducting such audit and the city shall make its officers and employees available to and shall cooperate with such auditors so as to permit such annual audit to be completed and the report issued to the city and to the corporation within one hundred twenty days after the close of the fiscal year. Such report shall be made available to the public promptly thereafter.

4. Beginning with the fiscal year ending December thirty-first, nineteen hundred ninety-six and for each fiscal year thereafter, the city shall deliver its proposed budgets to the corporation. Delivery to the corporation shall be made concurrently with the initial submission of the proposed budgets to the city council, but in any event not later than fifty days prior to the beginning of such fiscal year or such other date as the corporation may approve upon the request of the city. The proposed budgets submitted to the corporation shall be prepared in accordance with the accounting methods referred to in subdivision three of this section. Such budgets shall be identical to the proposed budgets submitted to the city council. The proposed budgets delivered to the corporation shall be accompanied by (i) a statement setting forth in detail the assumptions of income and expense used in preparation, and (ii) a certificate of the chief executive officer stating that such assumptions are reasonable and that operation within the budgets is feasible. Subject to and in accordance with the provisions of chapter seven hundred twenty-one of the laws of nineteen hundred ninety-four, as the same may be amended from time to time, the city shall in every fiscal year adopt and maintain budgets in which the total of all revenue items equals or exceeds the total of all expenditure items.

5. If after the adoption of the budgets for any fiscal year, any increase therein, or an increase in total expenditures shall be proposed, the chief executive officer shall cause such proposal to be submitted to the corporation concurrently with its submission to the city council, together with a statement of the source of current revenues or other identifiable and currently available funds required for the payment of such additional amounts.

6. Commencing at such time as the corporation may specify, but not later than February first, nineteen hundred ninety-six, the city budget director shall deliver to the corporation, not less than thirty days before each fiscal quarter (except, within thirty days after the commencement of the first fiscal quarter), an expenditure plan to implement the city budgets for such fiscal quarter and within amounts based on current income or other identifiable and currently available funds. The city budget director shall deliver to the corporation within thirty days after the end of each such fiscal quarter covered by an expenditure plan, an operations report reflecting results of city operations for such fiscal quarter and whether the city has operated within the related expenditure plan. Each expenditure plan and operations report shall be in such form as the corporation may specify and shall be certified by the city budget director and shall detail and report upon action taken by the city to maintain balanced budgets.

7. The city shall comply in all material respects with the expenditure limitations in its budgets as adopted or modified in accordance with subdivisions four and five of this section, and with chapter seven hundred twenty-one of the laws of nineteen hundred ninety-four, as the same may from time to time be amended.

§ 3059. Review by the corporation. In order to determine whether the city has taken or is taking action to effect compliance with any conditions imposed pursuant to section three thousand fifty-eight of this title, the corporation may from time to time conduct a review of the records, accounts, budgets, forecasts, projections and other relevant materials of the city. The corporation may conduct such review by using (i) its own employees, (ii) it agents, or (iii) any state employees provided to the corporation for such purposes. The city shall make available for such review all books and records, and shall furnish copies of all financial statements, budgets, forecasts, projections, information or corrective action taken by the city in response to any notices from the corporation and all information related to the foregoing, as requested by the persons conducting such review, and shall make its officers and employees available to and shall otherwise cooperate with such persons to permit such review to be completed as promptly as possible.

§ 3060. Remedies of the corporation. 1. The corporation shall cause each proposed budget, including related revenue estimates, submitted to it pursuant to subdivision four of section three thousand fifty-eight of this title, and each proposed modification furnished to it pursuant to subdivision four of such section and each expenditure plan and operations report submitted to it pursuant to subdivision six of such section, to be reviewed promptly by the corporation's staff or designee.

2. If, within forty-five days after such receipt of proposed budgets, or, if within fifty days after such receipt of a proposed modification, the board of directors shall, in its judgement, determine that any such budgets will not be balanced in accordance with the provisions of subdivision five of section three thousand fifty-eight of this title, either by its terms or because revenue is overestimated or expenditures are underestimated therein, or that a report of proposed modification pursuant to subdivision five of section three thousand fifty-eight of this title reflects that the budgets would thereafter not be balanced in accordance with the provisions of subdivision four of section three thousand fifty-eight of this title, or that a condition imposed pursuant to such section has not been met or will not be met, with respect to such fiscal year, then the corporation shall promptly notify the chief executive officer of such determination and shall review with him the manner in which corrective action may be taken in order to comply with such conditions.

3. In the event that the board of directors determines, following review with the chief executive officer pursuant to subdivision two of this section that the corrective action necessary to cause compliance with the conditions of section three thousand fifty-eight of this title will not be taken, or determines as a result of a review made pursuant to section three thousand fifty-nine of this title or otherwise that the city is not in compliance with any of the conditions imposed pursuant to section three thousand fifty-eight of this title or that any representation or undertaking contained in any certificate delivered pursuant to such section is materially incorrect or has not been complied with in all material respects, the corporation shall promptly certify a copy of such determination of noncompliance to the governor, the legislature, the state comptroller, the chief executive officer, the city council and the city comptroller and shall disclose such determination to the public.

4. The remedies described in this section are not exclusive and, in addition thereto, the corporation shall have and may exercise all other rights and remedies provided by law.

ARTICLE 10-A

NEW YORK STATE SCIENCE AND TECHNOLOGY

TITLE 1

NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

§ 3101. Purposes of the corporation. The purposes of the corporation shall be to encourage and promote:

1. Scientific and technological education in the state; and

2. Basic and applied research and development in the state.

3. The development of new commercial products and the fabrication of such products in the state.

The corporation shall encourage and promote cooperative efforts among government, the private sector, and universities and colleges in the state, for these purposes.

§ 3102. Powers and duties of the corporation. In furtherance of the purposes set forth in this article, the corporation shall have the following powers and duties:

1. To foster and support scientific and technological research, development and education in the state, through contracts or other appropriate means, in cooperation with the federal government, the state government and the political subdivisions thereof, educational institutions, non-profit institutions and organizations, business enterprise and other persons concerned with scientific and technological research, development and education in the state.

2. To sponsor and conduct conferences and studies, collect and disseminate information, and issue periodic reports relating to scientific and technological research, development and education in the state.

3. To prepare and periodically issue a register of scientific and technological research facilities in the state.

3-a. To establish and keep current, a roster of New York based small high technology firms.

4. To seek, receive, hold, invest, reinvest and use, on behalf of the corporation and for any of its purposes, real property, personal property and moneys, or any interest therein, and the income therefrom, either absolutely or in trust. The board of directors, without regard to the limitations of section eleven of the state finance law relating to gifts but with the concurrence of the director of the budget, may acquire such property or moneys for such purpose by the acceptance of gifts, grants, including matching grants, appropriations, bequests or devises from any source, including but not limited to the federal and state governments and agencies.

5. To review the technological development potential of various regions of the state and to cooperate with and make recommendations to the legislature, state agencies, local governments, local technology development agencies, the federal government, private businesses and individuals for the realization of such development potential.

6. To recommend to the state agencies, local governments, the governor, and the legislature policies and programs essential to the advancement of science and technology oriented industry and applied research in New York state and to the promotion of technological innovation in industries of all types in New York state.

7. To assist small and emerging science and technology oriented businesses and inventors in applying for federal research grants and

state or federal procurement contracts including dissemination of information on the availability of such grants and contracts.

8. To collect and disseminate information on financial, technical, marketing, management and other services available to small and emerging science and technology oriented businesses on a free or for hire basis from universities, private for-profit businesses, and non-profit organizations.

8-a. To assist in the export promotion and marketing of high technology goods or services, in cooperation with the department of economic development.

9. To identify emerging technologies which provide significant promise for the development of job-creating businesses and to disseminate relevant information on individuals and businesses involved in such areas to the job development authority, the job incentive board, the legislative commission on science and technology, local technology development agencies, local industrial development authorities, and other state, local and non-profit agencies and organizations responsible for economic development.

10. To establish a focal point for the dissemination of information regarding inventions for the benefit of inventors interested in having their ideas developed and commercialized and for entrepreneurs interested in the commercialization of new products and processes.

11. To encourage and facilitate communication among inventors, banks, venture capitalists and other sources of debt and equity capital, entrepreneurs, and technical, legal, marketing and managerial experts for the purpose of facilitating the growth and development in this state of business enterprises involved in the development and fabrication of new commercial products.

12. To identify potential sources of debt and equity capital for small and emerging science and technology oriented businesses and to provide such information to such businesses upon request.

13. To make its services and activities known to the public at large.

14. To sue and be sued in the name of the corporation, process in any action or proceeding may be served upon the secretary of state, as agent for the corporation, in the manner provided by section three hundred six of the business corporation law.

15. To have and use a corporate seal.

16. To adopt rules and regulations, assisted by the commissioner of economic development and in consultation with the department of economic development and in accordance with the state administrative procedure act. Such regulations shall be consistent with law, shall be consistent with the program plan required by subdivision nineteen of section one hundred of the economic development law, and shall govern any matters relating to the activities of the corporation.

17. To have and exercise all powers necessary or convenient to effect any or all of the purposes of the corporation.

§ 3102-a. Industrial technology extension service. 1. There is hereby established within the foundation an industrial technology extension service program.

2. Definitions. For the purposes of this section, the terms:
(a) "Industrial technology extension service" shall mean a network of regional organizations which provide technical and management assistance through field agents, as well as feasibility studies and productivity assessments by contract, to eligible businesses, especially small and medium sized firms in New York state. Agents will assist firms in researching, evaluating and implementing opportunities for technology and or management related productivity improvements.
(b) "Director" shall mean the executive director of the New York State Science and Technology Foundation.
(c) "Foundation" shall mean the New York State Science and Technology

Foundation.

(d) "Regional organization" shall mean a not-for-profit organization which contracts with the foundation to serve as the industrial technology extension service for the region within which it operates.

(e) "Industrial firm" shall mean a firm involved with extracting, smelting, recovering, developing, preparing, compounding, converting, assembling or producing in any manner, minerals, raw materials, products or substances of any kind or nature, and shall include facilities related thereto for storage, warehousing or distribution, for research and development or for the discovery of new, and refinement of known, substances, processes, and products.

(f) "Medium-sized industrial firm" shall mean an industrial firm that employs less than five hundred persons within the state on a full-time basis.

(g) "Small-sized industrial firm" shall mean an industrial firm that employs one hundred or less persons within the state on a full-time basis.

3. Purpose. The purposes of the industrial technology extension service program shall be:

(a) to improve the competitiveness and increase the market share of viable New York state industries and firms through increased knowledge of new technologies and other innovations;

(b) to build a technology dissemination transfer and educational service based on current research and development strengths in New York state in the area of industrial technologies;

(c) to assist industrial firms with the introduction of improved management and production processes in order to enhance their productivity and competitiveness;

(d) to provide industrial effectiveness field services pursuant to article seven of the economic development law; and

(e) to assist in the retention and expansion of industrial firms and employment in New York state.

4. Contracting process. The foundation shall, on an annual basis contract with regional organizations to provide industrial technology extension services on a regional basis. Initial selection shall be based

on the foundation's assessment of the ability of the regional organization to meet the objectives specified in subdivision three of this section, to conduct outreach services, to service the technical needs of industrial firms in the region and to coordinate its activities with other concerned organizations within a region. The director shall review, on an annual basis, the performance of regional organizations which have been selected to provide services in meeting these requirements and, upon completion of its review, the foundation shall make a determination concerning the advisability of continuing to contract with the regional organization based on the outcome of the review. However, upon a finding by the board of the foundation, made upon a recommendation from the department of economic development and the director of the foundation, that the purposes of this section would more appropriately be served by an individual rather than an organization, the foundation shall contract with an individual pursuant to the provisions of this subdivision.

5. Responsibilities of field agents. Field agents shall:

(a) Contact firms within the region and develop assessments of their technology related needs;

(b) Assist firms in researching, evaluating and implementing opportunities for technology related productivity improvements;

(c) Where appropriate, recommend to the department of economic development that it make available productivity assessments and feasibility studies through the industrial effectiveness program pursuant to article seven of the economic development law to industrial firms that have requested such assistance. The following factors shall be considered in determining whether to recommend the provision of a productivity assessment or feasibility study to an industrial firm: (i) the potential viability of the company; (ii) the commitment of management and labor to jointly participate in a productivity-improvement program; and (iii) whether interests of the employees of the firm are served by such assistance. The foundation shall, in cooperation with the department of economic development, develop procedures for such referrals;

(d) Provide referrals to appropriate local, regional and state level organizations and programs which deliver services or provide information or assistance;

(e) Provide information on state-sponsored programs offering financial or technical assistance to industrial firms and aid such firms in applying for assistance;

(f) Identify public and private sources of expertise available to assess productivity problems of industrial firms;

(g) Organize, promote and operate seminars and workshops addressing industry technological needs, as well as, design and conduct seminars and workshops to inform industrial managers, union leaders, trade associations, and other appropriate individuals and organizations, of industrial productivity-improvement methods and approaches and to demonstrate their successful adoption in similar firms;

(h) Promote the services and assistance available under this section for industrial firms, to such firms and to municipal officials and agencies, regional and local economic development entities, technology development organizations, trade associations, business and labor organizations and the appropriate entities; and

(i) Coordinate industrial expansion and retention activities with the regional offices of the department of economic development pursuant to article eleven of the economic development law and other activities with other state operated and supported business assistance programs.

6. Rules and regulations. The director shall promulgate rules and regulations for the operation of the industrial technology extension service program.

7. Exemption from disclosure requirements. To the fullest extent permitted under subdivision two of section eighty-seven of the public officers law, all information regarding the financial condition, marketing plans, manufacturing processes, production costs, productivity rates, customer lists, or other trade secrets and proprietary information of a person or entity requesting assistance from the foundation, which is submitted by such person or entity to the foundation in connection with an application for assistance or with a productivity assessment or feasibility study, shall be confidential and exempt from public disclosure.

8. Program plan. The foundation shall cooperate with the department of economic development in preparation of a program plan pursuant to subdivision nineteen of section one hundred of the economic development law.

9. Reporting. The director shall, on or before October first, nineteen hundred ninety-one and on or before each October first thereafter, submit a report to the governor and the legislature on the operation and accomplishments of the industrial technology extension service program.

10. For any positions opened as a result of a project conducted pursuant to this section businesses so assisted shall first consider persons eligible to participate in federal job training partnership act (P.L. 97-300) programs who shall be referred to the business by administrative entities of service delivery areas created pursuant to such act or by the job service division of the department of labor.

11. Evaluation. The director shall submit to the director of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee an evaluation of the success of the industrial technology extension service program prepared by an entity independent of the foundation. Such evaluation shall include, but not be limited to, determining whether the services provided have helped client firms to improve their competitiveness or increase their market share relative to other firms in the specific industry; and shall assess the effect, if any, of the program on the continued location and growth of industrial firms within the state. Such evaluation shall be submitted by September first, nineteen hundred ninety-two and by September first every two years thereafter.

§ 3102-b. Centers for advanced technology. In order to encourage greater collaboration between private industry and the universities of the state in the development and application of new technologies, the foundation is authorized to designate for advanced technology such areas as integrated electronics, optics, biotechnology, telecommunications, automation and robotics, electronics packaging, imaging technology and others identified by the foundation as having significant potential for economic growth in New York, or in which the application of new technologies could significantly enhance the productivity and stability of New York businesses. Such designations shall be made in accordance with the standards and criteria set forth in subdivision two of this section. Centers so designated shall be eligible for support from the foundation in the manner provided for in subdivision three of this section, and for such additional support as may otherwise be provided by law.

1. As used in this section:

(a) "center for advanced technology" or "center" means a university or university-affiliated research institute or a consortium of such institutions, designated by the foundation, which conducts a continuing program of basic and applied research, development, and technology commercialization in one or more technological areas, in collaboration with and through the support of private business and industry; and

(b) "applicant" means a university or university-affiliated research institute or a consortium of such institutions which request designation as a center in accordance with such requirements as are established by the foundation for this purpose.

2. The foundation shall:

(a) identify technological areas for which centers should be designated including technological areas that are related to industries with significant potential for economic growth and development in New York state and technological areas that are related to the enhancement of productivity in various industries located in New York state.

(b) establish criteria that applicants must satisfy for designation as a center, including, but not limited to the following:

(i) an established record of research, development and instruction in the area or areas of technology involved;

(ii) the capacity to conduct research and development activities in collaboration with business and industry;

(iii) the capacity to secure substantial private and other governmental funding for the proposed center, in amounts at least equal to the total of support sought from the state;

(iv) the ability and willingness to cooperate with other institutions in the state in conducting research and development activities, and in disseminating research results; and to work with technical and community colleges in the state to enhance the quality of technical education in the area or areas of technology involved;

(v) the ability and willingness to cooperate with the foundation and other economic development agencies in promoting the growth and development in New York state of industries based upon or benefiting from the area or areas of technology involved.

(c) establish such requirements as it deems appropriate for the format, content and filing of applications for designation as centers for advanced technology.

(d) establish such procedures as it deems appropriate for the evaluation of applications for designation as centers for advanced technology, including the establishment of peer review panels composed of nationally recognized experts in the technological areas and industries to which the application is related.

3. (a) From such funds as may be appropriated for this purpose by the legislature, the foundation may provide financial support, through contracts or other means, to designated centers for advanced technology, in order to enhance and accelerate the development of such centers. Funds received pursuant to this subdivision may be used for purchase of equipment and fixtures, employment of faculty and support staff, provision of graduate fellowships, and other purposes approved by the foundation, but may not be used for capital construction. In each case, the amount provided by the foundation to a center shall be matched by commitments of support from private and governmental other than state sources provided that:

(i) funds or in-kind resources provided by the public or private university of which the center is a part may be counted towards the match;

(ii) such match shall not be required on a project-by-project basis;

(iii) matching funds received from businesses with no more than one hundred employees shall count as double the actual dollar amount toward the center's overall match requirement;

(iv) funds used by the center for any workforce development activities required by the foundation shall not be included as part of the center's award when determining the amount of matching funds required by the foundation. Such activities shall include, but are not limited to, helping incumbent workers expand their skill sets through short courses, seminars, and workshops; providing industry-driven research assistant opportunities for students, and aiding in the development of undergraduate and graduate courses in the center's technology focus to help ensure that students are trained to meet the needs of industry;

(v) centers may use not more then twenty-five percent of indirect costs towards any match requirements.

(b) The amount provided by the foundation shall be made in accordance with the following:

(i) for the academic year in which it is first funded as a designated center, and the five subsequent years, the amount provided by the foundation to a center shall be matched equally by the center;

(ii) beginning in the sixth academic year following the academic year in which a center is first funded as a designated center and for each academic year thereafter, amounts provided by the foundation of up to seven hundred fifty thousand dollars shall be matched equally by the center, amounts in excess of seven hundred fifty thousand dollars shall be matched by the center in amounts of at least the percentage set forth herein: in the sixth year, one hundred twenty percent; in the seventh year, one hundred forty percent; in the eighth year, one hundred sixty percent; in the ninth year, one hundred eighty percent; in the tenth year and each year thereafter, two hundred percent;

(iii) beginning in the ninth academic year following the academic year in which a center is first funded as a designated center, the foundation shall evaluate such center's area of advanced technology to determine whether it has continued significant potential for enhancing economic growth in New York, or whether the application of technologies in the area could significantly enhance the productivity and stability of New York businesses;

(iv) upon a finding by the foundation that an area of advanced technology has continued significant potential for enhancing economic growth in New York, or that the application of technologies in the area could significantly enhance the productivity and stability of New York businesses, the foundation will initiate a redesignation process in accordance with the standards and criteria set forth in paragraph (b) of subdivision two and in accordance with paragraphs (c) and (d) of subdivision two of this section.

(1) In the event a new center is selected in the redesignation process, the foundation shall provide funds to such new center in accordance with the funding match requirements set forth in subparagraphs (i) and (ii) of paragraph (a) of this subdivision.

(2) In the event a previously designated center is redesignated in the same area of technology, which redesignation is effective for the tenth academic year following the first academic year of both designation and funding, then, in that year and in each year thereafter, the foundation shall provide funds of up to seven hundred fifty thousand dollars to be matched equally by the center, amounts in excess of seven hundred fifty thousand dollars shall be matched by the center in amounts of at least two hundred percent.

(3) In the event a currently designated center is not selected in the redesignation process for an additional term, or upon a finding by the foundation that the area of advanced technology does not have significant potential for enhancing economic growth in New York, or upon a finding that the application of technologies in that area would not significantly enhance the productivity and stability of New York businesses, then the foundation shall, in the tenth academic year following such center's first both designation and funding, which year shall be the final year of funding for such center, provide an amount of up to five hundred thousand dollars.

(c) Continued funding of the operations of each center shall be based upon a showing that: the center continues to comply with the criteria established by the foundation pursuant to paragraph (b) of subdivision two of this section; a demonstration of assistance to small businesses in New York state through research, technology transfer or other means as approved by the foundation; evidence of partnerships with other appropriate entities to develop outreach networks and ensure that companies receive access to appropriate federal funding for technology development and commercialization as well as non-research assistance such as general business consulting. Appropriate partners are those with which the center demonstrates a relationship that enhances and advances the center's ability to aid economic growth in New York state; and compliance with the rules, regulations and guidelines of the foundation; and, compliance with any contracts between the foundation and the designated center.

(d) Each center shall report on its activities to the foundation in a manner and according to the schedule established by the foundation, and shall provide such additional information as the foundation may require provided, that quantifiable economic development impact measures are not restricted to any period less than five years and that centers provide a full description of all non-quantifiable measures. The foundation shall evaluate center operations using methods such as site visits, reporting of specified information and peer review evaluations using experts in the field of technology in which the center was designated. The foundation shall notify each center of the results of its evaluations and findings of deficiencies in the operation of such center or its research, education, or technology commercialization activities and shall work with such centers to remedy such findings. If such factors are not remedied, the foundation may withdraw the state funding support, in whole or in part, or withdraw the center designation.

(e) In order to encourage that the results of center research benefit New York state, designation and continued funding of each center shall be contingent upon each center's establishing within its licensing guidelines the following: after payment of the inventor's share, a reduced payment due to the university of any royalty, income or other consideration earned from the license or sale of intellectual property rights created or developed at, or through the use of, the facilities of the center by any person or entity if the manufacturing or use resulting from such intellectual property rights occurs within New York state. The foundation shall promulgate rules and regulations regarding the provisions of the licensing guidelines described herein as they apply to such reduced payment, and such provisions shall be subject to the approval of the foundation.

4. From such funds as may be appropriated for this purpose by the legislature, the foundation may provide grants to any one university or university-affiliated research institution for purposes of planning and program development aimed at enabling such university or university-affiliated research institution to qualify for designation as

a center. Such grants shall be awarded on a competitive basis, and shall be available only to those applicants which in the judgment of the foundation may reasonably be expected to be designated as centers. No applicant shall receive more than one such grant.

5. (a) From such funds as may be appropriated for the purpose of incentive grants or other funds which may be available from the foundation to enhance center activities in areas of crucial interest in the state's economic development, the foundation may provide grants, on a competitive basis, to centers for projects including, but not limited to, those which:

(i) explore new technologies with commercial application conducted jointly by two or more centers or a center and non-center university, college or community college;

(ii) are aimed at enhancing or accelerating the process of bringing new products, particularly those under development by new small businesses, to the marketplace; or

(iii) increase technology transfer projects with the state's mature manufacturing industries in applying technology in their manufacturing processes or for new product development.

(b) State support for incentive grants may be matched on an individual basis by the foundation, which may consider the type of project and the availability of amounts from private, university and governmental, other than state, sources.

6. (a) The foundation shall make an annual report of the centers for advanced technology program to the governor and the legislature not later than September first of each year. Such report shall include, but not be limited to, the results of the foundation's evaluation of each center, a description of the achievement of each center, any deficiencies in the operation of each center or its research, education and technology commercialization activities, remedial actions recommended by the foundation, remedial actions taken by each center, a description of the small business assistance provided by each center, a description of any incentive grant program awarded a grant by the foundation and the achievements of such program, and the amount of financial assistance provided by the foundation and the level of

matching funds provided by each center and the uses of such monies.

(b) Annual reports shall include a discussion of any fields of technology that the foundation has identified as having significant potential for economic growth or improved productivity and stability of New York businesses and in which no center for advanced technology has been designated and recommendations of the foundation as to actions that should be taken.

§ 3102-d. Technology development organization program. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Technology development organizations" shall mean any not-for-profit corporation or other nonprofit organization, association, or agency which is organized for the purpose of the promotion, attraction, stimulation, development and expansion of science and technology-oriented economic activity in a particular region of the state or in one or more counties or cities. For the purposes of this section, a technology development organization shall include not-for-profit corporations or other nonprofit organizations, associations, or agencies which are organized for the stated purpose either prior to or following the effective date of this section, including such organization which had begun operations prior to said date.

(b) "In-kind services" shall mean the donation of quantifiable goods and services including but not limited to professional services and time, equipment, material and office space for use by a technology development organization in furtherance of its stated purposes or provided on behalf of the technology development organization to others for such purposes and for which there is no monetary remuneration. Any such in-kind services must have prior approval by the foundation to satisfy the matching requirement of the technology development organization program.

2. The foundation is hereby authorized to award grants on a competitive basis, from such funds as may be appropriated for this purpose by the legislature, to match funds expended by technology

development organizations for the purposes set forth in this section and in accordance with rules and regulations promulgated by the foundation pursuant to this section.

3. Matching funds shall be provided only for purposes which are related to the realization of the technological development potential of a particular region of the state in accordance with the findings of the foundation pursuant to subdivision five of section thirty-one hundred two of this chapter. Among the activities for which matching funds may be provided are the following:

(a) Sponsoring and conducting regional conferences and studies, collecting and disseminating information and issuing periodic reports relating to scientific and technological research, development and education in the region;

(b) Preparing and periodically issuing a register of scientific and technological research facilities in the region;

(c) Assisting small and emerging science and technology-oriented businesses within the region in applying for federal or state research grants or procurement contracts and disseminating information on the availability of such grants and contracts;

(d) Collecting and disseminating information on financial, technical, marketing, management and other services available to small and emerging science and technology-oriented businesses within the region and arranging access to such services on a free or for-hire basis from universities, private for-profit businesses and nonprofit organizations;

(e) Providing technical assistance including management, marketing and financial packaging assistance to, and collecting and disseminating information regarding inventions for the benefit of, inventors interested in having their ideas developed and commercialized and entrepreneurs interested in the commercialization of new products and processes;

(f) Supporting university-industry collaboration in applied research, the promotion of incubator facilities and the generation of brokering of venture capital to support regional new enterprise development;

(g) Establishing or updating a technology development strategy for the region;

(h) Establishing regional data base services, linked through the foundation into a statewide data base, which identify resources available from colleges, universities and technical service providers and which provide information, including venture capital sources and labor market statistics, of interest to and for use by entrepreneurs and technology-oriented businesses;

(i) Sponsoring or working with regional industrial extension services to provide technological information to industry and to communicate industrial needs to universities and others, brokering joint university-industry investigations to aid industry, and assisting in the provision of productivity improvements to mature industries;

(j) Projecting the need for the technical and professional workforce within the region and assisting others in planning for projected dislocations and retraining; and

(k) Assisting the foundation and the department of economic development in identifying and contacting eligible applicants, as defined in paragraph (a) of subdivision one of section two hundred twenty-four of the economic development law, and sponsoring, in conjunction with the foundation and the department of economic development, conferences, seminars, counseling sessions and other outreach efforts aimed at improving the competitive position of applicants in international markets by promoting exporting.

(l) Conducting such other appropriate activities as may be established by the foundation for the purpose of realizing the technological development potential of the region served by the applicant.

4. Notwithstanding any other law, grants made by the foundation pursuant to this section shall be equally matched by the technology development organization except that up to fifty percent of the match made by the technology development organization may be of in-kind services as approved by the foundation.

5. The foundation may establish such requirements as it deems appropriate for the format and content of applications for matching grants pursuant to this section and shall set reasonable deadlines for the submission of applications for such support.

6. The foundation may select from competing applications, those which

it judges to be of greatest benefit to the welfare of the people of the state and may approve or reject any or all of the competing applications. The foundation shall notify all applicants of the approval or rejection of their applications in a timely fashion.

7. The foundation shall require periodic but at least semi-annual reports and other such documents and information as it deems necessary to monitor and review the performance of each technology development organization awarded a grant and shall conduct an annual evaluation of the program which shall include the quality of the activities performed and conformity thereof to the grant provisions and the purposes and provisions set forth in this section.

8. The foundation shall submit a report by May first, nineteen hundred eighty-eight, and each December thirty-first thereafter, to the governor, the temporary president of the senate and the speaker of the assembly, detailing the activities that each technology development organization has undertaken during the reporting year. Such reports shall include but not be limited to, the composition of the organization, the amount of the grant awarded and the match provided, the duties and obligations required by the foundation, a description of the organization's activities and accomplishments, the number of jobs created or retained, the number and types of companies assisted and any other information pertinent in evaluating the program.

§ 3102-e. Emerging technology industrial classifications. 1. Definitions. As used in this section:

(a) "Department" shall mean the New York state department of taxation and finance.

* (b) "Emerging technologies" shall mean:

(1) advanced materials and processing technologies that involve the development, modification, or improvement of one or more materials or methods to produce devices and structures with improved performance characteristics or special functional attributes, or to activate, speed up, or otherwise alter chemical, biochemical, or medical processes. Such technologies shall include, but not be limited to, the following: metal

alloys, metal matrix and ceramic composites, advanced polymers, thin films, membranes, superconductors, electronic and photonic materials, bioactive materials, bioprocessing, genetic engineering, catalysts, waste emissions reduction and waste processing technologies;

(2) engineering, production, and defense technologies that involve knowledge-based control systems and architectures, advanced fabrication and design processes, equipment, and tools, or propulsion, navigation, guidance, nautical, aeronautical and astronautical ground and airborne systems, instruments, and equipment. Such technologies shall include, but not be limited to, the following: computer-aided design and engineering, computer-integrated manufacturing, robotics and automated equipment, integrated circuit fabrication and test equipment, sensors, biosensors, signal and image processing, medical and scientific instruments, precision machining and forming, biological and genetic research equipment, environmental analysis, remediation, control, and prevention equipment, defense command and control equipment, avionics and controls, guided missile and space vehicle propulsion units, military aircraft, space vehicles, and surveillance, tracking, and defense warning systems;

(3) electronic and photonic devices and components for use in producing electronic, optoelectronic, mechanical equipment and products of electronic distribution with interactive media content. Such technologies shall include, but not be limited to, the following: microprocessors, logic chips, memory chips, lasers, printed circuit board technology, electroluminescent, liquid crystal, plasma, and vacuum fluorescent displays, optical fibers, magnetic and optical information storage, optical instruments, lenses, and filters, simplex and duplex data bases, and solar cells;

(4) information and communication technologies, equipment and systems that involve advanced computer software and hardware, visualization technologies, and human interface technologies. Such technologies shall include, but not be limited to, the following: operating and applications software, artificial intelligence, computer modeling and simulation, high-level software languages, neural networks, processor architecture, animation and full-motion video, graphics hardware and software, speech and optical character recognition, high-volume information storage and retrieval, data compression, broadband

switching, multiplexing, digital signal processing, and spectrum technologies; and

(5) biotechnologies, which shall be defined as technologies involving the scientific manipulation of living organisms, especially at the molecular and/or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, antigenetic switching, bioaugmentation, bioenrichment, bioremediation, chromosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-electrical engineering, and bio-informatics; and

(6) remanufacturing technologies, which shall be defined as processes whereby eligible commodities are restored to their original performance standards and are thereby diverted from the solid waste stream, retaining the majority of components that have been through at least one life cycle and replacing consumable portions to enable such commodities to be restored to their original functions. For the purposes of this subdivision, "eligible commodities" shall mean commodities (excluding paper) used in conjunction with or as a part of equipment performing the functions of facsimile machines, photocopiers, printers, duplication equipment, or any combination thereof, including, but not limited to the following: magnetic ink character recognition cartridges, photo conductor assemblies, electrostatic cartridges, thermal imaging cartridges, toner cartridges, ink jet cartridges, and printer cartridges. Provided further, that "eligible commodities" shall also include equipment used to record single frame images on film, where such equipment and film are marketed and sold as a single integrated consumer product, and where such equipment and film may be submitted in whole to a photograph processor for the purposes of processing.

* NB Applies to taxable years beginning on or after January 1, 2001

(c) "Qualified emerging technology company" shall mean a company located in New York state: (1) whose primary products or services are classified as emerging technologies and whose total annual product sales are ten million dollars or less; or (2) a company which has research and development activities in New York state and whose ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified as determined by the National Science Foundation in the most recent published results from its Survey of Industry Research and Development, or any comparable successor survey as determined by the department, and whose total annual product sales are ten million dollars or less.

The definition of "research and development funds" shall be the same as that used by the National Science Foundation in the aforementioned survey.

2. The New York state science and technology foundation shall prepare a report, no later than March thirty-first, two thousand four, analyzing the effectiveness of the tax credits created by subdivisions twelve-E and twelve-F of section two hundred ten of the tax law, in light of their influence on the start-up, growth, and retention of emerging technology companies in the state, on job growth within high technology companies, and on the expansion of collaborative research and development undertaken by industry and academia. The department shall annually provide the New York state science and technology foundation with aggregate statistics, pursuant to existing legal requirements for confidentiality of taxpayer records, on the number of taxpayers applying for such credits, the number of employees employed full time by qualified emerging technology companies, and the total amount and the amount of incremental basic research payments, made to a qualified organization. This report shall be delivered to the governor, the speaker of the assembly, the temporary president of the senate, and the chairpersons of the assembly committee on economic development, job creation, commerce and industry and the senate committee on commerce, economic development and small business.

§ 3102-f. Science and technology law center. 1. The foundation shall, subject to available appropriations, issue a request for proposals to

New York law schools to establish the science and technology law center.

2. The science and technology law center will advise the foundation, centers for advanced technology and other academic institutions on all technology-related legal issues, and provide any other services deemed necessary by the foundation, including but not limited to:

(a) conducting research on legislation, regulations and legal decisions that impact the flow of technology transfer and academic research;

(b) working with the centers for advanced technology and other academic institutions to provide appropriate assistance;

(c) working directly with startup and early stage technology companies outside of institutional settings;

(d) working with the centers in creating and hosting venture capital fairs;

(e) managing the functions of the technology commercialization clinic program as established pursuant to section thirty-one hundred two-g of this article.

§ 3102-g. Technology commercialization clinic program. The foundation shall establish a technology commercialization clinic program to be managed by the science and technology law center for the purposes of assisting New York universities, entrepreneurs and companies in commercializing new products or processes.

1. Entities eligible to operate the program shall be competitively selected by the foundation and shall include business, law and engineering schools, and other academic research entities, located at colleges and universities in the state.

2. Activities under this program shall be conducted by students supervised by appropriate faculty and university administrators and shall include but not be limited to the following:

(a) engaging in faculty-supervised projects specializing in research and analysis of the commercial development of early-stage technologies on behalf of New York universities and companies;

(b) providing research and analysis of the technical, marketing, intellectual property, and legal issues related to the commercial development of new technologies on behalf of New York universities and companies;

(c) collaborating with other technology commercialization clinic programs to develop best practices to support technology commercialization in New York.

§ 3104. State not liable for obligations. No obligation of the corporation shall be a debt of the state, and the corporation shall have no power to make its obligations payable out of any property or moneys except those of the corporation.

§ 3105. Public purpose of the corporation. The corporation is created and shall be operated exclusively for public purposes and not for pecuniary profit. No part of the net earnings of the corporation shall inure to the benefit of any private individual.

§ 3105-a. Roster of retired scientists, engineers and other experts.

1. The corporation shall establish a roster of retired scientists, engineers and other experts who are willing to volunteer to assist small, emerging technology oriented businesses in reviewing, analyzing and assisting in technological and organizational problems.

2. The roster of retired scientists, engineers and other experts shall be composed of retired persons with scientific research and development expertise or such relevant managerial experience as may be useful to emerging business.

3. The corporation shall make the establishment of the roster known to such retired scientists, engineers and other experts who may be willing to volunteer their services, and solicit their assistance on behalf of emerging businesses that request assistance from such persons.

4. The corporation shall make the names and accompanying areas of expertise known to inventors and small and emerging technology oriented businessmen for the purpose of gaining from the advice and expertise of such retired volunteers.

§ 3106. Contributions to the corporation. Notwithstanding the provisions of any general or special law or the provisions of any certificate of incorporation, charter or other articles of organization, any corporation, association or person is hereby authorized to make contributions to the corporation.

§ 3107. Exemption from taxation. The property, income and activities of the corporation shall be exempt from all taxes and assessments.

§ 3108. Annual report. The corporation shall make an annual report to the governor and the legislature not later than July first of each year.

§ 3110. Actions. Except in an action for wrongful death, an action against the authority founded on tort shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the authority within the time limited by, and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

TITLE 2

NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION

§ 3150. Definitions. As used in this section:

1. "Foundation" shall mean the New York state foundation for science, technology and innovation created by this title;

2. "Executive director" shall mean the executive director of the foundation;

3. "Board" shall mean the New York state foundation for science, technology and innovation board;

4. "Regional partnerships" shall mean any association or group which is: (a) comprised of local economic development organizations and a center of excellence as defined by section three of part T of chapter eighty-four of the laws of two thousand two, or in the absence of such center in the region, at least one institution of higher education involved in commercialization efforts similar to such centers of excellence and may include a combination of private businesses, business support organizations, commercial lending institutions, venture capital companies, angel investor networks or foundations; (b) formed for the creation and administration of regional partnership programs; and (c)

certified by the foundation as the regional partnership;

5. "Regional partnership coordinator" shall mean a nonprofit organization chosen by a regional partnership and certified by the foundation to administer the regional partnership programs;

6. "Partnership" shall mean regional partnerships; and

7. "Coordinator" shall mean regional partnership coordinator.

§ 3153. Capital investments innovation fund. 1. Creation and purposes. The capital investments innovation fund is hereby created for the purpose of providing loans, grants or a combination thereof through the regional partnerships authorized pursuant to section thirty-one hundred fifty-four of this title for economic development projects that facilitate job growth and business expansion in New York state. However, nothing shall preclude the foundation, one or multiple partnerships from joining together to advance and receive grants, loans or combinations thereof for projects authorized under this section. Such fund shall provide financing for programs that improve the business climate and enhance economic competitiveness across New York state's regions.

2. Eligible projects. (a) Projects eligible for capital investment fund financing may include, but not be limited to, those that enhance innovation or increase competitiveness in emerging or high-technology industries, and other industries.

(b) Capital investment innovation funds may be utilized for projects which include, but may not be limited to, the following: the development of industrial facilities and parks, manufacturing facilities, business parks and incubators, office facilities and parks, warehouse and distribution facilities, and, high-technology and biotechnology research, development and related commercialization facilities.

(c) Projects intended primarily for the development of retail or personal service facilities shall not be eligible.

3. Eligible costs. Capital investment innovation funds may be utilized

for purposes including but not limited to the following: infrastructure development, including water, sewer, highway, rail access, electric power, gas and telecommunications; energy efficiency improvements; site acquisition, site investigation, site clearance, building demolition and site preparation; construction, reconstruction, and renovation, and, machinery and equipment.

4. Project cost. Total project cost shall be a minimum of two hundred fifty thousand dollars, unless the board determines that circumstances merit a waiver of such minimum threshold. At least two-thirds of the project cost shall consist of private sector, local, or federal funding. However, those projects which offer exceptional opportunities for long-term private sector job creation and retention may be eligible for a waiver of this requirement.

5. Applications. Applications may be submitted to the foundation by the regional partnerships on behalf of municipalities, nonprofit organizations, businesses, special districts, institutions of higher education, or other organizations. The foundation may provide grants, loans or combinations thereof, provided that projects be evaluated on the basis of the amount of economic impact on New York state, the feasibility of business plans and long-term sustainability, as determined by the foundation, in consultation with the urban development corporation.

6. Program rules and regulations. Following consultation with appropriate state and local agencies and other organizations, the foundation shall promulgate rules and regulations for the award of the capital investments innovation fund financing through the regional partnerships, provided however, that the foundation board shall oversee the distribution of all funds appropriated to the capital investments innovation fund program.

§ 3154. Regional partnership program. 1. Establishment and purpose. There is established a program in the foundation to be known as the regional partnership program. The program shall provide regional economic assistance to certified partnerships for the purpose of carrying out the purposes pursuant to this section and section thirty-one hundred fifty-three of this title.

2. Duties of regional partnerships. The regional partnerships shall work individually and in coordination with the technology development organizations established pursuant to section thirty-one hundred two-d of this article, and with other partnerships to advance economic growth and business creation and expansion in the state. The program shall provide regional economic assistance to certified partnerships for the purpose of carrying out the purposes pursuant to this section and section thirty-one hundred fifty-three of this title.

3. Certification. (a) Partnerships shall be comprised of local economic development organizations and, to the extent they are present in the region, centers of excellence as defined by section three of part T of chapter eighty-four of the laws of two thousand two or in the absence of such center in the region, at least one institution of higher education involved in commercialization efforts similar to such centers of excellence. To obtain certification for the purposes of carrying out the programs of the foundation, regional partnerships shall include broad representation of the economic development and innovation community in the region, including but not limited to, community colleges, university or nonprofit research institutions, private industry representatives, commercial lending institutions, venture capital firms and workforce development organizations. Before any partnership is certified by the foundation, the foundation shall approve written guidelines for the program and shall provide a copy of the guidelines to the temporary president of the senate and the speaker of the assembly.

(b) Within thirty days of the appointment of the majority of the thirteen voting members of the board, the board shall identify and review the necessary criteria that shall be demonstrated for a partnership to successfully fulfill the duties specified in subdivision six of this section.

(c) Within thirty days following the foundation's identification of criteria for partnerships, a comprehensive request for proposals for each of the economic development regions of the state shall be issued by the foundation that incorporates such criteria and may request any and all information deemed necessary by the foundation to certify the partnerships.

(d) The foundation shall have ninety days to conduct a comprehensive review of all proposed plans and partnerships. After such review, the foundation shall select and certify regional partnerships and approve plans by a two-thirds majority vote of the board.

(e) The foundation shall certify one partnership to represent each of ten economic development regions established by the New York state department of economic development pursuant to section two hundred thirty of the economic development law. The foundation shall certify a regional partnership that meets the criteria and the requirements as set forth in subdivision four of this section, provided that there is a regional partnership that represents each region specified in this section, provided further that the foundation determines that an application has been received from each region that is sufficient to accomplish the purposes of this section.

(f) The foundation shall modify or revoke a partnership's certification consistent with the regulations, policies and guidelines of the foundation. The foundation may change the number of regions or regional boundaries with a two-thirds majority vote of the board.

(g) The length of certification for each such partnership, subject to the foundation's authority to revoke or modify a partner's certification, shall be for a period of five years, beginning no later than March thirty-first, two thousand six.

4. Application. A partnership may apply to the foundation to be certified as a regional partnership. Each partnership shall have sixty days to prepare and submit an application prepared by the foundation from the date of the issuance of such request for proposals. All applications must be on the form required by the foundation and include and demonstrate all of the following:

(a) the coordinator's name and address;

(b) a statement that the applicant is a partnership and the identity of its members;

(c) a copy of a written strategic plan adopted by the partnership describing the targeted industry segments which the partnership shall foster;

(d) a formal statement of cooperation from each partner confirming the contributions, financial and other, and responsibilities of each member;

(e) identification of programs and funds which are appropriate to the implementation of its regional strategy;

(f) identification of the efforts to leverage other sources of public and private funding in its proposal;

(g) identification of the level of financial expertise of the partnerships;

(h) an organizational chart;

(i) identification of the resources of the partnership;

(j) a comprehensive plan for its strategy to promote program implementation within the designated geographic region; and

(k) any other information required by the foundation.

5. Review and designation. The foundation shall review the applications. Upon being satisfied that all requirements have been met, the foundation may approve an application. If the foundation approves an application, the foundation shall accept the organization designated as the coordinator for the regional partnership programs.

6. Continuation of certification. To continue to be certified, a partnership shall perform the following duties which shall include, but not be limited to:

(a) Serve as a regional partner in identifying, developing, adapting and implementing advanced technologies and innovative strategies to enable the growth and competitiveness of existing and emerging companies through process improvement, technology development, commercialization and production.

(b) Promote collaborations, programs and initiatives by and among the foundation, technology enterprises, economic development organizations, the corporate community, academic research institutions, government, workforce development organizations and other interests working collectively to advance economic growth, including activities to ensure the availability of venture capital within the region including contract services in conjunction with the foundation pursuant to section thirty-one hundred fifty-two of this title. Each partnership should stress the use of information technology as a necessary means to link such entities together in a cohesive and effective manner.

(c) Provide and serve as a conduit to, capital for existing and emerging companies involved in the development, commercialization, and production of innovative products and processes.

(d) Develop and provide support to business incubation facilities and encourage the development of technology business in or near research academic institutions.

(e) Each partnership shall encourage business mentoring opportunities, to emerging companies in order to provide resources and industry knowledge to create opportunities for growth.

7. Certification review. Not less than one hundred eighty days prior to the expiration of a partnership's certification the foundation board shall conduct a comprehensive review of the partnership's performance over the entire period of time for which the partnership was certified as such by the foundation. The review shall primarily be based on those annual reviews conducted by the foundation as authorized by this subdivision. Should the foundation deem the partnership's performance to be satisfactory it shall, by two-thirds vote of the thirteen voting members of the state board, re-certify the regional partnership as a regional partnership for a period of five years, provided such period begin on the day that the previous certification has expired. Provided, however, should the foundation board rule that a partnership's performance has not been satisfactory, or if two-thirds of the voting members of the foundation board do not support such partnership's re-certification, the foundation board shall issue a new request for proposals for a new regional partnership provided that such request for proposals shall be issued no later than thirty days after the foundation board declined to re-certify the partnership. Those partnerships that choose to submit an application for certification as a new regional partnership in response to the request for proposals issued by the foundation board shall have sixty days to prepare and submit an application from the date of the issuance of such request for proposals. The foundation board shall have forty-five days to conduct a comprehensive review of all applications for certification as a regional

partnership. After a review of the applications, the foundation board shall select and certify a new partnership for all those regions for which a new request for proposals were issued.

8. Regional coordinator. Each partnership shall designate from its members a single, non-profit organization to coordinate program development and implementation, and to act as administrative entity for the partnership programs. Such non-profit organization, or its staff, shall have demonstrated experience with state and federal contracting procedures.

9. Records. Upon request, a partnership must authorize employees or agents of the foundation to inspect its books and records during regular business hours.

10. Foundation fund. (a) Establish fund and programs. There is hereby created a fund within the foundation to be known as the foundation fund for the purposes of: (i) providing financial assistance in the form of grants, loans, equity investments or a combination thereof to companies for purposes which may include, but not be limited to, commercialization of innovative products and processes for emerging technology sectors, including biotechnology, nanotechnology, bioinformatics, software design, innovative energy efficiencies and environmental technologies and other technologies; (ii) providing financial assistance in the form of grants, loans or a combination thereof to small emerging companies for the purposes of: (A) offsetting the small emerging companies' costs associated with accessing advanced telecommunications services and technologies, provided, however, that such small emerging companies or their affiliates shall not be in the business of offering telecommunications services and technologies; (B) offsetting the small emerging companies' costs associated with implementing energy efficiency or pollution prevention projects; (iii) providing grants to facilities that are equipped with high-technology resources appropriate to different technology sectors, including biotechnology, nanotechnology, bioinformatics, software design, innovative energy and environmental technologies and other advanced technologies, for lab-based commercialization enhancement and pre-venture product and business

development and working capital support, such as to various sectors particularly those that partner with university based research institutions; and (iv) providing financial assistance in the form of grants, loans or a combination thereof to businesses and facility projects that incorporate innovative products and processes into traditional economic activities, including but not limited to agriculture, manufacturing, services and tourism. A certified partnership shall be eligible to apply for assistance under any of the programs established in this section.

(b) Programs. (i) The technology enhancement program will provide grants for lab-based commercialization enhancement and pre-venture product and business development.

(ii) The innovation investment program shall provide financing to facilities for early-stage companies or companies that demonstrate a high potential for growth and innovation, as defined and specified by the foundation. Innovation investment fund awards may take the form of grants, equity investments, or loans or a combination thereof, provided that the fund serves to promote the growth of small technology-intensive or otherwise innovative businesses in the state of New York. Innovation investment fund grants, equity investments or loans shall be in amounts equal to or greater than twenty-five thousand dollars but shall not exceed two hundred fifty thousand dollars.

(iii) The emerging investment program shall take the form of grants, equity investments, or loans or a combination thereof, to businesses in the stage of product development, as defined and specified by the foundation. Emerging investment fund investments or loans shall be greater than two hundred fifty thousand dollars but shall not exceed seven hundred fifty thousand dollars. Businesses eligible to receive investments from the emerging investment fund shall meet such targets pursuant to foundation guidelines that demonstrate sufficient potential to bring a technology-intensive or otherwise innovative product or process to market and become a profitable employer located in the state of New York.

(iv) The business acceleration program shall provide financing in the form of grants, equity investments, or loans or a combination thereof, to revenue-generating technology-intensive or otherwise innovative businesses, as defined and specified by the foundation, in order to accelerate their expansion towards profitability. Business acceleration fund grants, equity investments or loans shall be greater than seven hundred fifty thousand dollars but shall not exceed one million dollars. Eligible businesses shall demonstrate, pursuant to foundation guidelines, their ability to become profitable and expand their employment in the state of New York.

(v) The New York Phase I federal small business innovation research program may award grants to recipients conducting research that may result in the development of an innovative technology having the potential to lead to the commercialization or fabrication within New York of new or improved products, processes, or services for the continuation of such research under the contract awarded by the federal agency not to exceed the amount of the federal award or fifty thousand dollars, whichever is less.

(c) The community colleges/academic research institutions curriculum alignment program which shall provide assistance for alignment of SUNY and CUNY community colleges with high-technology industry clusters and academic research institutions through the development of specialized curricula which meets the needs of emerging businesses for technical and other skilled workers.

(d) The New York Science, Technology, Engineering and Math (STEM) program may foster student interest in scientific and technical careers and may include support for summer science and math camps, internships and mentoring opportunities, and support opportunities for professional development for teachers in the areas of science, mathematics, and engineering.

(e) The management and technical assistance program may provide support for regional activities which include industry associations, angel investor networks, entrepreneurial networks, regional business plan competitions and other related activities.

(f) The manufacturing assistance program may provide support for flexible manufacturing networks, niche market development, productivity and energy efficiency assessments and skills training.

(g) The regional marketing and export assistance program may provide support for regional activities including marketing cooperatives and branding initiatives.

11. Reporting requirements. Each partnership shall annually submit the following information to the foundation and to the temporary president of the senate and the speaker of the assembly:

(a) the designated coordinator's current contact information;

(b) a copy of the regional partnerships' current statement of cooperation that defines roles, responsibilities, contributions, financial and otherwise, of the partnerships;

(c) a list of the partnership's current officers and directors;

(d) an independent audit covering all funds received from the state;

(e) upon request, an independent audit covering all funds received and activities supported by non-state sources; and

(f) all other information that the foundation may require.

12. Urban development corporation proposals. (a) Upon certification pursuant to subdivision three of this section, each regional partnership may submit to the urban development corporation a proposal on how the regional partnership shall provide economic development assistance, pursuant to sections sixteen-h and sixteen-m of section one of the New York state urban development corporation act.

§ 3155. Reporting requirements. 1. The foundation shall submit an annual report, beginning on the first of February, two thousand seven, to the governor, the speaker of the assembly, and the temporary president of the senate on the operations and accomplishments of: (a) each program it administers, (b) all programs authorized by this article, and (c) in cooperation with the urban development corporation, the centers of excellence created by section three of part T of chapter eighty-four of the laws of two thousand two.

2. The annual report shall provide, but not be limited to, the following information:

(a) for the research development program and the James D. Watson investigator program, authorized under sections two hundred nine-p and two hundred nine-s of the executive law, the amount of the award, the name of the institution receiving the award, the name of the faculty member or investigator hired and his or her significant academic accomplishments, the research funds awarded and the number of graduate students or research personnel collaborating with the award recipient;

(b) for each award under all other programs:

(i) the amount of state funds and any federal, local, or private matching funds, including in-kind contributions;

(ii) a description of the project and any activities undertaken including, if applicable, the identification of any collaborating private sector partners;

(iii) the number of full-time public, private, and nonprofit sector jobs created and/or retained in the state as a direct result of activities undertaken with state funds, and the methodology utilized to determine such number;

(iv) the number of start-up businesses created and existing businesses assisted as a direct or indirect result of the award;

(v) the extent to which the project has or will lead to an increase in the pool of venture capital for a specific technology that is of importance to the industry in this state;

(vi) the actual or anticipated invention, development, or refinement of any new products and processes with commercial application of importance to the industries in the state;

(vii) any outreach to the surrounding communities to encourage or accommodate economic growth;

(viii) a description of any relationships with elementary and secondary schools and community colleges designed to foster student interest in scientific and technical careers or provide workforce training;

(ix) the terms of each research sponsorship agreement, intellectual property ownership agreement, intellectual property license agreement, or any other agreements entered into between the state funded research institutions and each research partner in the preceding calendar year regarding any provisions for financial return to the university, the state and to research partners, including, but not limited to, the amount of up front royalty income to the state funded institution, any milestone payments due to the state funded institution, and, the percentage of royalties due to the state funded institutions;

(x) number of patents awarded to the college or university as a direct result of research related to the award and income generated from the

licensure or sale of such intellectual property; and
(xi) any other information deemed appropriate by the director.

§ 3156. Transfer of powers. The functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law shall be transferred and assigned to, assumed by and devolved upon the foundation.

§ 3157. Abolition of New York state office of science, technology and academic research. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law to the foundation, the New York state office of science, technology and academic research shall be abolished, and sections two hundred nine-a, two hundred nine-b and two hundred nine-c of the executive law shall be repealed.

§ 3158. Continuity of authority. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law to the foundation as prescribed by section thirty-one hundred fifty-six of this title for the purpose of succession to all functions, powers, duties and obligations of the New York state office of science, technology and academic research, the foundation shall be deemed and held to constitute the continuation of such authority and not a different agency or authority.

§ 3159. Transfer of records. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law to the foundation as prescribed by section thirty-one hundred fifty-six of this title, all books, papers, records and property pertaining to the New York state office of science, technology and academic research shall be transferred to and maintained by the foundation.

§ 3160. Completion of unfinished business. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law to the foundation as prescribed by section thirty-one hundred fifty-six of this title, any business or other matter undertaken or commenced by the New York state office of science, technology and academic research pertaining to or connected with the functions, powers, obligations and duties so transferred and assigned to the foundation may be conducted or completed by the foundation.

§ 3161. Terms occurring in laws, contracts or other documents. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law to the foundation as prescribed by section thirty-one hundred fifty-six of this title, whenever the New York state office of science, technology and academic research and the chairperson thereof, the functions, powers, obligations and duties of which are transferred to the foundation are referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this title, such reference or designation shall be deemed to refer to the foundation and its executive director. Notwithstanding any law to the contrary, all rights and benefits, including terms and conditions of employment, and protection of civil service and collective bargaining of all employees affected by the transfer of the New York state office of science, technology and academic research to the foundation, shall be preserved and protected under the transfer, and all transferred employees and all persons employed by the foundation after the transfer, except for research and investigative high technology scientists, shall be considered for all purposes of article fourteen of the civil service law public employees in the civil service of the state and employees who are transferred shall remain in the same collective bargaining unit and any newly created positions shall be assigned to the appropriate collective bargaining unit as if they were employees of the state. For proposes of this section, the term "research and investigative high technology scientists" shall mean persons with an understanding of empirical methodologies, the ability to apply scientific knowledge to test theories, and possessing the expertise to make systematic observations of natural, empirical phenomena that can also be conveyed in a meaningful way to policymakers.

§ 3162. Existing rights and remedies preserved. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law to the foundation as prescribed by section thirty-one hundred fifty-six of this title, no existing right or remedy of the state, including the New York state office of science, technology and academic research, shall be lost, impaired or affected by reason of this title.

§ 3163. Pending actions and proceedings. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law transfer to the foundation as prescribed by section thirty-one hundred fifty-six of this title, no action or proceeding pending on the effective date of this title, brought by or against the New York state office of science, technology and academic research or executive director thereof shall be affected by any provision of this title, but the same may be prosecuted or defended in the name of the executive director of the foundation. In all such actions and proceedings, the foundation, upon application to the court, shall be substituted as a party.

§ 3164. Continuance of rules and regulations. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law transfer to the foundation as prescribed by section thirty-one hundred fifty-six of this title, all rules, regulations, acts, determinations and decisions of the New York state office of science, technology and academic research, pertaining to the functions transferred and assigned by this title to the foundation in force at the time of such transfer, assignment, assumption or devolution shall continue in force and effect as rules, regulations, acts, determinations and decisions of the foundation until duly modified or repealed.

§ 3165. Transfer of appropriation. Transfer of appropriations heretofore made to the New York state office of science, technology and academic research. Upon the transfer pursuant to section thirty-one hundred fifty-six of this title of the functions and powers possessed by and all of the obligations and duties of the New York state office of science, technology and academic research as established pursuant to article ten-B of the executive law to the foundation as prescribed by section thirty-one hundred fifty-six of this title, all appropriations and reappropriations which shall have been made available as of the date of such transfer to the New York state office of science, technology and academic research or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, shall be transferred to and made available for use and expenditure by the foundation and when appropriate made available to the regional partnerships for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commissioner of taxation and finance, on audit and warrant of the comptroller. Payments of liabilities for expenses of personal service, maintenance and operation which shall have been incurred as of the date of such transfer by the New York state office of science, technology and academic research, and for liabilities incurred and to be incurred in completing its affairs shall also be made on vouchers certified or approved by the executive director of the foundation, on audit and warrant of the comptroller. All of the assets and liabilities of the small business technology investment fund transferred from the New York state science and technology foundation to the urban development corporation pursuant to subdivision two of section two hundred nine-f of the executive law shall be transferred to the New York state foundation for science, technology and innovation established pursuant to this title.

§ 3166. Severability. If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

* ARTICLE 10-B

TITLE 4. NEW YORK LOCAL GOVERNMENT ASSISTANCE CORPORATION (Secs. 3231-3249)

* NB Title 4 was inadvertently added to A10-B which does not exist.

ARTICLE 10-B

TITLE 4

NEW YORK LOCAL GOVERNMENT ASSISTANCE CORPORATION

§ 3231. Short title. This title may be cited as the "New York local government assistance corporation act".

§ 3232. Definitions. For the purpose of this title:

1. "Director of the budget" means the director of the budget of the state of New York.

2. "Corporation" means the New York local government assistance corporation as created by this title.

3. "Comptroller" means the comptroller of the state of New York.

4. "State" means the state of New York.

5. "Revenues" means all aid, rents, fees, charges, payments and other income and receipts paid or payable to the corporation or to a trustee for the account of the corporation, including any payment required to be made to the corporation by this title.

6. "Operating expenses" means all expenses incurred by the corporation in the administration of the corporation including but not limited to salaries, administrative expenses, insurance premiums, fees payable to providers of bond or note facilities, auditing and legal expenses and fees and expenses incurred for professional consultants and fiduciaries.

7. "Capital reserve fund requirement" means, as of any particular date of computation and with respect to any capital reserve fund, the maximum amount required to pay, during the then current or any succeeding fiscal year, on all bonds of the corporation secured by such capital reserve fund outstanding as of the date of computation, the maximum combined amount of all interest payable during such fiscal year and all installments of principal (including mandatory sinking fund payments and amounts, payable on principal so paid, that are treated as original issue discount under the code and regulations thereunder) payable during such fiscal year; provided that the corporation may, if it determines that the security and marketability of bonds secured by a capital reserve fund will not be unduly adversely affected, reduce the requirement with respect to such capital reserve fund as so defined so as to equal no less than half of the amount so calculated; and provided, further, that the corporation may increase the amount calculated as provided in this subdivision with respect to a capital reserve fund by including any designated notes of the corporation as bonds, upon any related issuance proceeds of which will fund the increase, and provided, further, that interest payable at a variable rate on any bonds of the corporation or payable at a rate then not determinable on short term notes to be issue by the corporation in renewal or replacement of other

short term notes shall for purposes of any such calculation be assumed to be payable at a rate or rates reasonably assumed by the corporation having due regard for the security and marketability of all its bonds and notes.

8. "Code" means the United States Internal Revenue Code of 1986, as amended.

9. "Net proceeds" means the aggregate principal amount of any bonds or notes issued by the corporation, reduced by any amount of such bonds or notes that constitutes interest under the code and further reduced by the portion of such aggregate principal amount issued (i) to fund the capital reserve fund in accordance with the capital reserve fund requirement and to fund any other reserves that the corporation reasonably deems necessary for the security or marketability of its bonds and notes, (ii) to provide capitalized interest, and (iii) to provide fees and other charges and expenses, including underwriters' discount, related to the issuance of such bonds or notes, including fees and other charges payable from such proceeds to providers of bond or note facilities.

10. "Bond or note facility" means any insurance policy, letter of credit or other facility, agreement or arrangement referred to in subdivision sixteen, seventeen or eighteen of section three thousand two hundred thirty-five of this title.

11. "Local government" means a county, city, town, village, school district, city school district or board of cooperative educational services.

§ 3233. New York local government assistance corporation. 1. There is hereby created the New York local government assistance corporation. The corporation shall be a corporate governmental agency constituting a public benefit corporation. It shall have the powers and privileges of a corporation and all of its business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other personal property held under its corporate name.

2. The corporation shall continue until six months after all its liabilities have been met or otherwise discharged. Upon the termination of the existence of the corporation, all of its rights and property shall pass to and be vested in the state.

§ 3234. Administration of the corporation. 1. (a) The corporation shall be administered by seven directors, one of whom shall be the comptroller, one of whom shall be the director of the budget and five of whom shall be appointed by the governor. The comptroller and the director of the budget shall be entitled to designate a representative or representatives to attend meetings of the board in their place, and to vote or otherwise act on their behalf in their absence. Notice of such designation shall be furnished in writing to the board by the designating director. A representative shall serve at the pleasure of the designating director during the director's term of office. A representative shall not be authorized to delegate any of his or her duties or functions to any other person. A director who is not a state official shall serve for a term expiring at the end of the term actually served by the officer making the appointment and may be removed for cause by such officer after hearing on ten days notice.

(b) The secretary to the senate finance committee and the secretary to the assembly ways and means committee shall be nonvoting representatives who shall receive notice of and be entitled to attend all meetings of the directors and who shall also receive the same supporting and other documentation related to each vote to be taken by the directors at each meeting as is provided to the directors, at the same time as it is provided to the directors. The comments of the nonvoting representatives shall be entered upon the record of the meeting.

2. The governor shall designate a chairperson and a vice-chairperson from among the directors. The chairperson shall preside over all meetings of the directors and shall have such other duties as the directors or the corporation may direct. The vice-chairperson shall

preside over all meetings of the directors in the absence of the chairperson and shall have such other duties as the directors of the corporation may prescribe.

3. The directors of the corporation shall serve without salary, but each director shall be reimbursed for actual necessary expenses incurred in the performance of such director's official duties as a director of the corporation. The directors of the corporation may engage in private employment or in a profession or business if not otherwise prohibited from so doing by virtue of any other public office.

4. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state of New York, any city, county, town or village, any other political or civil division of the state, any municipality, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit office or employment by reason of acceptance of appointment as a director, representative, officer or agent of the corporation nor shall service as such director, representative, officer or agent of the corporation be deemed incompatible or in conflict with such office or employment.

5. A majority of the whole number of directors then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the corporation. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the corporation, the corporation shall have power to act by a majority of the directors present at any meeting at which a quorum is in attendance; provided that one or more directors may participate in a meeting by means of conference telephone or similar communications equipment allowing all directors participating in the meeting to hear each other at the same time and participation by such means shall constitute presence in person at a meeting. A unanimous vote of all directors then in office shall be required for approval of a resolution authorizing the issuance of bonds or notes or any supplemental or amendatory resolution. The corporation may delegate to one or more of

its directors, or officers, agents and employees, such powers and duties as the directors may deem proper. Five days notice shall be given to each director and nonvoting representative prior to any meeting of the corporation.

6. On or before November fifteenth of each year, the corporation shall submit a financial statement and a report of its activities for such corporation's immediately preceding fiscal year to the governor, the temporary president of the senate, the speaker of the assembly, the comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee.

§ 3235. General powers of the corporation. The corporation shall have the following powers in addition to those specially conferred elsewhere in this title:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to make and alter by-laws for its organization and internal management and, subject to agreements with bondholders or noteholders, to make rules and regulations governing the use of its property and facilities;

4. to make and execute contracts, leases, subleases and all other instruments or agreements necessary or convenient for the exercise of its powers and functions under this title;

5. to purchase real or personal property necessary and convenient for its purposes; to execute and deliver deeds for real property held in its own name; and to sell or otherwise to dispose of such real or personal property that, in the judgment of the corporation, is no longer necessary for its corporate purposes;

6. to appoint officers, agents and employees, prescribe their duties

and qualifications and fix their compensations subject to the provisions of the civil service law and any applicable collective bargaining agreement;

7. to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;

8. to make payments to local governments in such amounts as are provided for by this title;

9. to borrow money and, in accordance with section three thousand two hundred thirty-six of this title, to issue bonds or notes or other obligations in respect of amounts borrowed and to fund or refund the same, and to provide for the rights of the holders of its obligations subject to provisions of this title;

10. subject to the provisions of any contract with bondholders or noteholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the corporation, in obligations in which the comptroller is authorized to invest pursuant to section ninety-eight-a of the state finance law;

11. subject to the provisions of any contract with bondholders or noteholders, to purchase bonds or notes of the corporation;

12. to procure insurance in such amounts and from such insurers as it deems desirable;

13. to engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;

14. to receive and accept, and contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, the state or any agency or instrumentality thereof, or from any other source and to comply with the terms and conditions thereof;

15. as security for the payment of the principal of and interest on any bonds or notes issued by it pursuant to this title and any agreements made in connection therewith and for its obligations under bond or note facilities to pledge all or any part of its revenues or assets;

16. to procure insurance, letters of credit or other credit enhancement with respect to its bonds or notes issued pursuant to this title, or facilities for the payment of tenders of such bonds or notes or facilities for the payment upon maturity of short-term notes not renewed;

17. to adopt, amend or rescind rules and regulations appropriate to its corporate purposes and to enter into agreements and otherwise to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title.

§ 3236. Bonds and notes of the corporation. 1. (a) The corporation shall have power and is hereby authorized from time to time to issue its bonds and notes in such principal amount or amounts, subject to subdivision eight of this section, as the corporation shall determine to be necessary, to provide sufficient funds for achieving its corporate purposes, including the making of payments pursuant to section three thousand two hundred thirty-eight of this title, the payment of interest on bonds and notes of the corporation, the establishment of reserves to secure such bonds and notes, the payment of amounts required under bond or note facilities or agreements relating thereto, and the payment of all costs of issuance of its bonds and notes.

(b) The corporation shall have the power and is hereby authorized from time to time to issue (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its other corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(c) Except as may otherwise be expressly provided by the corporation, every issue of its bonds and notes shall be general obligations of the corporation payable out of any revenues of the corporation, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues.

(d) (i) Bonds and notes shall be authorized by resolution of the corporation, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and notes and renewals or refundings thereof shall mature on a date not later than December thirty-first, two thousand twenty-five nor more than thirty years from the date of original issuance.

(ii) Bonds and notes shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon, registered or book entry form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide.

(e) Such bonds shall be sold to the bidder offering the lowest interest cost to the corporation, taking into consideration any premium or discount and, in the case of refunding bonds, the bona fide initial public offering price, not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a definitive trade publication of the municipal bond industry published on each business day in the state of New York which is generally available to participants in the municipal bond industry, which notice shall state the terms of the sale. The corporation may not change the terms of the sale unless notice of such change is sent via a definitive trade wire service of the municipal bond industry which, in general, makes available information regarding activity and sales of municipal bonds and is generally available to participants in the municipal bond industry, at least one hour prior to the time of the sale as set forth in the original notice of sale. In so changing the terms or conditions of a sale the corporation may send notice by such wire service that the sale will be delayed by up to thirty days, provided that wire notice of the new sale date will be given at least one business day prior to the new time when bids will be accepted. In such event, no new notice of sale shall be required to be published. Advertisements shall contain a provision to the effect that the corporation, in its discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the corporation is authorized to negotiate a private sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect a satisfactory sale. Notwithstanding the foregoing provisions of this paragraph, whenever in the judgment of the corporation the interests of the corporation will be served thereby, the corporation may sell bonds at private sale. The corporation shall promulgate regulations governing the terms and conditions of any such private sales, which regulations shall include a provision that it give notice to the governor, the temporary president of the senate, and the speaker of the assembly of its intention to conduct a private sale of obligations pursuant to this section not less than five days prior to such sale or the execution of any binding agreement to effect such sale.

(f) The corporation shall enter into an agreement with the comptroller pursuant to which the comptroller shall be the exclusive agent of the corporation for the sale of its bonds and notes.

2. Consistent with the provisions of this title, any resolution authorizing any bonds or notes or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the revenues to secure the payment of the bonds or notes or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the corporation to secure the payment of the bonds or notes or of any issue of bonds or notes, subject to such agreements with bondholders or noteholders as may then exist;

(c) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) limitations on the purposes to which the proceeds of sale of bonds or notes may be applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue thereof;

(e) limitations on the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; and the refunding of outstanding or other bonds or notes;

(f) the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;

(g) limitations on the amount of moneys to be expended by the corporation for operating expenses of the corporation;

(h) vesting in a trustee, as described in subdivision six of this section, such property, rights, powers and duties in trust as the corporation may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this title or limiting the rights, powers, and duties of such trustee;

(i) the acts or omissions to act which shall constitute a default in the obligations and duties of the corporation to the holders of the bonds or notes and providing for the rights and remedies of the holders of the bonds or notes in event of such default, including the right to appointment of a receiver; providing, however, that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this title;

(j) any other matters, of like or different character, which in any way affect the security or protection of the holders of the bonds or notes; and

(k) the application of any of the foregoing provisions to any provider of any applicable bond or note facility.

Notwithstanding the foregoing, the corporation shall not be authorized to make any covenant, pledge, promise, or agreement purporting to bind the state except as otherwise specifically authorized by this title.

3. Any pledge made by the corporation shall be valid and binding from the time when the pledge is made. The revenues or property so pledged and thereafter received by the corporation shall immediately be subject

to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed to protect such pledge.

4. Neither the directors of the corporation nor any other person executing the bonds or notes of the corporation shall be subject to any personal liability or accountability by reason of the issuance thereof.

5. The corporation, subject to such agreements with bondholders or noteholders as may then exist, or with the providers of any applicable bond or note facility, shall have power out of any funds available therefor to purchase bonds or notes of the corporation, which may or may not thereupon be cancelled, at a price not substantially exceeding:

(a) if the bonds or notes are then redeemable, the redemption price then applicable, including any accrued interest;

(b) if the bonds or notes are not then redeemable, the redemption price and accrued interest applicable on the first date after such purchase upon which the bonds or notes become subject to redemption.

6. In the discretion of the directors of the corporation, the bonds and notes may be secured by a trust indenture by and between the corporation and a corporate trustee, or a corporate trustee may be appointed under the resolution as provided in subdivision two of this section.

7. Whether or not the bonds and notes are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds and notes for registration or any book-entry-only system.

8. (a) The corporation shall not issue any bonds or notes in an amount

in excess of four billion seven hundred million dollars, plus a principal amount of bonds or notes:

(i) to fund any capital reserve fund in accordance with the capital reserve fund requirement,

(ii) to provide capitalized interest for a period not to exceed six months, and

(iii) to provide for the payment of fees and other charges and expenses, including underwriters' discount, related to the issuance of such bonds or notes, or related to the provision of any applicable bond or note facilities.

(b) In computing for the purposes of this section, the aggregate amount of indebtedness evidenced by bonds and notes of the corporation issued pursuant to this title, there shall be excluded (i) the amount of bonds or notes issued that would constitute interest under the Code as amended to the effective date of this title, and (ii) the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this subparagraph (ii) may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the corporation from the sale thereof, in each case including estimated accrued interest.

9. Each issuance of bonds by the corporation under this title shall provide for the retirement thereof so that debt service thereon, calculated in accordance with reasonably assumed interest rates to the extent not then determinable, shall be on a substantially level or decreasing debt-service payment basis no later than one year from the

date of their issuance to the date of retirement of the latest bond within such issue to retire. Each issuance of notes shall provide for annual reductions of the aggregate outstanding principal in equal or increasing amounts of such reduction. Notwithstanding the foregoing, if the corporation shall issue refunding bonds, the debt service thereon shall be structured on any basis that the corporation deems is in its best interest, provided that debt service on all outstanding bonds, notes and other financial obligations is not increased in any future fiscal year after giving effect to such refunding.

§ 3237. Capital reserve fund. 1. The corporation shall create and establish one or more special funds (each herein referred to as a capital reserve fund), which may be funded initially from proceeds of bonds or notes of the corporation issued pursuant to this title, in an amount equal to the capital reserve fund requirement of the bonds or notes secured thereby. All amounts held in a capital reserve fund shall be used solely for the payment of principal of or interest on the bonds or notes secured thereby, sinking fund payments thereon, the redemption thereof and payments to providers of bond or note facilities in respect of payments of such principal, interest or sinking fund payments made by them, in accordance with the applicable provisions of any and all resolutions and trust indentures, if any, securing such bonds and notes. Any income or interest, not required to be rebated to the United States to provide for continued exclusion from gross income for federal income tax purposes of interest on the bonds and notes of the corporation, earned by, or increment to, the capital reserve fund due to the investment thereof, in excess of the amount thereof needed to pay interest on the bonds or notes issued to fund the capital reserve fund, shall be used to pay debt service on bonds or notes issued by the corporation. Any amounts released from a capital reserve fund shall be applied, or set aside to be applied when practicable, by the corporation to the payment of principal on the applicable bonds or notes, or to redemption thereof or to the providers of bond or note facilities.

2. In computing the amount of the capital reserve fund for the purposes of this section, obligations in which all or a portion of such

fund shall be invested shall be valued at par if purchased at par or, if purchased at a premium above or a discount below par, the value at any given date obtained by dividing the total premium or discount at which such obligations were purchased by the number of interest payment dates remaining to maturity on such obligations after such purchase, and by multiplying the number so calculated by the number of interest payment dates having passed since the date of such purchase; and (i) in the case of such obligations purchased at a premium, by deducting the product thus obtained from the purchase price; and (ii) in the case of such obligations purchased at a discount, by adding the product thus obtained to the purchase price. In lieu of a deposit of money or obligations to the capital reserve fund, the corporation, having due regard for the security and marketability of all affected bonds and notes, may satisfy the whole or any portion of the capital reserve fund requirement by providing one or more surety agreements, insurance agreements, letters of credit or other type of agreement or arrangement satisfying the provisions of all applicable resolutions or trust indentures, if any, each of which provides for the availability, at all times required thereunder, of the amount of money or the value of the obligations in lieu of the deposit of which such agreement or arrangement is provided.

§ 3238. Payments to local governments. The local government assistance corporation shall not issue obligations for payments to local governments unless an appropriation or appropriations have been enacted providing for the determination of the amount and manner of payments to local governments. Payments to local governments from the net proceeds of the obligations of the corporation shall be for any or all of the following purposes:

1. elementary and secondary education, community college aid and support for tuition assistance programs;

2. payment of the nonfederal share of local medicaid costs; and

3. other local assistance programs, including revenue sharing assistance, aid for health and the improvement of environmental quality,

housing initiatives, mental health and drug abuse programs, mass transportation and highway and bridge programs.

*** § 3238-a. Payment to city of New York.** 1. Notwithstanding any inconsistent provision of law, the corporation shall transfer to the city of New York one hundred seventy million dollars from the resources of the corporation pursuant to section thirty-two hundred thirty-nine of this title. Such payment shall be made during each city fiscal year; provided, however, that on and after July first, two thousand twenty, the obligation of the corporation to make such payments shall be terminated if all outstanding bonds of the sales tax asset receivable corporation that are secured by the corporation's payments described in this subdivision have been fully paid and discharged by means of a legal defeasance in accordance with the trust indenture under which they were issued before July first, two thousand twenty-one, and in addition the corporation has paid to the city of New York or to its assignee if such payments have been assigned pursuant to this subdivision, the sum of forty-six million dollars on or before June thirtieth, two thousand twenty-one. Such payments from the corporation shall be made from the fund established by section ninety-two-r of the state finance law and in accordance with the provisions thereof.

2. The city of New York, acting by the mayor alone, may assign all or any portion of such amount to any not-for-profit corporation incorporated pursuant to section fourteen hundred eleven of the not-for-profit corporation law and, upon such assignment, the amount so assigned shall be the property of such not-for-profit corporation for all purposes. Following notice from the city of New York to the corporation and the comptroller of such assignment, such payment shall be made directly to the city's assignee. If such not-for-profit corporation issues bonds and/or notes, the state does hereby pledge and agree with the holders of any issue of bonds and/or notes secured by such a pledge that the state will not limit or alter the rights vested in such not-for-profit corporation to fulfill the terms of any agreements made with such holders or in any way impair the rights and remedies of such holders or the security for such bonds and/or notes

until such bonds and/or notes, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The foregoing pledge and agreement may be included in any agreement with the holders of such bonds or notes. Nothing contained in this section shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter statutes imposing or relating to the taxes subject to such assignment, but such taxes shall in all events continue to be so payable, as assigned, so long as any such taxes are imposed.

3. Proceeds of state supported debt, as defined in subdivision one of section sixty-seven-a of the state finance law, or other available monies, may be provided to the trustee for the bonds of the sales tax asset receivable corporation secured by the corporation's payments described in subdivision one of this section in an amount sufficient to fully pay and discharge such bonds by means of a legal defeasance of all such outstanding bonds in accordance with the trust indenture under which they were issued. So long as such bonds are legally defeased and the corporation has paid to the city of New York or to its assignee if such payments have been assigned pursuant to this subdivision, the sum of forty-six million dollars on or before June thirtieth, two thousand twenty-one the corporation's obligation contained in subdivision one of this section to transfer funds to the city of New York shall be deemed satisfied and fully discharged. Upon any such legal defeasance of such bonds, the sales tax asset receivable corporation shall no longer be deemed a local authority within the meaning of subdivision two of section two of this chapter and the provisions of this chapter, including, without limitation, the provisions of article nine of this chapter, shall no longer be applicable to the sales tax asset receivable corporation.

4. Notwithstanding any inconsistent provision of law, the dormitory authority of the state of New York and the New York state urban development corporation are hereby authorized to issue bonds in one or more series pursuant to article five-C or article five-F of the state finance law in an aggregate principal amount sufficient to directly or indirectly (i) finance the legal defeasance or payment of all of the

outstanding bonds of the sales tax asset receivable corporation secured by the corporation's payments described in subdivision one of this section, (ii) one or more related debt service reserve funds, and (iii) costs of issuance attributable to such bonds, and the issuance of such bonds is hereby determined to be for an "authorized purpose", as defined in subdivision two of section sixty-eight-a and subdivision two of section sixty-nine-m of the state finance law, as the case may be.

* NB Repealed July 1, 2034

§ 3239. Resources of the corporation. 1. Subject to the provisions of this title, the directors of the corporation shall receive, accept, invest, administer, expend and disburse for its corporate purposes all monies for the corporation from whatever sources derived including:

(a) payments by the state pursuant to the provisions of section three thousand two hundred forty of this title; and

(b) any other payments, gifts, or appropriations to the corporation from any other source.

2. The monies of the corporation shall be held by the corporation and may be invested as provided in subdivision ten of section thirty-two hundred thirty-five of this title. Subject to provisions of any contract with bondholders or noteholders, all monies received by the corporation other than as proceeds of its bonds or notes which, together with other monies of the corporation available for the operating expenses of the corporation, the payment of debt service and the other purposes listed in section thirty-two hundred forty of this title, exceed the amount required for such purposes shall be applied by the corporation to the acceleration of the payment of principal on the bonds or notes of the corporation or to the redemption thereof.

3. The comptroller or legally authorized representative, from time to time may examine the books and accounts of the corporation, including its receipts, disbursements, contracts, reserves, investments, and any other matters relating to its financial standing. Such an examination should be conducted by the comptroller or such legally authorized representative at least once every five years; in lieu of such an

examination, the comptroller may accept from the corporation an external examination of the books and accounts made at the request of the directors of the corporation.

§ 3240. Payments to the corporation. 1. * Not less than one hundred twenty days before the beginning of each fiscal year of the corporation (but not later than October first, nineteen hundred ninety, for the fiscal year ending March thirty-first, nineteen hundred ninety-one) the chairperson of the corporation shall certify to the state comptroller and to the governor a schedule of cash requirements for such fiscal year. The total amount so certified for such fiscal year shall be equal to the total amount of the debt service then due on the bonds and notes of the corporation, including payments of interest and principal (including sinking fund payments) including payments required to be made pursuant to section thirty-two hundred thirty-eight-a of this title, together with:

* NB Effective until July 1, 2034

* Not less than one hundred twenty days before the beginning of each fiscal year of the corporation (but not later than October first, nineteen hundred ninety, for the fiscal year ending March thirty-first, nineteen hundred ninety-one) the chairperson of the corporation shall certify to the state comptroller and to the governor a schedule of cash requirements for such fiscal year. The total amount so certified for such fiscal year shall be equal to the total amount of the debt service then due on the bonds and notes of the corporation, including payments of interest and principal (including sinking fund payments), together with:

* NB Effective July 1, 2034

(a) the amount, if any, due to any provider of any bond or note facility, representing payments made by it as provided in the applicable resolution or trust indenture as a result of any previous failure of the state to make any payment provided for in this section, including any related reasonable interest, fees or charges so provided,

(b) the amount, if any, required to restore the capital reserve fund to the capital reserve fund requirement to the extent any deficiency therein has resulted directly or indirectly from failure by the state to make any payment provided for in this section,

(c) the amount, if any, required to be rebated to the United States to provide for continued federal tax exemption for bonds and notes of the corporation, and

(d) the expenses of the establishment and continued operating expenses of the corporation, but not in excess of one hundred thousand dollars, exclusive of trustees' fees, fees payable to providers of bond or note facilities, fees for issuing and paying agents, remarketing agents and dealers, counsels, financial advisors, independent auditors, providers of interest rate exchange agreements, rating agencies, transfer or information agents, the publication of advertisements and notices, surety arrangements, and printers; fees or charges incurred by the corporation to comply with applicable federal and state securities or tax laws; and any other costs of issuance in excess of the amount provided therefor in the proceeds of the sale of bonds or notes of the corporation, to the extent that any of the foregoing amounts or expenses are not to be paid from other resources available to the corporation for such purpose.

1-a. The chairperson of the corporation may revise such certification at such times as shall be determined by the chairperson, provided, however, that the chairperson of the corporation shall revise such certification not later than thirty days after the issuance of any bonds or notes of the corporation including refunding bonds, and the adoption of any interest rate exchange or other financial arrangement affecting the cash requirements of the corporation.

2. The schedule accompanying such certification shall provide for payments on such dates as the corporation deems appropriate to ensure that sufficient funds will be available from the sources identified in this section to enable it to meet its current obligations as they become due.

3. Upon receipt of such certification, or any revision thereof, the comptroller shall pay such amount to the corporation for payment or deposit in accordance with such certification, from the local government assistance tax fund established by section ninety-two-r of the state

finance law or from any other amount appropriated for such purpose to the extent that moneys in such fund are insufficient for such purpose. Any such payment shall be made within thirty days of the receipt of the certification or at the time specified within the certification, whichever is later, provided that any such amounts shall have been first appropriated by the state.

* 4. In any year in which the state appropriates money out of any other funds available to it directly for the payment of debt service of the corporation or for any other corporate purposes for which payments out of the local government assistance fund may be made, except any appropriated amount in respect of a deficiency in such fund, the amount certified by the chairperson of the corporation shall be reduced by the amount of such direct state payments. Provided however, this subdivision shall not apply for payments made pursuant to section thirty-two hundred thirty-eight-a of this title.

* NB Effective until July 1, 2034

* 4. In any year in which the state appropriates money out of any other funds available to it directly for the payment of debt service of the corporation or for any other corporate purposes for which payments out of the local government assistance fund may be made, except any appropriated amount in respect of a deficiency in such fund, the amount certified by the chairperson of the corporation shall be reduced by the amount of such direct state payments.

* NB Effective July 1, 2034

* 5. The agreement of the state contained in this section shall be deemed executory only to the extent of appropriations available for payments under this section and no liability on account of any such payment shall be incurred by the state beyond such appropriations. The state, acting through the director of the budget, and the corporation may enter into, amend, modify, or rescind one or more agreements providing for the specific manner, timing, and amount of payments to be made under this section, but only in conformity with this section. Provided however, this subdivision shall not apply for payments made pursuant to section thirty-two hundred thirty-eight-a of this title.

* NB Effective until July 1, 2034

* 5. The agreement of the state contained in this section shall be deemed executory only to the extent of appropriations available for

payments under this section and no liability on account of any such payment shall be incurred by the state beyond such appropriations. The state, acting through the director of the budget, and the corporation may enter into, amend, modify, or rescind one or more agreements providing for the specific manner, timing, and amount of payments to be made under this section, but only in conformity with this section.

* NB Effective July 1, 2034

6. Nothing contained in this title shall be deemed to restrict the right of the state to amend, repeal, modify or otherwise alter statutes imposing or relating to the taxes imposed pursuant to sections eleven hundred five and eleven hundred ten of the tax law. The corporation shall not include within any resolution, contract or agreement with holders of the bonds or notes issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter the taxes imposed pursuant to sections eleven hundred five and eleven hundred ten of the tax law.

§ 3241. Agreement with the state. 1. The state does hereby pledge to and agree with the holders of any bonds or notes issued under this title and with the providers of any bond or note facilities that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the said holders or the said providers, or in any way impair the rights and remedies of such holders or providers until such bonds and notes, together with the interest thereon, with interest on any unpaid installments of interest, and all obligations of the corporation to such providers, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders or providers, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes or with any such providers.

2. In order to induce prospective purchasers to purchase bonds and notes of the corporation, the state hereby further pledges and agrees

with the holders of bonds and notes of the corporation that, while any bonds or notes of the corporation are outstanding, the state will abide by and not amend the provisions of section three thousand two hundred forty-one-a of this title other than amendments which implement or clarify any ambiguity in its terms in ways that do not have a material adverse effect on the protections established in such section. The corporation shall include the pledge and agreement set forth herein in any agreement with the holders of its bonds and notes.

§ 3241-a. Limitation on issuance of tax and revenue anticipation notes by the state. 1. Except as otherwise provided in subdivision two of this section, the aggregate principal amount of tax and revenue anticipation notes issued pursuant to section nine of article seven of the constitution in any fiscal year by the state and maturing in such fiscal year shall not exceed the amount of four billion seven hundred million dollars, less the aggregate principal amount of bonds and notes theretofore issued by the corporation exclusive of any bonds or notes referred to in subparagraph (i) or (iii) of paragraph (a) of subdivision eight of section thirty-two hundred thirty-six of this title, or excluded by paragraph (b) of such subdivision.

2. The state may issue in any fiscal year tax and revenue anticipation notes in an aggregate principal amount in excess of the limit on issuance set forth in subdivision one of this section, if and only if there shall have first been executed in such fiscal year a written certificate signed by the governor, the temporary president of the senate and the speaker of the assembly, which shall set forth:

(a) the emergency or extraordinary factors or factors unanticipated at the time of adoption of the budget for the fiscal year in which such borrowing is to be made that gave rise to the need for the issuance of tax and revenue anticipation notes in excess of such limit, and

(b) the amount of tax and revenue anticipation notes projected to be issued in each of the three fiscal years commencing subsequent to the fiscal year in which such limit was originally exceeded, which will result in the elimination of such excess as soon as practicable but in no event later than by the end of the third fiscal year commencing subsequent to the fiscal year in which such limit was originally exceeded.

3. The need for the issuance referred to in paragraph (a) of subdivision two of this section shall be in the conclusive, final and binding discretion of the signatories to the written certificate described in subdivision two of this section and not subject to judicial challenge or review.

4. In no event shall a written certificate referred to in subdivision two of this section be issued in more than four consecutive fiscal years.

5. In the event of any inconsistency between this section and any amendment to the constitution relating to the issuance of tax and revenue anticipation notes, the provisions of such constitutional amendment shall control.

6. Nothing contained in this section shall be deemed to relieve the state of its obligation to repay tax and revenue anticipation notes within one year from the date of issuance thereof.

§ 3242. State and local governments not liable on bonds and notes. The notes, bonds or other obligations of the corporation shall not be a debt of the state or of any local government, and neither the state nor any local government shall be liable thereon, nor shall they be payable out of any funds other than those of the corporation; and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 3243. Remedies of bondholders and noteholders. 1. Subject to the provisions of section three thousand two hundred thirty-six of this title, in the event that the corporation shall default in the payment of principal of or interest on or sinking fund payment on any issue of bonds or notes after the same shall become due, whether at maturity or upon call for redemption, or in the event that the corporation or the state shall default in any agreement made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

2. Such trustee, or any trustee appointed under section three thousand two hundred thirty-six of this title, may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders or noteholders, including the right to require the corporation to carry out any agreement with such holders and to perform its duties under this title;

(b) bring suit upon such bonds and notes;

(c) by action or suit, require the corporation to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes; and

(e) declare all such bonds or notes due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding annul such declaration and its consequences provided, however, that nothing herein shall preclude the corporation from agreeing that consent of the provider of a bond or note facility is required for an acceleration of related bonds or notes in the event of a default other than a failure to pay principal of or interest on the bonds or notes when due.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the corporation, the governor, the comptroller, the temporary president of the senate, the speaker of the assembly and to the attorney general of the state.

§ 3244. Bonds and notes as legal investments. The bonds and notes of the corporation are hereby made securities in which all public officers and bodies of this state and all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities, political subdivisions and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 3245. Exemption from taxation. 1. It is hereby determined that the creation of the corporation and the carrying out of its corporate purpose is in all respects a public and governmental purpose for the benefit of the people of the state and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

2. The property of the corporation and its income and operations shall

be exempt from taxation.

3. The bonds and notes of the corporation issued pursuant to this title and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other monies received or to be received, pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation, except for estate and gift taxes on transfers.

4. In the case of any bonds or notes of the corporation, interest on which is intended to be exempt from federal income tax, the corporation shall prescribe restrictions on the use of the proceeds thereof and related matters as are necessary to assure such exemption, and the recipients of such proceeds shall be bound thereby to the extent such restrictions shall be made applicable to them.

§ 3246. Employees of the corporation. 1. In order to reduce its operating expenses the corporation shall, to the extent practicable, utilize existing employees of the state, pursuant to section thirty-two hundred forty-eight of this title, hiring its own employees only if the necessary functions of the corporation cannot be performed without the hiring of such employees. Employee compensation shall be paid only from appropriations made to the corporation by law.

2. In accordance with the provisions of section seventy of the civil service law and any applicable collective bargaining agreement, the state and the corporation shall have the power to provide for the transfer to the corporation of such agents, employees and facilities of the state as shall enable the corporation to fulfill its corporate purposes. Employees of the state so transferred shall be appointed, without further examination, to the corporation in the same or equivalent classification and position they hold at the time of the transfer.

3. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall,

consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to such same collective bargaining unit if they would have been assigned to such unit were such titles created prior to the establishment of the corporation. Nothing contained in this title shall be construed to diminish (a) the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential.

4. The corporation and its employees shall be subject to article fourteen of the civil service law and for all purposes the corporation shall be deemed a "public employer".

§ 3247. Actions against the corporation. 1. An action against the corporation for death, personal injury or property damage or founded on tort shall not be commenced more than one year and ninety days after the cause of action thereof shall have accrued nor unless a notice of claim shall have been served on a director or the corporation or officer or employee thereof designated by the corporation for such purpose, within the time limited by, and in compliance with the requirements of section fifty-e of the general municipal law.

2. The venue of every action, suit or special proceeding brought against the corporation shall be laid in the county of Albany.

3. Neither any director of the corporation nor any officer, employee, or agent of the corporation, while acting within the scope of their authority, shall be subject to any personal liability resulting from exercising or carrying out of any of the corporation's purposes or powers.

§ 3248. Assistance to the corporation. With the consent of the governor, comptroller or attorney general as the case may be, the corporation may use agents, employees and facilities of the state paying to the affected agency its agreed proportion of the compensation or costs.

§ 3249. Preference for actions or proceeding against the corporation. Any action or proceeding to which the corporation or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein, except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the corporation or its counsel in any action or proceeding questioning the validity of this title in which the corporation may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county of Albany.

ARTICLE 10-C

NEW YORK HEALTH CARE CORPORATIONS

ARTICLE 10-C

NEW YORK HEALTH CARE CORPORATIONS

TITLE 1

WESTCHESTER COUNTY HEALTH CARE CORPORATION

§ 3300. Short title. This title may be cited as the "Westchester county health care corporation act".

§ 3301. Legislative findings and purpose. The legislature hereby finds and declares as follows:

1. Currently, the Westchester County Medical Center is a public hospital owned and operated by the county of Westchester.

2. The Westchester County Medical Center encompasses the Medical Center Hospital, the Ruth Taylor Geriatric and Rehabilitation Institute, the Psychiatric Institute and the Westchester Institute for Human Development.

3. The Medical Center Hospital is the tertiary care facility for Westchester and the six other counties of the lower Hudson Valley.

4. The needs of the residents of the state of New York and of the county of Westchester can best be served by the operation of the Westchester County Medical Center by a public benefit corporation having the legal, financial and managerial flexibility to take full advantage of opportunities and challenges presented by the evolving health care environment.

5. In order to accomplish the purposes recited in this section to provide health care services and health facilities for the benefit of the residents of the state of New York and the county of Westchester, including persons in need of health care services without the ability to pay as required by law, a public benefit corporation to be known as the Westchester county health care corporation shall be created to provide such services and facilities and to otherwise carry out such purposes; that the creation and operation of the Westchester county health care corporation, as hereinafter provided, is in all respects for the benefit of the people of the state of New York and of the county of Westchester, and is a state, county and public purpose; and that the exercise by such corporation of the functions, powers and duties as hereinafter provided constitutes the performance of an essential public and governmental function.

§ 3302. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Board" shall mean the board of directors of the corporation as established by section thirty-three hundred three of this title.

2. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the corporation pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Corporation" shall mean the public benefit corporation created by section thirty-three hundred three of this title, known as the Westchester county health care corporation.

4. "County" shall mean the county of Westchester.

5. "Department" shall mean the department of hospitals of the county.

6. "Health facility" shall mean a building, structure or unit or any improvement to real property, including all necessary and usual attendant and related equipment, facilities or fixtures, or any part or parts thereof, or any combination or combinations thereof, including, but not limited to, a general hospital, psychiatric hospital, ambulatory clinic or center, chronic disease hospital, nursing home, extended-care facility, dispensary or laboratory or any other related facility, or any combination of the foregoing, constructed, acquired or otherwise provided by or for the use of the corporation or the county in providing health and medical services to the public.

7. "Director" shall mean a voting director appointed to the corporation pursuant to section thirty-three hundred three of this title.

§ 3303. Westchester county health care corporation. 1. (a) There is hereby created a state board to be known as the Westchester county health care corporation which shall be a body corporate and politic constituting a public benefit corporation.

(b) The corporation shall be governed by fifteen voting directors of which eight directors shall be appointed by the governor and seven directors shall be appointed by the legislature of the county of Westchester subject to approval by the county executive. The governor shall make appointments to the corporation as follows: three directors from a recommendation submitted by the county executive; three directors from a recommendation submitted by the legislature of the county of Westchester; one director, who shall be a resident of Westchester county, from a recommendation submitted by the speaker of the assembly; one director, who shall be a resident of Westchester county, from a recommendation submitted by the temporary president of the senate.

The terms of the initial voting directors appointed by the governor shall be five years for such directors appointed upon recommendation of the temporary president of the senate and the speaker of the assembly. The terms of the initial voting directors appointed by the governor upon the recommendation of the county executive shall be five years for one, four years for one and three years for one. The terms of the initial voting directors appointed by the governor upon the recommendation of the legislature of the county shall be four years for two and three years for one. The terms of the initial voting directors appointed by the legislature of the county with the approval of the county executive shall be one year for three of such directors, two years for three of such directors and three years for one of such directors.

(c) Each voting director should possess a high degree of experience and knowledge in relevant fields and a high degree of interest in the corporation. The appointment of any voting director to the corporation shall be based in part on the objective of ensuring that the corporation includes diverse and beneficial perspectives and experience, including, but not limited to, those of business management, law, finance, medical and/or other health professionals, health sector workers, and the patient or consumer perspective.

2. There shall be four non-voting representatives which shall include the chief executive officer of the corporation as appointed by the voting directors of the board, one representative selected by the county executive, one selected by the majority leader of the county board of legislators and one selected by the minority leader of the county board of legislators. Such representatives shall have all of the rights and powers of the voting directors other than the right and power to vote including, but not limited to, the right to equal access to information.

3. (a) All voting directors shall continue to hold office until their successors are appointed and qualify. All subsequent appointments shall be for a term of five years and may be eligible for reappointment.

(b) Vacancies occurring otherwise than by expiration of term of office shall be filled for the unexpired terms in the manner provided for original appointment. All directors and non-voting representatives shall continue to hold office until their successors are appointed and have qualified. Vacancies shall be filled in the same manner as provided for original appointment. Vacancies occurring otherwise than by expiration of terms of office, shall be filled by appointment for unexpired terms. Members may be removed from office by the board for inefficiency, neglect of duty or misconduct in office, after the board has given such member a copy of the charges against him or her or opportunity to be heard in person or by counsel in his or her defense, upon not less than ten days notice.

4. (a) The voting directors shall by majority vote select one of the fifteen voting directors as the chairperson of the board. The chairperson shall preside over all meetings of the board and shall have such other duties as the voting directors may direct.

(b) The voting directors, non-voting representatives of the corporation shall receive no compensation for their services, but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title.

(c) The powers of the corporation shall be vested in and shall be exercised by the board at a meeting duly called and held where a quorum of eight voting directors is present. No action shall be taken by the corporation except pursuant to the favorable vote of at least eight voting directors present at the meeting at which such action is taken.

5. The voting directors shall select and shall determine the salary and benefits of the chief executive officer of the corporation. The voting directors shall have the authority to discharge the chief executive officer with or without cause; provided, however, that removal without cause shall not prejudice the contract rights, if any, of the chief executive officer.

6. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public corporation shall forfeit his or

her office or employment by reason of his or her acceptance of appointment as a director, non-voting representative, officer or employee of the corporation, nor shall service as such a director, non-voting representative, officer or employee be deemed incompatible or in conflict with such office, or employment, and provided further, however, that no public officer elected to his or her office pursuant to the laws of the state or any municipality thereof may serve as a member of the governing body of the corporation during his or her term of office.

7. The corporation and its corporate existence shall continue until terminated by law, provided, however, that no such termination shall take effect so long as the corporation shall have bonds or other obligations outstanding, unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the corporation, all of the rights and properties of the corporation then remaining shall pass to and vest in the county in such manner as prescribed by law.

8. Contracts for works, construction or purchases to which the corporation is a party shall be subject to the provisions of article five-A of the general municipal law except as provided in subdivisions nine and ten of this section. In addition to the procedures prescribed under section one hundred four of the general municipal law for the utilization of the terms of state contracts, the corporation may utilize the terms of a federal government general services contract where the terms are to the advantage of the corporation and have been offered to the corporation by the contractor. When bids have already been received by the corporation no purchase under a federal government general services contract shall be made unless the purchase may be made upon the same terms, conditions and specifications at a lower price through such contractor.

9. It is the intent of the legislature that overall cost should in all cases be a major criterion in the selection of project developers for award of contracts pursuant to this section and that, wherever practical, such contracts should be entered into through competitive

bidding procedures as prescribed by sections one hundred one and one hundred three of the general municipal law. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of medical technology, diagnostic and treatment devices, the relative newness of a variety of devices, processes and procedures now available, the desirability of a single point of responsibility for the development of medical treatment and diagnostic facilities and the economic and technical utility of contracts for medical projects which include in their scope various combinations of design, construction, operation, management and/or maintenance responsibility over prolonged periods of time and that in some instances it may be beneficial to the corporation to award a contract for a medical project on the basis of factors other than cost alone, including but not limited to facility design, system reliability, efficiency, safety, and compatibility with other elements of patient care. Accordingly, and notwithstanding the provisions of any general, special or local law or chapter, a contract for a medical project entered into between the corporation and any project developer pursuant to this section may be awarded pursuant to public bidding in compliance with sections one hundred one and one hundred three of the general municipal law or pursuant to the following provisions for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the corporation:

(a) The corporation shall require that each proposal to be submitted by a project developer shall include:

(i) information relating to the experience and expertise of the project developer on the basis of which said project developer purports to be qualified to carry out all work required by a proposed contract; the ability of the project developer to secure adequate financing; and proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities by a proposed contract;

(ii) a proposal clearly identifying and specifying all elements of cost which would become charges to the corporation, in whatever form, in return for the fulfillment by the project developer for the full lifetime of a proposed contract, including, as appropriate, but not limited to the cost planning, design, construction, operation, management and/or maintenance of any facility, and clearly identifying and specifying all elements of revenue which would accrue to the corporation from the operation of the facility or device or from any other source; provided, that the corporation may prescribe the form and content of such proposal and that, in any event, the project developer must submit sufficiently detailed information to permit a fair and equitable evaluation by the corporation of such proposal; and provided, further, that the corporation may set maximum allowable cost limits in any form in the request for proposals; and

(iii) such other information as the corporation may determine to have a material bearing on its ability to evaluate any proposal in accordance with this subparagraph;

(b) Prior to the issuance of a request for proposals pursuant to this paragraph, the corporation shall publish notice of such issuance in at least one newspaper of general circulation. Concurrent with the publication of such notice a draft request for proposals shall be filed with the county commissioner of health.

(c) Proposals received in response to such request for proposals shall be evaluated by the corporation as to net cost or, if a net revenue is projected, net revenue, and in a manner consistent with provisions set forth in the request for proposals, and may be evaluated on the basis of additional factors, including but not limited to the technical evaluation of the medical project including medical facility, facility design, system reliability, energy balance and efficiency. The evaluation of such proposals and the determination of whether a project developer is "responsible" may include, but shall not be limited to, consideration, in a manner consistent with provisions set forth in the request for proposals, the record of the project developer in complying with existing labor standards and recognizing state and federally approved apprentice training programs, and the willingness of the project developer to provide for meaningful participation of minority group persons and business enterprises in the conduct of the work;

(d) The corporation may make a contract award to any responsible project developer based on a determination by the corporation that the selected proposal is most responsive to the request for proposals and may negotiate with any project developer, provided, however, that if any award is made to any project developer whose total proposal does not provide either the lowest net cost, or if a net revenue is projected, the greatest net revenue, of any proposal received, the corporation shall adopt a resolution which includes particularized findings relevant to factors pursuant to such subparagraph indicating that the corporation's requirements are met by such award and that such action is in the public interest.

Whenever the corporation enters into a contract pursuant to this section for a medical project which involves construction the provisions of section two hundred twenty of the labor law shall be applicable to such construction work.

10. Every contract entered into between the corporation and a project developer, pursuant to the provisions of paragraph (d) of subdivision nine of this section, for a medical project involving construction of a medical building by the project developer, shall contain provisions that such building shall be constructed through construction contracts awarded through competitive bidding in accordance with paragraphs (a) through (g) of this subdivision; that the project developer or the project developer's construction subcontractor shall furnish a bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of such construction contracts, and that a copy of such payment bond shall be kept by the corporation and shall be open to public inspection; provided, however, that the requirements of this subdivision shall not apply when the cost of such construction, exclusive of the cost of medical equipment and devices, is less than one million five hundred thousand dollars.

(a) The project developer shall advertise for bids for such construction contracts in a daily newspaper having general circulation in the county. Such advertisement shall contain a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read. An employee of the corporation shall be designated to open the bids at the time and place specified in the notice. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the publication of such advertisement and date on which the bids are opened.

(b) Except as otherwise provided in section two hundred twenty-two of the labor law, when the entire cost of constructing such building, exclusive of any medical equipment, apparatus or devices, shall exceed one million five hundred thousand dollars, the project developer shall prepare separate specifications for the following subdivisions of such work, so as to permit separate and independent bidding upon each subdivision:

(i) plumbing and gas fittings;

(ii) steam heating, hot water heating, ventilating and air conditioning apparatus; and

(iii) electric wiring and standard illuminating fixtures.

(c) After public competitive bidding, the project developer shall award one or more separate contracts for each of the above subdivisions of such work, whenever separate specifications are required pursuant to paragraph (b) of this subdivision, and one or more contracts for the remainder of such work. The project developer may award such contracts at different times. Contracts awarded pursuant to this subdivision shall be awarded by the project developer to the lowest responsible and responsive bidder and shall be contracts of the project developer and not of the corporation which shall have no obligation or liabilities, whatsoever, thereunder. The project developer shall have the responsibility for the supervision, coordination, and termination of such contracts, unless otherwise specified in contractual terms between the project developer and the corporation.

(c-1) Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: (i) plumbing and gas fitting, (ii) steam heating, hot water heating, ventilating and air conditioning apparatus and (iii) electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

(d) In determining whether a prospective contractor is responsible and responsive, the project developer may require that prospective contractors:

(i) have adequate financial resources or the ability to obtain such resources;

(ii) be able to comply with the required or proposed delivery or performance schedule;

(iii) have a satisfactory record of performance;

(iv) have the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them;

(v) have the necessary production, construction and technical equipment and facilities, or the ability to obtain them; and

(vi) be eligible to receive an award under applicable laws and regulations and be otherwise qualified.

(e) The project developer may reject any bid of a bidder which the project developer determines to be nonresponsible or nonresponsive to the advertisement for bids.

(f) The project developer may, in its discretion, reject all bids, and may revise bid specifications and may readvertise for bids as provided herein.

(g) Only as used in this section:

(i) "project developer" means any private corporation, partnership, limited liability company, or individual, or combination thereof which has submitted a proposal in response to a request for proposals;

(ii) "construction" shall include reconstruction, rehabilitation or improvement exclusive of the installation and assembly of any medical equipment, apparatus or device;

(iii) "medical building" means that component of a medical project constituting appurtenant structures or facilities necessary to house or render the remaining components of the medical project operational. Medical building shall not include apparatus, equipment, devices,

systems, supplies or any combination thereof;
(iv) "medical project" means any substantial durable apparatus, equipment, device or system, or any combination of the foregoing, including services necessary to install, erect, or assemble the foregoing and any appurtenant structures or facilities necessary to house or render the foregoing operational, to be used for the purpose of care, treatment or diagnosis of disease or injury or the relief of pain and suffering of sick or injured persons. Medical projects shall not include ordinary supplies and equipment expended or utilized in the customary care and treatment of patients.

11. (a) For purposes of applying section eighty-seven of the public officers law, to the corporation, the term "trade secrets" shall include marketing strategy or strategic marketing plans, analyses, evaluations and pricing strategies or pricing commitments of the corporation, relating to business development, which, if disclosed, would be likely to injure the competitive position of the corporation.
(b) In addition to the matters listed in section one hundred five of the public officers law, the corporation may conduct an executive session for the purpose of considering marketing strategy or strategic marketing plans, analyses, evaluations and pricing strategies of the corporation, relating to business development, which, if disclosed, would be likely to injure the competitive position of the corporation.

§ 3304. Transfer of officers and employees; civil service. 1. (a) On the effective date of the transfer of the facilities and operations of the Westchester County Medical Center pursuant to an agreement between the county and the corporation as authorized in this title, officers and employees employed in the department shall become officers and employees of the corporation with equivalent offices, positions and employment therewith and shall be deemed public officers or public employees for all purposes.
(b) In accordance with the provisions of section seventy of the civil service law, for a period not to extend beyond six months from the effective date of the transfer of the facilities and operations of the Westchester County Medical Center pursuant to an agreement between the

county and the corporation as authorized in this title, any other officer or employee of the county may, at the request of the corporation and with the consent of the county executive and the officer or employee, be transferred to the corporation and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the corporation.

(c) Any person who, at the time he or she becomes an officer or employee of the Westchester County Medical Center pursuant to paragraph (a) or (b) of this subdivision, has a temporary or provisional appointment shall be transferred subject to the same right of removal, examination or termination as though such transfer had not been made except to the extent such rights are modified by a collective bargaining agreement.

(d) There shall be no layoffs of any officers or employees of the Westchester County Medical Center which are a direct consequence of the enactment of this title. There shall be a presumption that any layoffs occurring more than twenty-four months after the effective transfer date described in this subdivision shall be deemed not to be such a direct consequence.

(e) Nothing contained in this section shall be construed to prevent the elimination of any service at any time as a result of the elimination of state or federal assistance, the elimination of available revenue reimbursement, loss of certification or licensure, or loss of financial viability.

2. The corporation shall recognize the existing certified or recognized employee organizations for those persons who become employees of the Westchester County Medical Center pursuant to paragraph (a) or (b) of subdivision one of this section as the exclusive collective bargaining representatives for such employees, who shall comprise correspondingly new collective bargaining units. The corporation shall be bound by all existing collective bargaining agreements with such employee organizations; all existing terms and conditions of employment shall remain in effect until altered by the terms of a successor contract; successor employees to the positions held by such employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors.

Employees serving in positions in newly created titles shall be assigned to the appropriate bargaining unit. Nothing contained herein shall be construed to affect:

(a) the rights of employees pursuant to a collective bargaining agreement;

(b) the representational relationships among employee organizations or the bargaining relationships between the county, state and an employee organization; or

(c) existing law with respect to an application to the public employment relations board seeking designation by the board that certain persons are managerial or confidential. Nothing herein shall preclude the merger of negotiating units of employees with the consent of the recognized or certified representatives of such units.

3. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the corporation. The corporation shall, upon transfer, acknowledge and give credit for all leave balances held by such officers and employees on the date of transfer.

4. The corporation shall be subject to the civil service law. For the purposes of such law, the following titles (consisting of no more than a total of forty-five positions in such titles), including the proposed comparable corporate titles where applicable, shall, upon the effective transfer date described in subdivision one of this section, be in the exempt class, unless pursuant to the provisions of the civil service law, a lesser or greater number of titles or positions is properly classified in the exempt class: Commissioner of Hospitals (President and Chief Executive Officer), First Deputy Commissioner of Hospitals (Executive Vice President), Director of Hospital Administration (Senior Vice President, Hospital Administration), Medical Director of Hospital (Senior Vice President, Medical Director), Associate Director of Hospital Nursing Services and Education (Vice President, Hospital Nursing Services and Education), Director of the Ruth Taylor Institute (Vice President, Ruth Taylor Institute), Associate Director Hospital, Planning & Development (Vice President, Planning and Development), Director of Professional Services - WCMC (Director of Professional Services), Director of Support Service - WCMC (Director of Support

Services), Associate Director of Hospital Administration (Vice President, Hospital Administration), Medical Records Director - Hospital (Director of Health Information Management), Personnel Director - Medical Center, Assistant Personnel Director - Hospital, Director of Program Development I (Labor Relations), Health Care Administrator (Material Management), Program Administrator (Material Management), Health Care Administrator (Patient Care Services Program Administrator (Patient Care Services)), Health Care Administrator (Regulatory Affairs-WCMC) Program Administrator (Regulatory Affairs), Health Care Administrator (Operating Room) (Program Administrator (Operating Room)), Health Care Administrator (EMS) (Program Administrator (EMS)), Health Care Administrator (Heart Center) Program Administrator (Heart Center)), Program Administrator (Executive Services WCMC) Program Administrator (Executive Services)), Director of Communications & Development WCMC, Director of Marketing & Development, Director of Program Development II (Community Relations), Assistant to Commissioner of Hospitals (Assistant to President/CEO), Secretary to Commissioner of Hospitals (Secretary to President/CEO), Director of Hospital Fiscal and Business Services (Senior Vice President, Finance), Director of Nursing - PTI, Associate Director for Hospital Operations, Director of Information Systems (Director of Information Systems), Director of Patient Care Services, Director of Pharmacy Services, Director, Office of Hospital Financial Analysis, Director, Office of Hospital Reimbursement, Manager of Patient Accounts, Associate Director, Fiscal Services (Vice President, Finance).

§ 3305. General powers of the corporation. Except as limited by this title, the public health law, the mental hygiene law, the social services law, the education law or any other applicable law or regulation, the corporation shall have power:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to borrow money and issue bonds for any of its corporate purposes or its projects, or to refund the same, and to provide for the rights of

the holders thereof;

4. to make and alter by-laws for its organization and management, and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

5. (a) to acquire by purchase, grant, lease, gift, or otherwise and to hold and use property necessary, convenient or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the corporation shall determine;

(b) to acquire by condemnation pursuant to the provisions of the eminent domain procedures law any real property within Westchester county required by the corporation to carry out the powers granted by this title with the approval of both the county board of legislators and the county executive;

6. to acquire, construct, lease, expand, improve, maintain, equip, furnish, operate one or more projects and, if necessary, to pay or finance the cost thereof;

7. to accept gifts, grants, loans or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state or any public corporation or any other source, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

8. to grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the corporation may deem desirable;

9. to designate the depositories of its money;

10. to establish its fiscal year;

11. to enter into contracts and to execute all instruments necessary

or convenient or desirable for the purposes of the corporation to carry out any powers expressly given to it in this title;

12. to appoint such officers, employees and agents as the corporation may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

13. to use employees, agents, consultants and facilities of the county, paying the county its agreed proportion of the compensation or costs pursuant to an agreement with the county;

14. to make and adopt plans, surveys and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the corporation and to prepare recommendations in regard thereto;

15. except as limited by state law or regulation, to fix and collect rates, rentals, fees and other charges for the services rendered by or for use of the facilities or in the exercise of the powers of the corporation;

16. to enter upon such lands, waters or premises as in the judgment of the corporation may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the corporation being liable for actual damage done;

17. the corporation may covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includable, under the United States Internal Revenue Code of 1986, as amended (the "code") or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in

the gross income of the holders thereof under the code or any such subsequent law;

18. to insure or otherwise to provide for the insurance of the corporation's property or operations and also contract against such other risks as the corporation may deem advisable, including the interest rate risk for obligations it issues bearing interest at a floating or otherwise adjustable rate which prevents the actual rate over the term of the debt from being ascertained at the date of its incurrence, and including the power to make any payments with respect thereto; and

19. to do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 3306. Special powers of the corporation. In order to effectuate the purposes of this title, the corporation shall have the following additional powers, except as limited by this title, the public health law, the mental hygiene law, the social services law, the education law and any other applicable law or regulation:

1. To operate, manage, superintend and control any health facility under its jurisdiction and to repair, maintain and otherwise keep up any such health facility; and to establish, collect and adjust fees, rentals, and other charges for the sale, lease or sublease of any such health facility, subject to the terms and conditions of any contract, lease, sublease or other agreement with the county;

2. To provide health and medical services for the public directly or by agreement or lease with any person, firm or private or public corporation or association through or in the health facilities of the corporation or otherwise and to make internal policies governing admissions and health and medical services; and to establish, collect and adjust fees and other charges for the provision of such health and medical services; and to provide and maintain resident physician and

intern medical services; and to sponsor and conduct research, educational and training programs;

3. To provide uncompensated care to persons in need of health care services without the ability to pay;

4. To provide, maintain and operate a medical transport service, provided, however, nothing herein shall prohibit the corporation from adopting a schedule of charges for medical transport;

5. To enter into contracts, leases, subleases and other agreements for the purpose of affiliating with a medical college in conjunction with the corporation's health facilities, which agreements may provide for the management, operation and staffing of health facilities, the reconstruction, renovation or addition to health facilities; the provision of necessary facilities, utilities and services; and such other conditions or features necessary and proper for such purpose and for the public health and general welfare;

6. To determine the conditions under which a physician may be extended the privilege of practicing within a health facility under the jurisdiction of the corporation, and to promulgate reasonable internal policies for the conduct of all persons, physicians and nurses within such facility; and

7. (a) Except as provided in paragraph (b) of this subdivision or as expressly limited by any applicable state law or regulation to exercise and perform all or part of its purposes, powers, duties, functions or activities through one or more subsidiary corporations owned or controlled wholly or in part by the corporation, which shall be formed pursuant to the business corporation law, the limited liability company law, or the not-for-profit corporation law, in each case subject to all the limitations provided in this article.

(b) No subsidiary of the corporation shall own, operate, manage or control the existing acute inpatient and outpatient facilities and services now in operation on the grounds of the Valhalla campus.

(c) Any such subsidiary may be authorized to act as a general or limited partner in a partnership or as a member of a limited liability company, and enter into an arrangement calling for an initial and subsequent payment by such subsidiary in consideration of an interest in revenues or other contractual rights.

(d) An entity shall be deemed a subsidiary corporation whenever and so long as (i) more than half of any voting shares of such subsidiary are owned or held by the corporation or (ii) a majority of the directors, trustees or members of such subsidiary are designees of the corporation.

§ 3307. Transfer of property; relationship with the county; certain gifts, loans and guarantees by the county. 1. (a) The county may give, grant, sell, convey, loan, license the use of, or lease to the corporation any property (except monies appropriated by the county and payable to the corporation pursuant to subdivision three and paragraph (a) of subdivision four of this section) which are useful in connection with the exercise by the corporation of any of its powers under this title in order to transfer the facilities and operations of the Westchester County Medical Center to the corporation by agreement between the county and the corporation and any subsequent renewal or amendment thereof, by local law adopted by a two-thirds majority of the county board of legislators and after approval by the county board of acquisition and contract, notwithstanding any general, special or local law, ordinance, resolution or charter.

(b) Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, for such consideration, if any, and for such term or terms of years, subject to the rights of the holders of any bonds, as the corporation and the county may agree. No real property of the county consisting of any health facility currently operated by the Westchester County Medical Center shall be transferred to the corporation in fee, except under such restrictions regarding rights of first refusal, or other rights, to repurchase the property as the Westchester County Board of Legislators shall approve by act, and subject to a restrictive covenant prohibiting the corporation from pledging or mortgaging the fee interest in the property. In the event that the county gives, grants, sells, conveys, loans, licenses or leases any facilities to the corporation, the county may contract with the corporation to lease, borrow, license, operate, maintain, manage and provide services for such facilities upon such terms and conditions and for such term or terms of years, subject to the rights of holders of bonds, as the corporation and the county may agree. The corporation, in furtherance of any purchase, conveyance or lease of any property or facility from the county, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by the county for such property or facility.

2. The county may acquire by purchase, grant, lease, gift or condemnation pursuant to the eminent domain procedure law, real property in the name of the county for any corporate purpose of the corporation.

3. In addition to any other powers granted to it by law and consistent with the constitution and other provisions of law, the county may, from time to time, appropriate sums of money to defray project costs or any other costs or expenses of the corporation including operating expenses.

Subject to the rights of bondholders, the county may determine if the monies so appropriated shall be subject to repayment by the corporation to the county and, in such event, the manner and time or times for such repayment.

4. In addition to the authority granted elsewhere in this title and by other applicable laws, the corporation and the county may enter into a contract or contracts from time to time providing for one or more of the following:

(a) the payment of sums appropriated by the county pursuant to subdivision three of this section;

(b) the payment of sums for health care services provided by the corporation which could otherwise be provided directly by the county, including services for uncompensated care;

(c) services to be provided by the county to or on behalf of the corporation;

(d) the transfer of employees of the county to the corporation as provided in section thirty-three hundred four of this title;

(e) indemnification by the corporation to the county for claims associated with establishment of and operation of the corporation and its health facilities;

(f) the gift, grant, sale, conveyance, loan, license or lease by the county to the corporation of any property (except monies appropriated by the county and payable to the corporation pursuant to subdivision three and paragraph (a) of this subdivision) or facilities which are useful in connection with the exercise by the corporation of any of its powers under this title not transferred pursuant to the authority granted in paragraph (a) of subdivision one of this section, which gift, grant, sale, conveyance, loan, license or lease shall nevertheless be subject to paragraph (b) of subdivision one of this section; and

(g) such other matters as may be appropriate to accomplish the purposes hereof.

Any such contract or contracts shall be authorized by the county by act adopted by majority vote of the county board of legislators and with the approval of the county board of acquisition and contract. Such contract or contracts shall include such terms and conditions, be for such consideration, if any, and have such term or terms of years, as the corporation and the county may agree.

5. On the effective date of the transfer of the facilities and operations of the Westchester County Medical Center pursuant to an agreement between the county and the corporation as authorized in this title, the department shall be abolished. On and after such date, the department of health of the county shall be vested with all power and authority of the department not explicitly or implicitly transferred to the corporation pursuant to this title.

6. (a) Notwithstanding any general, special or local law or charter provisions to the contrary, the county of Westchester shall have the power and is hereby authorized, pursuant to section seven of article seventeen of the state constitution, to lend its money or credit to or in aid of the corporation or any subsidiary thereof for the purpose of providing health related facilities or hospital facilities for the prevention, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, and for facilities

incidental or appurtenant thereto as may be prescribed by law. The county is hereby authorized to prescribe such facilities by local law of the county. The corporation or any such subsidiary thereof, as a condition to any such loan of money or credit, shall enter into a regulatory agreement with the county as to its charges, profits, dividends and disposition of its property of franchises, which agreement shall be binding and enforceable by the county insofar as this regulates such charges, profits, dividends and disposition of property. The county may elect in such regulatory agreement to refrain from exercising all or any portion of its authority to so regulate such charges, profits, dividends and disposition of property to the extent such charges, profits, dividends and disposition of property are regulated by the state or any agency thereof. The county shall authorize such regulatory agreement by local law.

(b) In pursuance of the authority granted pursuant to this article, the county shall have the power and is hereby authorized from time to time to issue its bonds, notes or other obligations in such principal amounts as it shall deem necessary, after taking into account other monies which may be available for the purposes set forth in this section. Except as provided for in paragraph (c) of this subdivision, such bonds, notes or obligations shall be issued for the purpose of making loans to the corporation or any subsidiary thereof, paying interest on such bonds, notes or other obligations, establishment of reserves to secure such notes, bonds, or other obligations, and paying all other obligations and expenditures incidental to and necessary or convenient for the making of such loans. Such bonds, notes or obligations shall be issued in accordance with the applicable provisions of this chapter and the local finance law and applicable local laws. The county, in its sole discretion, may, in lieu of the corporation, undertake to perform or complete the corporation's capital project if authorized to do so in the county's capital budget. The corporation shall submit its capital project requests to the county and shall comply with any and all requirements imposed by the county in accordance with the county's capital projects procedures. The corporation shall also provide to the county any and all documentation and information requested by the county with respect to all such capital projects. In the event that the county determines to undertake to perform or complete the corporation's capital project pursuant to this subdivision, such capital project shall be accomplished in such manner as may be authorized by the county. The county may enter into contracts as are necessary to carry out such capital projects on behalf of the corporation, including, but not limited to, contracts for architects, engineers, land surveyors and other consultants, contracts for public works and purchase contracts. With respect to such contracts, the county shall comply with the requirements set forth in article five-A of the general municipal law, provided however the county shall be entitled to utilize the provisions set forth in subdivisions nine and ten of section thirty-three hundred three of this article. After the completion of the capital project, the corporation shall annually submit to the budget director and the commissioner of finance of the county a written report detailing and certifying the manner by which the corporation is utilizing the capital project in a manner consistent with the county's issuance of bonds for such project. Such report shall be submitted on or before the first day of March of each year after the project's completion.

(c) The county shall also have the power and is hereby authorized to issue its bonds, notes or other obligations to provide full funding without repayment by the corporation. The county, in its sole discretion, may, in lieu of the corporation undertake to perform or complete capital projects of the corporation, if authorized to do so in the county's capital budget. Such bonds, notes or obligations, if authorized by the county, shall be issued in accordance with the applicable provisions of this chapter, the local finance law and applicable local laws. The corporation shall submit its capital project requests to the county and shall comply with any and all requirements imposed by the county in accordance with the county's capital projects procedures. The corporation shall cooperate with the county and provide to the county any and all documentation and information requested by the county with respect to all such capital projects. In the event that the county determines to undertake to perform or complete the corporation's capital project pursuant to this subdivision, such capital project shall be accomplished in such manner as may be authorized by the county. The county may enter into contracts as are necessary to carry out such capital projects on behalf of the corporation, including, but not limited to, contracts for architects, engineers, land surveyors and other consultants, contracts for public works and purchase contracts. With respect to such contracts, the county shall comply with the requirements set forth in article five-A of the general municipal law, provided however the county shall also be entitled to utilize the provisions set forth in subdivisions nine and ten of section thirty-three hundred three of this article. After the completion of the capital project, the corporation shall annually submit to the budget director and the commissioner of finance of the county a written report detailing and certifying the manner by which the corporation is utilizing the capital project in a manner consistent with the county's issuance of bonds for such project. Such report shall be submitted on or before the first day of March of each year after the project's completion.

(d) Any guarantee by the county made pursuant to the authority granted in this section shall be authorized by act or acts of the county in the same manner as such act or acts authorizing the issuance of bonds of the county for the purposes for which such guarantee is undertaken.

(e) The county shall also be authorized to enact laws governing the conditions under which such loans, commitments and guarantees shall be made.

7. For purposes of subdivision four of paragraph a of section 25.00 of the local finance law, amounts to be derived by the county of Westchester from the corporation, or any subsidiary thereof, shall be included in the term "other income".

8. (a) Notwithstanding the provisions of any other state or local law to the contrary, including, but not limited to, sections six-n and six-j of the general municipal law, with the approval of the county board of legislators, amounts deposited for or on behalf of the Westchester County Medical Center in the liability and casualty and workers' compensation reserve funds established by the county pursuant to said sections of the general municipal law, and investment earnings thereon, may be withdrawn by the county from such funds and transferred to the corporation and shall be used by the corporation for the purposes for which such funds were established.

(b) No amounts shall be withdrawn and transferred to the corporation pursuant to this subdivision unless prior thereto the corporation has agreed in writing to indemnify and hold harmless the county, and provide defense, for all claims, cases, proceedings, actions or other matters against the county arising out of the properties, facilities, operations or employees of the corporation of the Westchester County Medical Center, whether commenced before or after the date of transfer of said amounts, and to provide such other security for this obligation as the county may reasonably require.

§ 3308. Bonds or notes of the corporation. 1. The corporation shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The corporation shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee or other subsidy with respect to any bonds.

2. The corporation shall have the power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other corporate purpose of the corporation. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the corporation may be general obligations secured by the faith and credit of the corporation or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the corporation under which the bonds shall be authorized to be issued, subject as to priority only to any

agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The corporation may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the corporation is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the corporation, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the corporation issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the corporation, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the corporation, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the corporation is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of the preceding paragraph, whenever in the judgment of the corporation the interests of the corporation will be served thereby, the directors of the corporation, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The corporation shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the corporation shall include, but not be limited to, a requirement that where the interests of the corporation will be served by a private or public sale of bonds, the corporation shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process undertaken from time to time and consideration of proposals from qualified underwriters as determined by the corporation.

(d) The corporation shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) In addition to the authority to sell notes at private sale contained hereinabove, the corporation may sell its notes at private negotiated sale to the county, which is hereby authorized to temporarily invest county funds in such notes, provided that such notes mature at or before the time the county expects to expend such funds for the purposes for which such funds were raised.

(f) No private or public bond sale on a negotiated basis shall be conducted by the corporation without prior approval of the state comptroller. The corporation shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the corporation is required to make.

(g) The corporation shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(h) The corporation shall make available to the public copies of its bond sale report upon reasonable request thereof.

(i) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds by the corporation may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the revenues, together with any other monies or property of the corporation to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the corporation received from any private or public source subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees and other charges to be fixed and collected by the corporation and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the corporation to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the corporation may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the corporation to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the corporation to sell or otherwise dispose of any project or any part thereof or other property;

(m) limitations on the amount of revenues and other monies to be expended or operating, administrative or other expenses of the corporation;

(n) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the corporation may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

6. In addition to the powers herein conferred upon the corporation to secure its bonds, the corporation shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the corporation may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the corporation would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The corporation shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments within the powers granted to the corporation by this title and to perform such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or

other instruments may be made a part of the contract with the holders of bonds of the corporation.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the corporation shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the corporation irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds of the corporation are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the directors nor the non-voting representatives nor the officers of the corporation nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the corporation shall have power out of any funds available therefor to purchase bonds of the corporation, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The corporation shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

§ 3309. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the corporation shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the corporation is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding shall, in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the corporation to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the corporation to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the corporation to account as if

it were the trustee of an express trust for the holders of such bonds;
(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and
(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the corporation.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of any receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all monies and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the corporation is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the corporation under the direction of

the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 3310. State and county not liable on corporation bonds. (a) The state shall not be liable on the bonds or notes of the corporation and such bonds or notes shall not be a debt of the state, and such bonds and notes shall contain on the face thereof a statement to such effect.

(b) Except as may be authorized by the county pursuant to section seven of article seventeen of the state constitution and section thirty-three hundred eight of this title, the county shall not be liable on the bonds or notes of the corporation and such bonds or notes shall not be a debt of the county, and such bonds and notes shall contain on the face thereof a statement to such effect or a statement describing the county liability thereon, if any.

§ 3311. Monies of the corporation. All monies of the corporation from whatever source derived shall be paid to the treasurer of the corporation and shall be deposited forthwith in a bank or banks designated by the corporation. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the corporation may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Alternatively, monies of the corporation may be deposited in money market funds rated in the highest short term or long term rating category by at least one nationally recognized rating agency. To the extent practicable, consistent with the cash requirements of the corporation, all such monies shall be deposited in interest bearing accounts. The corporation shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the corporation or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the corporation and all banks and trust companies are authorized to give such security for such deposits. Any monies of the corporation not required for immediate use or disbursement may, at the discretion of the corporation, be invested in accordance with guidelines established by the corporation's board and amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the corporation shall prescribe a system of accounts.

§ 3312. Bonds; legal investment for fiduciaries. The bonds of the corporation are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 3313. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the corporation shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 3314. Agreement with county. The county is authorized to pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the county will not alter, limit or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the corporation shall have been issued, to establish, collect and adjust rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation.

§ 3315. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the corporation and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the corporation shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the corporation shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, except as provided pursuant to the public health law, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by the title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the corporation. Provided, however, that any real property owned or acquired by the corporation outside of the county shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located. Provided, further, subsidiaries of the corporation are not included within the foregoing exemption.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the corporation pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the corporation issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to pay or to secure the payment of such bonds

shall at all times be free from taxation.

4. The corporation may pay, or may enter into agreements with the county or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to real property owned by the corporation located within the county or such municipality.

§ 3316. Actions against corporation. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the corporation, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the corporation or of any member, officer, agent or employee thereof, unless (a) notice of claim shall have been made and served upon the corporation within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and (d) an action, against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the corporation, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The corporation may require any person presenting for settlement an account or claim for any cause whatsoever against the corporation to be sworn before a director, counsel or an attorney, officer or employee of the corporation designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to

such account or claim. The corporation shall have power to settle or adjust all claims in favor of or against the corporation.

4. Any action or proceeding to which the corporation or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same performance shall be granted upon application of the corporation or its counsel in any action or proceeding questioning the validity of this title in which the corporation may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the corporation upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the corporation of whatever nature shall be brought in the county.

§ 3317. Audit and annual reports. 1. In conformity with the provisions of section five of article ten of the constitution, the accounts of the corporation shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The corporation shall annually submit to the county board of legislators, county executive, governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county board of legislators and the county executive.

2. The corporation shall report on an annual basis the following information: the name, principal business address and principal business activities of each subsidiary of the corporation; the name of all board members and officers of each subsidiary; the number of employees of each subsidiary; a list of all contracts in excess of one hundred thousand dollars entered into by the corporation and its subsidiaries identifying the amount, purpose and duration of such contract; and a financial statement, income statement, and balance sheet performed by an independent certified public accountant all in accordance with generally accepted accounting principles of the corporation and each of its subsidiaries. At the time the reports required by subdivision one of this section are submitted, such reports shall be provided to the governor, the speaker of the assembly, the temporary president of the senate and a copy of such report shall be filed with the clerk of the county board of legislators and the county executive.

§ 3318. Defense and indemnification. The corporation shall not execute any of its powers, including the special powers authorized by section 3306 of this article, except as necessary to commence its corporate existence, until it has elected to make the provision of section eighteen of the public officers law applicable to its employees (as such term is defined in section eighteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the corporation to extend the provisions of section eighteen of the public officers law upon any independent contractor.

§ 3319. Transfer of applications, proceedings, approvals and permits. 1. Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the county or by the county with the federal government, the state department of health or any other public corporation shall inure to and for the benefit of the corporation to the same extent and in the same manner as if the corporation has been a party to such application, review, process, or proceeding from its inception, and the corporation shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the corporation and shall be assigned and transferred by the county to the corporation unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits, determinations, findings, awards and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using or occupying any facility transferred by the county to the corporation pursuant to this title.

§ 3320. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 3321. Applicability of law. The provisions of this title shall be subject to the provisions of the civil practice law and rules, the public health law, the mental hygiene law, the social services law, the education law and any other applicable law or regulation, including any amendment thereto provided, however, nothing in this section shall require the county or corporation to seek approval or consent for any transfer pursuant to sections thirty-three hundred seven and thirty-three hundred nineteen of this title.

ARTICLE 10-C

NEW YORK HEALTH CARE CORPORATIONS

TITLE 2

NASSAU HEALTH CARE CORPORATION

§ 3400. Short title. This title shall be known and may be cited as the "Nassau Health Care Corporation".

§ 3401. Legislative findings and purpose. The legislature hereby finds and declares as follows:

1. The needs of the residents of the state of New York and of the county of Nassau can best be served by a public benefit corporation having the legal, financial and managerial flexibility to take full advantage of opportunities and challenges presented by the evolving health care environment and to take whatever actions are necessary to enable the corporation's continuation as a system which provides the finest possible quality of health care consistent with costs.

2. In order to accomplish the purposes recited in this section to provide health care services and health facilities for the benefit of the residents of the state of New York and the county of Nassau, including to persons in need of health care services without the ability to pay as required by law, a public benefit corporation to be known as the Nassau Health Care Corporation shall be created to provide such services and facilities and to otherwise carry out such purposes; that the creation and operation of the Nassau health care corporation, as hereinafter provided, is in all respects for the benefit of the people of the state of New York and of the county of Nassau, and is a state, county and public purpose; and that the exercise by such corporation of the functions, powers and duties as hereinafter provided constitutes the performance of an essential public and governmental function.

3. As a free-standing public health care provider, the corporation is at a competitive disadvantage in the current and emerging health care environment, yet it cannot become part of a larger system of corporate entities while maintaining its public status. Significant investments in the public assets of the corporation and its efforts to provide high quality health care services to medically underserved populations are jeopardized by the corporation's inability to compete on its own and by potential limits on its ability to collaborate with other public and private providers, entities and individuals. The state finds that the benefits of collaboration by the corporation outweigh any adverse impact on competition. The benefits of the corporation's collaborative efforts include preserving and expanding needed health care services in its primary service area; consolidating unneeded or duplicative health care

services; enhancing the quality of, and expanding access to, health care delivered to medically underserved populations; lowering costs and improving the efficiency of the health care services it delivers; and achieving improved reimbursement from non-governmental payors. Based on the findings contained in this section, the state hereby affirmatively expresses a policy to allow the corporation to engage in collaborative activities consistent with its health care purposes, notwithstanding that those collaborations may have the effect of displacing competition in the provision of hospital, physician or other health care-related services. With respect to the collaborative activities contemplated in this section and in subdivision ten of section thirty-four hundred five of this title, the corporation and the public or private entities and individuals with which it collaborates shall be immunized from liability under the federal and state antitrust laws.

§ 3401-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Board" shall mean the board of directors of the corporation as established by section thirty-four hundred two of this title.

2. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the corporation pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Corporation" shall mean the public benefit corporation created by section thirty-four hundred two of this title, known as the Nassau Health Care Corporation.

4. "County" shall mean the county of Nassau.

5. "Director" shall mean a voting director appointed to the corporation pursuant to section thirty-four hundred two of this title.

6. "Health facility" shall mean a building, structure or unit or any improvement to real property, including all necessary and usual attendant and related equipment, facilities or fixtures, or any part or parts thereof, or any combination or combinations thereof, including, but not limited to, a general hospital, psychiatric hospital, ambulatory clinic or center, chronic disease hospital, nursing home, extended-care facility, dispensary or laboratory or any other related facility, or any combination of the foregoing, constructed, acquired or otherwise provided by or for the use of the corporation or the county in providing health and medical services to the public.

7. "Project" shall mean any health facility, facility, improvement, building, land, rights in land, equipment, machinery, apparatus, furnishings, property, real or personal, contract right or operation, the planning, development, financing, acquisition, construction, reconstruction, rehabilitation, renovation, undertaking or maintenance of which is authorized to be undertaken in whole or in part by the corporation pursuant to this title, including but not limited to the corporation's acquisition of facilities or property from the county pursuant to section thirty-four hundred six of this title.

§ 3402. Nassau health care corporation. 1. (a) There is hereby created a state board to be known as the Nassau health care corporation which shall be a body corporate and politic constituting a public benefit corporation. All health facilities established, administered, operated, and/or overseen by the corporation shall be subject to the provisions of article twenty-eight of the public health law.

(a-1) Notwithstanding any inconsistent provision of law, on June first, two thousand twenty-five, the term of each director currently in office, including any vacant directorship, shall be deemed expired, and the respective appointing authorities shall make new appointments in accordance with this section. Each director may continue to serve in holdover status until their successor is appointed.

(b) The corporation shall be governed by eleven voting directors, six of whom shall be appointed by the governor as provided in paragraph (c) of this subdivision, two of whom shall be appointed by the county executive for initial terms of two years, two of whom shall be appointed by the majority leader of the county legislature for initial terms of three years, and one of whom shall be appointed by the minority leader of the county legislature for an initial term of three years.

(c) Of the six directors appointed by the governor, one shall be appointed upon the recommendation of the speaker of the assembly and one shall be appointed upon the recommendation of the temporary president of the senate. The directors appointed by the county executive, the majority leader of the county legislature, and the minority leader of the county legislature shall be residents of Nassau county. Of the directors appointed by the governor, four of the directors, including the directors appointed upon the recommendation of the speaker of the assembly and the temporary president of the senate, shall be residents of Nassau county.

(d) Of the directors first appointed on or after June first, two thousand twenty-five, by the governor, the director appointed upon the recommendation of the temporary president of the senate and the director appointed upon the recommendation of the speaker of the assembly shall serve for an initial term of two years. The remaining directors first appointed on or after June first, two thousand twenty-five by the governor shall serve for an initial term of four years. Following their initial terms, directors shall serve for a term of five years.

2. (a) The governor shall designate one of the eleven voting directors as the chairperson of the board. The chairperson shall preside over all meetings of the board and shall have such other duties as the voting directors may direct.

(b) The voting directors of the corporation shall receive no compensation for their services, but may be reimbursed for their actual reasonable expenses.

(c) A majority of the voting directors then in office shall constitute a quorum. No action shall be taken by the board of directors except pursuant to the favorable vote of a majority of the board at a meeting at which a quorum is present.

3. There shall be three non-voting directors which shall include the chief executive officer of the corporation as appointed by the board of

directors, one director selected by the county executive, and one selected by the county legislature.

4. The board of directors shall select the chief executive officer and, subject to approval of the Nassau county interim finance authority, shall determine the salary and benefits of the chief executive officer of the corporation. The chief executive officer shall serve at the pleasure of the board of directors provided, however, that removal without cause shall not prejudice the contract rights, if any, of the chief executive officer.

5. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a voting director, non-voting director, officer or employee of the corporation, nor shall service as such a voting director, non-voting director, officer or employee be deemed incompatible or in conflict with such office, or employment, and provided further, however, that no public officer elected to his or her office pursuant to the laws of the state or any municipality thereof may serve as a member of the governing body of the corporation during his or her term of office.

6. The corporation and its corporate existence shall continue until terminated by law, provided, however, that no such termination shall take effect so long as the corporation shall have bonds or other obligations outstanding, unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the corporation, all of the rights and properties of the corporation then remaining shall pass to and vest in the county in such manner as prescribed by law.

7. Contracts for public works or purchases to which the corporation is a party shall be subject to the provisions of article five-A of the general municipal law except as provided in subdivisions eight and nine of this section. In addition to the procedures prescribed under section

one hundred four of the general municipal law for the utilization of the terms of state contracts, the corporation may utilize the terms of a federal government general services contract where the terms are to the advantage of the corporation and have been offered to the corporation by the contractor. When bids have already been received by the corporation, no purchase under a federal government general services contract shall be made unless the purchase may be made upon the same terms, conditions and specifications at a lower price through such contractor.

8. It is the intent of the legislature that overall cost should in all cases be a major criterion in the selection of project developers for award of contracts pursuant to this section and that, wherever practical, such contracts should be entered into pursuant to the provisions of sections one hundred one and one hundred three of the general municipal law. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of medical technology, diagnostic and treatment devices, the relative newness of a variety of devices, processes and procedures now available, the desirability of a single point of responsibility for the development of medical treatment and diagnostic facilities and the economic and technical utility of contracts for medical projects which include in their scope various combinations of design, construction, operation, management and/or maintenance responsibility over prolonged periods of time and that in some instances it may be beneficial to the corporation to award a contract for a medical project on the basis of factors other than capital cost alone, including but not limited to facility design, system reliability, efficiency, safety, long-term operating costs and compatibility with other elements of patient care. Accordingly, and notwithstanding the provisions of any general, special or local law or chapter, a contract for a medical project entered into between the corporation and any project developer pursuant to this section may be awarded pursuant to public bidding in compliance with sections one hundred one and one hundred three of the general municipal law or pursuant to the following provisions for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the corporation:

(a) The corporation shall require that each proposal to be submitted by a project developer shall include:

(i) information relating to the experience and expertise of the project developer on the basis of which said project developer purports to be qualified to carry out all work required by a proposed contract; the ability of the project developer to secure adequate financing; and proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities by a proposed contract;

(ii) a proposal clearly identifying and specifying all elements of cost which would become charges to the corporation, in whatever form, in return for the fulfillment by the project developer for the full lifetime of a proposed contract, including, as appropriate, but not limited to the cost of planning, design, construction, operation, management and/or maintenance of any facility, and clearly identifying and specifying all elements of revenue which would accrue to the corporation from the operation of the facility or device or from any other source; provided, that the corporation may prescribe the form and content of such proposal and that, in any event, the project developer must submit sufficiently detailed information to permit a fair and equitable evaluation by the corporation of such proposal; and provided, further, that the corporation may set maximum allowable cost limits in any form in the request for proposals; and

(iii) such other information as the corporation may determine to have a material bearing on its ability to evaluate any proposal in accordance with this subparagraph;

(b) Prior to the issuance of a request for proposals pursuant to this paragraph, the corporation shall publish notice of such issuance in at least one newspaper of general circulation. Concurrent with the publication of such notice a draft request for proposals shall be filed with the county commissioner of health.

(c) Proposals received in response to such request for proposals shall be evaluated by the corporation as to net capital cost or, if a net revenue is projected, net revenue, and in a manner consistent with provisions set forth in the request for proposals, and may be evaluated on the basis of additional factors, including but not limited to the technical evaluation of the medical project including medical facility, facility design, system reliability, energy balance, annual operating cost and efficiency. The evaluation of such proposals and the determination of whether a project developer is "responsible" may include, but shall not be limited to, consideration, in a manner consistent with provisions set forth in the request for proposals, the record of the project developer in complying with existing labor standards and recognizing state and federally approved apprentice training programs, and the willingness of the project developer to provide for meaningful participation of minority group persons and business enterprises in the conduct of the work;

(d) The corporation may make a contract award to any responsible project developer selected pursuant to subparagraph (iii) of paragraph (a) of this subdivision based on a determination by the corporation that the selected proposal is most responsive to the request for proposals and may negotiate with any project developer, provided, however, that if any award is made to any project developer whose total proposal does not provide either the lowest net cost, or if a net revenue is projected, the greatest net revenue, of any proposal received, the corporation shall adopt a resolution which includes particularized findings relevant to factors pursuant to such subparagraph indicating that the corporation's requirements are met by such award and that such action is in the public interest.

Whenever the corporation enters into a contract pursuant to this section for a medical project which involves construction the provisions of section two hundred twenty of the labor law shall be applicable to such construction work.

9. Every contract entered into between the corporation and a project developer, pursuant to the provisions of paragraph (d) of subdivision eight of this section, for a medical project involving construction of a medical building by the project developer, shall contain provisions that such building shall be constructed through construction contracts awarded through competitive bidding in accordance with paragraphs (a) through (g) of this subdivision; that the project developer or the project developer's construction subcontractor shall furnish a bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of such construction contracts, and that a copy of such payment bond shall be

kept by the corporation and shall be open to public inspection; provided, however, that the requirements of this subdivision shall not apply when the cost of such construction, exclusive of the cost of medical equipment and devices, is less than one million five hundred thousand dollars.

(a) The project developer shall advertise for bids for such construction contracts in a daily newspaper having general circulation in the county. Such advertisement shall contain a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read. An employee of the corporation shall be designated to open the bids at the time and place specified in the notice. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the publication of such advertisement and date on which the bids are opened.

(b) Except as otherwise provided in section two hundred twenty-two of the labor law, when the entire cost of constructing such building, exclusive of any medical equipment, apparatus or devices, shall exceed one million five hundred thousand dollars, the project developer shall prepare separate specifications for the following subdivisions of such work, so as to permit separate and independent bidding upon each subdivision:

(i) plumbing and gas fittings;

(ii) steam heating, hot water heating, ventilating and air conditioning apparatus; and

(iii) electric wiring and standard illuminating fixtures.

(c) After public competitive bidding, the project developer shall award one or more separate contracts for each of the above subdivisions of such work, whenever separate specifications are required pursuant to paragraph (b) of this subdivision, and one or more contracts for the remainder of such work. The project developer may award such contracts at different times. Contracts awarded pursuant to this subdivision shall be awarded by the project developer to the lowest responsible and responsive bidder and shall be contracts of the project developer and not of the corporation which shall have no obligation or liabilities, whatsoever, thereunder. The project developer shall have the responsibility for the supervision, coordination, and termination of such contracts, unless otherwise specified in contractual terms between the project developer and the corporation.

(c-1) Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: (i) plumbing and gas fitting, (ii) steam heating, hot water heating, ventilating and air conditioning apparatus and (iii) electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

(d) In determining whether a prospective contractor is responsible and responsive, the project developer may require that prospective contractors:

(i) have adequate financial resources or the ability to obtain such resources;

(ii) be able to comply with the required or proposed delivery or performance schedule;

(iii) have a satisfactory record of performance;

(iv) have the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them;

(v) have the necessary production, construction and technical equipment and facilities, or the ability to obtain them; and

(vi) be eligible to receive an award under applicable laws and regulations and be otherwise qualified.

(e) The project developer may reject any bid of a bidder which the project developer determines to be nonresponsible or nonresponsive to the advertisement for bids.

(f) The project developer may, in its discretion, reject all bids, and may revise bid specifications and may readvertise for bids as provided herein.

(g) Only as used in this section:

(i) "project developer" means any private corporation, partnership, limited liability company, or individual, or combination thereof which has submitted a proposal in response to a request for proposals;

(ii) "construction" shall include reconstruction, rehabilitation or improvement exclusive of the installation and assembly of any medical equipment, apparatus or device;

(iii) "medical building" means that component of a medical project constituting appurtenant structures or facilities necessary to house or render the remaining components of the medical project operational. Medical building shall not include apparatus, equipment, devices, systems, supplies or any combination thereof;

(iv) "medical project" means any substantial durable apparatus, equipment, device or system, or any combination of the foregoing, including services necessary to install, erect, or assemble the foregoing and any appurtenant structures or facilities necessary to house or render the foregoing operational, to be used for the purpose of care, treatment or diagnosis of disease or injury or the relief of pain and suffering of sick or injured persons. Medical projects shall not include ordinary supplies and equipment expended or utilized in the customary care and treatment of patients.

10. (a) For purposes of applying section eighty-seven of the public officers law, to the corporation, the term "trade secrets" shall include marketing strategy or strategic marketing plans, analyses, evaluations and pricing strategies or pricing commitments of the corporation, relating to business development, which, if disclosed, would be likely to injure the competitive position of the corporation.

(b) In addition to the matters listed in section one hundred five of the public officers law, the corporation may conduct an executive session for the purpose of considering marketing strategy or strategic marketing plans, analyses, evaluations and pricing strategies of the corporation, relating to business development, which, if disclosed, would be likely to injure the competitive position of the corporation.

11. All contracts or obligations entered into by the corporation for over one million dollars shall be subject to the approval of the Nassau county interim finance authority.

§ 3402-a. Study for the modernization and revitalization of the Nassau health care corporation. 1. Study. The Nassau health care corporation (hereinafter referred to as "the corporation") shall review and examine a variety of options to strengthen the Nassau University Medical Center and the A. Holly Patterson Extended Care Facility, and promote longer term viability for its dual education and health care mission. The corporation shall complete a study to prioritize health care services provided in the Nassau University Medical Center service area, including a reasonable, scalable and fiscally responsible plan for the financial health, viability and sustainability of the Nassau University Medical Center and the A. Holly Patterson Extended Care Facility. Such study shall be provided to the Nassau county interim finance authority no later than December first, two thousand twenty-six. In conducting its study, the corporation shall consider the following factors:

(a) overall health care service delivery trends and models;

(b) historic and projected financials for the Nassau University Medical Center and the campus;

(c) the current state of building infrastructure and capital needs;

(d) community health care needs, outcomes, and health disparities;

(e) existing inpatient and outpatient service offerings and health outcomes;

(f) capacity and availability of inpatient and outpatient services in the broader primary and secondary service areas;

(g) efficiency of operations and quality of health care services benchmarking; and

(h) training needs for students and employment outcomes.

2. Outreach. The corporation shall solicit input and recommendations from health care experts, county health departments, community-based

organizations, state and regional health care industry associations, labor unions, experts in hospital operations, and other interested parties.

§ 3403. Transfer of officers and employees; civil service. 1. (a) On the effective date of the transfer of the facilities and operations of the county to the corporation pursuant to an agreement between the county and the corporation as authorized in this title, officers and employees employed in a department or agency of the county shall become officers and employees of the corporation with equivalent offices, positions and employment therewith and shall be deemed public officers or public employees for all purposes.

(b) In accordance with the provisions of section seventy of the civil service law, for a period not to extend beyond six months from the effective date of the transfer of any facilities and operations of the county pursuant to an agreement between the county and the corporation as authorized in this title, any other officer or employee of the county may, at the request of the corporation and with the consent of the county executive and the officer or employee, be transferred to the corporation and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the corporation.

(c) Any person who, at the time he or she becomes an officer or employee of the Nassau Health Care Corporation pursuant to paragraph (a) or (b) of this subdivision, has a temporary or provisional appointment shall be transferred subject to the same right of removal, examination or termination as though such transfer had not been made except to the extent such rights are modified by a collective bargaining agreement.

(d) There shall be no layoffs of any officers or employees of the Nassau Health Care Corporation which are a direct consequence of the enactment of this title. There shall be a presumption that any layoffs occurring more than twenty-four months after the effective transfer date described in subdivision one of this section shall be deemed not to be such a direct consequence.

(e) Nothing contained in this section shall be construed to prevent the elimination of any service at any time as a result of the elimination of state or federal assistance, the elimination of available revenue reimbursement, loss of certification or licensure, or loss of financial viability.

2. The corporation shall recognize the existing certified or recognized employee organizations for those persons who become employees of the Nassau Health Care Corporation pursuant to paragraph (a) or (b) of subdivision one of this section as the exclusive collective bargaining representatives for such employees, who shall remain in the existing bargaining unit. The corporation shall be bound by all existing collective bargaining agreements with such employee organizations; all existing terms and conditions of employment shall remain in effect until altered by the terms of a successor contract; successor employees to the positions held by such employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the appropriate bargaining unit. Nothing contained herein shall be construed to affect:

(a) the rights of employees pursuant to a collective bargaining agreement;

(b) the representational relationships among employee organizations or the bargaining relationships between the county, state and an employee organization; or

(c) existing law with respect to an application to the public employment relations board seeking designation by the board that certain persons are managerial or confidential. Nothing herein shall preclude the merger of negotiating units of employees with the consent of the recognized or certified representatives of such units.

3. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the corporation. The corporation shall, upon transfer, acknowledge and give credit for all leave balances held by such officers and employees on the date of transfer.

4. The corporation shall be subject to the civil service law.

§ 3404. General powers of the corporation. Subject to this title, the civil practice law and rules, the public health law, the mental hygiene law, the social services law, the education law or any other applicable law or regulation, the corporation shall have power:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to borrow money and issue bonds for any of its corporate purposes or its projects, or to refund the same, and to provide for the rights of the holders thereof;

4. to make and alter by-laws for its organization and management, and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

5. (a) to acquire by purchase, grant, lease, gift, or otherwise and to hold and use property necessary, convenient or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the corporation shall determine;

(b) to acquire by condemnation pursuant to the provisions of the eminent domain procedure law any real property within Nassau county required by the corporation to carry out the powers granted by this title with the approval of both the county legislature and the county executive;

6. to acquire, construct, lease, expand, improve, maintain, equip, furnish, operate one or more projects and, if necessary, to pay or finance the cost thereof;

7. to accept gifts, grants, loans or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state, the county or any public corporation or any other source, and to use any

such gifts, grants, loans or contributions for any of its corporate purposes;

8. to grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the corporation may deem desirable;

9. to designate the depositories of its money;

10. to establish its fiscal year;

11. to enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the corporation to carry out any powers expressly given to it in this title;

12. to appoint such officers, employees and agents as the corporation may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

13. to use employees, agents, consultants and facilities of the county, paying the county its agreed proportion of the compensation or costs pursuant to an agreement with the county;

14. to make and adopt plans, surveys and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the corporation and to prepare recommendations in regard thereto;

15. except where otherwise provided by law or regulation, to fix and collect rates, rentals, fees and other charges for the services rendered by or for use of the facilities or in the exercise of the powers of the corporation;

16. to enter upon such lands, waters or premises as in the judgment of

the corporation may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the corporation being liable for actual damage done;

17. to insure or otherwise to provide for the insurance of the corporation's property or operations and also contract against such other risks as the corporation may deem advisable, including the interest rate risk for obligations it issues bearing interest at a floating or otherwise adjustable rate which prevents the actual rate over the term of the debt from being ascertained at the date of its incurrence, and including the power to make any payments with respect thereto; and

18. to do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 3405. Special powers of the corporation. In order to effectuate the purposes of this title, the corporation shall have the following additional powers, subject to this title, the civil practice law and rules, the public health law, the mental hygiene law, the social services law, the education law and any other applicable law or regulation:

1. To operate, manage, superintend and control any health facility under its jurisdiction and to repair, maintain and otherwise keep up any such health facility; and to establish and collect fees, rentals, and other charges for the sale, lease or sublease of any such health facility, subject to the terms and conditions of any contract, lease, sublease or other agreement with the county;

2. To provide health and medical services for the public directly or by agreement or lease with any person, firm or private or public corporation or association through or in the health facilities of the corporation or otherwise and to make internal policies governing

admissions and health and medical services; and to establish and collect fees and other charges for the provision of such health and medical services; and to provide and maintain resident physician and intern medical services; and to sponsor and conduct research, educational and training programs;

3. To enter into contracts, leases, subleases and other agreements for the purpose of affiliating with a medical college or related educational agency or institution in conjunction with the corporation's health facilities, which agreements may provide for the management, operation and staffing of health facilities, the reconstruction, renovation or addition to health facilities; the provision of necessary facilities, utilities and services; and such other conditions or features necessary and proper for such purpose and for the public health and general welfare;

4. To determine the conditions under which a physician may be extended the privilege of practicing within a health facility under the jurisdiction of the corporation, and to promulgate reasonable internal policies for the conduct of all persons, physicians and nurses within such facility; and

5. (a) Except as otherwise provided in any applicable law or regulation, to exercise and perform all or part of its purposes, powers, duties, functions or activities through one or more subsidiary entities owned or controlled wholly or in part by the corporation, which shall be formed pursuant to the business corporation law, the limited liability company law, or the not-for-profit corporation law, in each case subject to all the limitations provided in this article.

(b) Any such subsidiary may be authorized to act as a general or limited partner in a partnership or as a member of a limited liability company, and enter into an arrangement calling for an initial and subsequent payment by such subsidiary in consideration of an interest in revenues or other contractual rights.

(c) An entity shall be deemed a subsidiary whenever and so long as (i) more than half of any voting shares of such subsidiary are owned or held by the corporation or (ii) a majority of the directors, trustees or members of such subsidiary are designees of the corporation.

(d) The corporation may transfer to any subsidiary entity any monies, real or personal or mixed property in order to carry out the purposes of this title, subject to the rights of the holders of any bonds of the corporation.

(e) Any subsidiary which provides health care services previously provided by the county and transferred by the corporation to the subsidiary shall comply with and be subject to subdivision nine of this section and subdivisions seven through ten inclusive of section thirty-four hundred two, sections thirty-four hundred ten, thirty-four hundred sixteen, thirty-four hundred seventeen and thirty-four hundred eighteen of this title as applicable. The transfer of any monies, real or personal or mixed property to a subsidiary shall be governed by any restrictions or limitations as the county may establish in the agreement between the county and the corporation as described in subdivision two of section thirty-four hundred six of this title.

(f) Any material change in the operation of a health facility that occurs pursuant to a transfer or agreement between the corporation and any of its subsidiaries shall require the board of such corporation or subsidiary to provide written notice of such transfer or agreement to the county executive and majority leader and minority leader of the county legislature within seven days of such transfer.

6. To contract with the county for related public health services to be determined by the county and the corporation.

7. To negotiate and make any payments in lieu of taxes with any political subdivision where the corporation holds real estate.

8. To contract with the county to provide, in whole or in part, health care services, and to operate facilities and programs which provide health care services.

9. To provide uncompensated care to persons in need of health care services without the ability to pay.

10. (a) In carrying out its health care purposes through the exercise

of the special powers exercised pursuant to this section and the general powers exercised pursuant to section thirty-four hundred four of this title, the corporation is authorized to engage in arrangements, contracts, information sharing and other collaborative activities with public or private entities and individuals irrespective of the competitive consequences of these activities and notwithstanding that these activities may have the effect of displacing competition in the provision of hospital, physician, or other health care-related services. These collaborative activities may include without limitation: joint ventures; joint negotiations with physicians, hospitals and payors, whether such negotiations result in separate or combined agreements; leases; and/or agreements which involve delivery system network creation and operation, provided that, the corporation shall exercise state oversight by determining whether particular collaborations with public or private entities and individuals further the interests of the state as set forth in this subdivision and in subdivision three of section thirty-four hundred one of this title. In undertaking these collaborative activities, the corporation and the public or private entities and individuals with which it collaborates shall be immunized from liability under the federal and state antitrust laws.

(b) Notwithstanding the provisions of this section, the corporation and its collaborators shall remain subject to generally applicable provisions of the public health law and regulations thereunder. In addition, the corporation shall file an annual report with the state department of health, as additional state oversight, concerning the impact of the collaborations authorized under this section on the advantages and disadvantages identified by the department of health in its request for applications for HEAL NY Phase 21, entitled "Restructuring Initiatives in Medicaid Redesign," and concerning the impact on reimbursement to the corporation's facilities by managed care organizations with respect to commercial plan members, including the extent to which rates have been negotiated that more fairly compensate the corporation's facilities for the cost of providing services to commercial enrollees, without cross-subsidy from medicaid or other governmental programs. In response to the report, the department of health shall have sixty days after the report has been filed to request, in writing, that the corporation make changes to its policies to ensure that the collaborations authorized under this section further the interests of the state.

§ 3406. Transfer of property; relationship with the county; certain gifts, loans and guarantees by the county. 1. (a) By county ordinance only, the county may contract, sell, convey, loan, license the use of, or lease to the corporation any property or assets (except monies appropriated by the county and payable to the corporation pursuant to subdivision three and paragraph (a) of subdivision four of this section), including its interest in Healthfirst Inc., which are useful in connection with the exercise by the corporation of any of its powers under this title in order to transfer the facilities and operations in whole or in part of any facility, operation or program of the county of Nassau providing health care services, whether or not the provision of such facility, operation or program by the county is specifically mandated by state law, to the corporation by agreement between the county and the corporation and any subsequent renewal or amendment thereof. The powers conferred upon the county herein to sell, convey, loan, license the use of or lease property or assets of the county to the corporation are in addition to any other powers granted to the county by law relating to the sale, conveyance, alienation, leasing, licensing or loaning of real or personal property and are not subject to any law to the extent inconsistent herewith.

(b) Any such contract, sale, conveyance, loan, license or lease shall be upon such terms and conditions, for such consideration which may include cash, services or any combination thereof which the county determines to be in the best interests of the citizens and taxpayers of the county and for such term or terms of years, subject to the rights of the holders of any bonds, as the corporation and the county may agree. No real property of the county consisting of any health facility currently operated by Nassau county shall be transferred to the corporation in fee, except under such restrictions regarding rights of first refusal, or other rights, to repurchase the property as the Nassau county legislature shall approve by act. Any such contract, sale, conveyance, lease, loan or license shall not be subject to referendum, permissive or mandatory. In the event that the county contracts, sells, conveys, loans, licenses or leases any property or assets to the corporation, the county may contract with the corporation to lease, borrow, license, operate, maintain, manage and provide services for such facilities upon such terms and conditions and for such term or terms of years, subject to the rights of holders of bonds, as the corporation and the county may agree. The corporation, in furtherance of any purchase, conveyance or lease of any property or facility from the county, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by the county for such property or facility.

(c) Upon the terms and conditions and on the effective date set forth in the agreement between the county and the corporation entered into pursuant to paragraph (a) of subdivision one of this section, such departments, agencies, facilities, services and other rights and interest of the county pertaining to health care services as the county or corporation may agree shall be transferred to the corporation. Upon any such transfer, the county is authorized to restructure or eliminate all such departments, agencies or facilities.

2. The county may acquire by purchase, lease, or condemnation pursuant to the eminent domain procedure law, real property in the name of the county for any corporate purpose of the corporation.

3. In addition to any other powers granted to it by law and consistent with the constitution and other provisions of law, the county may, from time to time, appropriate sums of money to defray project costs or any other costs or expenses of the corporation including operating expenses.

Subject to the rights of bondholders, the county may determine if the monies so appropriated shall be subject to repayment by the corporation to the county and, in such event, the manner and time or times for such repayment.

4. In addition to the authority granted elsewhere in this title and by other applicable laws, the corporation and the county may enter into a contract or contracts from time to time providing for one or more of the following:

(a) the payment of sums appropriated by the county pursuant to subdivision three of this section;

(b) the payment of sums for health care services provided by the corporation which could otherwise be provided directly by the county, including services for uncompensated care;

(c) services to be provided by the county to or on behalf of the corporation;

(d) the transfer of employees of the county to the corporation as provided in section thirty-four hundred three of this title;

(e) indemnification by the corporation to the county for claims associated with establishment of and operation of the corporation and its health facilities;

(f) the sale, conveyance, loan, license or lease by the county to the corporation of any property (except monies appropriated by the county and payable to the corporation pursuant to subdivision three and paragraph (a) of this subdivision) or facilities which are useful in connection with the exercise by the corporation of any of its powers under this title not transferred pursuant to the authority granted in paragraph (a) of subdivision one of this section, which sale, conveyance, loan, license or lease shall nevertheless be subject to paragraph (b) of subdivision one of this section; and

(g) such other matters as may be appropriate to accomplish the purposes hereof.

Any such contract or contracts shall be authorized by the county by resolution or ordinance adopted by the county legislature or in such other manner as permitted by the county government law of the county of Nassau. Such contract or contracts shall include such terms and conditions and have such term or terms of years, as the corporation and the county may agree.

5. (a) The county of Nassau shall have the power and is hereby authorized, pursuant to section seven of article seventeen of the state constitution, to lend its money or credit to or in aid of the corporation or any subsidiary thereof for the purpose of providing health related facilities or hospital facilities for the prevention, diagnosis or treatment of human disease, pain, injury, disability,

deformity or physical condition, and for facilities incidental or appurtenant thereto as may be prescribed by law. The county is hereby authorized to prescribe such facilities by local law of the county. The corporation or any such subsidiary thereof, as a condition to any such loan of money or credit, shall enter into a regulatory agreement with the county as to its charges, profits, dividends and disposition or its property of franchises, which agreement shall be binding and enforceable by the county. The county may elect in such regulatory agreement to refrain from exercising all or any portion of its authority to so regulate such charges, profits, dividends and disposition of property or franchise to the extent such charges, profits, dividends and disposition of property or franchise are regulated by the state or any agency thereof. The county shall authorize such regulatory agreement by local law.

(b) In pursuance of the authority granted herein, the county shall have the power and is hereby authorized from time to time to issue its bonds, notes or other obligations in such principal amounts as it shall deem necessary, after taking into account other monies which may be available for the purposes set forth herein. Such bonds, notes or obligations shall be issued for the purpose of making loans to the corporation or any subsidiary thereof, paying interest on such bonds, notes or other obligations, and paying all other obligations and expenditures incidental to and necessary or convenient for the making of such loans. Such bonds, notes or obligations shall be issued in accordance with the applicable provisions of this chapter and the local finance law and applicable local laws.

(c) Any guarantee by the county made pursuant to the authority granted in this section shall be authorized by ordinance or ordinances of the county in the same manner as such ordinance or ordinances authorizing the issuance of bonds of the county for the purposes for which such guarantee is undertaken.

(d) The county shall also be authorized to enact laws governing the conditions under which such loans, commitments and guarantees shall be made.

6. For purposes of subdivision four of paragraph a of section 25.00 of the local finance law, amounts to be derived by the county of Nassau

from the corporation, or any subsidiary thereof, shall be included in the term "other income".

7. (a) Notwithstanding the provisions of any other state or local law to the contrary, including, but not limited to, sections six-n and six-j of the general municipal law, with the approval of the county legislature, amounts deposited for or on behalf of the health care and medical facilities or operations of the county which have been transferred to the corporation pursuant to this section in the liability and casualty and workers' compensation reserve funds established by the county pursuant to said sections of the general municipal law, and investment earnings thereon, may be withdrawn by the county from such funds and transferred to the corporation and shall be used by the corporation for the purposes for which such funds were established.

(b) No amounts shall be withdrawn and transferred to the corporation pursuant to this subdivision unless prior thereto the corporation has agreed in writing to indemnify and hold harmless the county, and provide defense, for all claims, cases, proceedings, actions or other matters against the county arising out of the properties, facilities, operations or employees of the corporation of the Nassau Health Care Corporation, whether commenced before or after the date of transfer of said amounts, and to provide such other security for this obligation as the county may reasonably require.

8. Notwithstanding the provisions of any state or local law to the contrary, including but not limited to section six-l of the general municipal law, any monies derived by the county in consideration of the sale of its facilities or property to the corporation pursuant to this section may be used for any lawful purpose of the county.

§ 3407. Bonds or notes of the corporation. 1. The corporation shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The corporation shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee or other subsidy with respect to any bonds.

2. The corporation shall have the power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other corporate purpose of the corporation. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the corporation may be general obligations secured by the faith and credit of the corporation or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the corporation under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The corporation may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for the purpose of securing its bonds or notes or to provide direct payment of any amounts which the corporation is authorized to pay.

4. Bonds shall be authorized by resolution of the corporation, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years from the date of original issuance of any such bonds. Obligations with a maturity of five years or less from the date of their original issuance may be designated as notes. Bonds shall be subject to such terms of redemption, bear interest at such rate or rates per annum payable at such times, be in such form, carry such registration privileges, be executed in such

manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the corporation shall determine, provided that no bonds of the corporation, other than obligations designated as notes, may be sold by the corporation at private sale unless such sale in the terms thereof have been approved in writing by the comptroller, where such sale is not to be to such comptroller, or by the state director of the division of the budget, where such sale is to be to the comptroller. The corporation may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

5. Any resolution or resolutions authorizing bonds or any issue of bonds by the corporation may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the revenues, together with any other monies or property of the corporation to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the corporation received from any private or public source subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees and other charges to be fixed and collected by the corporation and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the corporation to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the corporation may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to section thirty-four hundred eight of this title and limiting the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the corporation to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the corporation to sell or otherwise dispose of any project or any part thereof or other property;

(m) limitations on the amount of revenues and other monies to be expended or operating, administrative or other expenses of the corporation;

(n) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the corporation may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

6. In addition to the powers herein conferred upon the corporation to secure its bonds, the corporation shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the corporation may

deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the corporation would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The corporation shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments within the powers granted to the corporation by this title and to perform such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the corporation.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the corporation shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the corporation irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds of the corporation are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the directors nor the non-voting representatives nor the officers of the corporation nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability

or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the corporation shall have power out of any funds available therefor to purchase bonds of the corporation, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The corporation shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

§ 3408. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the corporation shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the corporation is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding shall, in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the corporation to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the corporation to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the corporation to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the corporation.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of any receiver of any part or parts of the

project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all monies and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the corporation is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the corporation under the direction of the court.

§ 3409. State and county not liable on corporation bonds. (a) The state shall not be liable on the bonds or notes of the corporation and such bonds or notes shall not be a debt of the state, and such bonds and notes shall contain on the face thereof a statement to such effect.

(b) Except as may be authorized by the county pursuant to section seven of article seventeen of the state constitution and section thirty-four hundred seven of this title, the county shall not be liable on the bonds or notes of the corporation and such bonds or notes shall not be a debt of the county, and such bonds and notes shall contain on the face thereof a statement to such effect or a statement describing the county liability thereon, if any.

§ 3410. Monies of the corporation. All monies of the corporation from whatever source derived shall be paid to the treasurer of the corporation and shall be deposited forthwith in a bank or banks designated by the corporation. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the corporation may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Alternatively, monies of the corporation may be deposited in money market funds rated in the highest short term or long term rating category by at least one nationally recognized rating agency. To the extent practicable, consistent with the cash requirements of the corporation, all such monies shall be deposited in interest bearing accounts. The corporation shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the corporation or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the corporation and all banks and trust companies are authorized to give such security for such deposits. Any monies of the corporation not required for immediate use or disbursement may, at the discretion of the corporation, be invested in accordance with guidelines established by the corporation's board and amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the corporation shall prescribe a system of accounts.

§ 3411. Bonds; legal investment for fiduciaries. The bonds of the corporation are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 3412. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the corporation shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 3413. Agreement with county. Except where required to act pursuant to law, the county is authorized to pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the county will not alter, limit or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the corporation shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation.

§ 3414. Exemption from taxes and certain fees. 1. The corporation shall not be required to pay any fees, taxes or assessments of any kind, except as provided by the public health law, whether state or local, including but not limited to fees or taxes on real property, franchise taxes, sales taxes or other excise taxes, upon any property owned by it or under its jurisdiction, control or supervision and used for a public purpose, or upon the uses thereof, or upon its activities in the operation and maintenance of its facilities used for a public purpose, or any revenues or other income received by the corporation from public purpose activities. The foregoing shall not, however, limit the county from receiving rentals, fees or other consideration pursuant to agreements negotiated with the corporation. The corporation shall at all times be exempt from any filing, mortgage recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation, lease or possession of any property owned by the corporation or the county, including improvements thereon, by any person or public corporation under agreement with the corporation or the county shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the corporation shall at all times be exempt from taxes, except for transfer and estate taxes. The state

hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the corporation pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the corporation issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 3415. Actions against corporation. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the corporation, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the corporation or of any member, officer, agent or employee thereof, unless (a) notice of claim shall have been made and served upon the corporation within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and (d) an action, against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the corporation, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The corporation may require any person presenting for settlement an account or claim for any cause whatsoever against the corporation to be sworn before a director, counsel or an attorney, officer or employee of the corporation designated for such purpose, concerning such account or

claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The corporation shall have power to settle or adjust all claims in favor of or against the corporation.

4. Any action or proceeding to which the corporation or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the corporation or its counsel in any action or proceeding questioning the validity of this title in which the corporation may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the corporation upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the corporation of whatever nature shall be brought in the county.

§ 3416. Audit and annual reports. 1. In conformity with the provisions of section five of article ten of the constitution, the accounts of the corporation shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The corporation shall annually submit to the county legislature, county executive, governor and the state comptroller and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the county legislature and the county executive.

2. The corporation shall report on an annual basis the following information: the name, principal business address and principal business activities of each subsidiary of the corporation; the name of all board members and officers of each subsidiary; the number of employees of each subsidiary; a list of all contracts in excess of one hundred thousand dollars entered into by the corporation and its subsidiaries identifying the amount, purpose and duration of such contract; and a financial statement, income statement, and balance sheet performed by an independent certified public accountant all in accordance with generally accepted accounting principles of the corporation and each of its subsidiaries. At the time the reports required by subdivision one of this section are submitted, such reports shall be provided to the governor, the speaker of the assembly, the temporary president of the senate and a copy of such report shall be filed with the clerk of the county legislature and the county executive.

§ 3417. Defense and indemnification. The corporation shall not execute any of its powers, including the special powers authorized by section thirty-four hundred five of this article, except as necessary to commence its corporate existence, until it has elected to make the provisions of section eighteen of the public officers law applicable to its employees (as such term is defined in section eighteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the corporation to extend the provisions of section eighteen of the public officers law upon any independent contractor.

§ 3418. Transfer of applications, proceedings, licenses, approvals and permits. 1. Any application, review, permit, license, approval, or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the county or by the county with the federal government, the state department of health or any other public corporation shall inure to and for the benefit of the corporation to the same extent and in the same manner as if the corporation has been a party to such application, review, permit, license, approval, process, or proceeding from its inception, and the corporation shall be deemed a party thereto, to the extent not prohibited by federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the corporation and shall be assigned and transferred by the county to the corporation unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits, determinations, findings, awards and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using or occupying any facility transferred by the county to the corporation pursuant to this title.

§ 3419. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 3420. Applicability of laws. The provisions of this title shall be subject to the provisions of the civil practice law and rules, the public health law, the mental hygiene law, the social services law, the education law and any other applicable law or regulation, including any amendment thereto; provided, however nothing in this section shall require the county or corporation to seek approval or consent for any transfer pursuant to sections thirty-four hundred six and thirty-four hundred eighteen of this title; and provided, further, that the corporation shall not be subject to the provisions of title ten of article nine of this chapter.

TITLE 3

MISCELLANEOUS PROVISIONS

§ 3500. Reservation of state right to adjust medicaid rates. Each corporation created under this article shall include as a provision in any agreement of the corporation with the holder of its bonds that the state reserves the right to adjust its medicaid rates in accordance with applicable law and implementing regulations, if any.

TITLE 4

ROSWELL PARK CANCER INSTITUTE CORPORATION ACT

§ 3550. Short title. This title may be cited as the "Roswell Park Cancer Institute corporation act".

§ 3551. Legislative findings and purposes. The legislature hereby finds and declares as follows:

1. The Roswell Park Cancer Institute is a public hospital and medical research center in Buffalo owned and operated by the state of New York and its department of health. Roswell Park is the oldest cancer research and treatment facility in the country and one of the initial three comprehensive cancer centers designated in the 1971 National Cancer Act. The Institute's mission from its inception has focused on research and the translation of research findings to the clinical setting. Ultimately, advances in prevention, detection, and treatment are transferred to the wider community through Roswell's leadership in national clinical trials, publications, medical training programs, and extensive outreach efforts to communities and hospitals across New York state.

2. Roswell Park also has a significant direct and indirect impact on the economy of Western New York.

3. From its founding in eighteen hundred ninety-eight, Roswell Park's contribution to New York's public health care system has been unparalleled.

4. The Institute has focused its scientific programs through the reallocation of resources and new emphasis being placed in the areas of immunology, structural biology and molecular genetics and genetic epidemiology. The advanced cancer care and specialized treatment modalities provided by Roswell Park are available at few other institutions in the country. These new cancer treatment techniques, therapies and inventions developed at Roswell Park have generated many of the basic therapies used today to treat cancer and have improved the cure rate of childhood cancer and certain common cancers including prostate, colorectal and some skin cancers.

5. The combination of basic medical research with advanced clinical treatment practiced at Roswell Park Cancer Institute is unique, and the proper discharge of the research and education functions of the Institute requires that these functions continue to be partnered with state of the art clinical treatment capabilities.

6. New York state has made a strong commitment to maintaining the international leadership of Roswell Park. Two hundred forty-one million five hundred thousand dollars in bonds were issued for the major modernization project which will culminate in a new campus in nineteen hundred ninety-eight, the Institute's centennial year. Ultimately, the major modernization is designed to create an integrated and modern campus to meet the needs of a progressive, high technology cancer research and treatment center well into the twenty-first century.

7. However, this tangible commitment has occurred while the health care industry has experienced revolutionary changes which have significantly impacted health care in New York. For instance, the penetration of managed care and the formation of at least three large health care delivery systems in Western New York pose new competitive challenges for Roswell Park Cancer Institute. In order to meet the demands of the changing health care marketplace and to promote the strengths and capabilities of Roswell Park, the legislature concludes that the needs of the residents of the state of New York are best served by a change in the Institute's governance structure to afford it legal, financial, market and managerial flexibility.

8. Therefore, with the enactment of this legislation it is the intent of the legislature for Roswell Park to pursue its mission well into the twenty-first century, to retain its international leadership in specialized cancer therapies and to reinforce its already strong commitment to the greater Western New York community it serves and to continue to treat patients without regard to their ability to pay. The creation of the Roswell Park Corporation, as provided in this act, is in all respects for the public benefit of the people of New York, is a public purpose, and the exercise by such corporation of its functions, powers and duties constitutes the performance of an essential public and governmental function. The powers and authority granted by this act shall be construed to afford the Roswell Park Cancer Institute Corporation the flexibility required to accomplish its mission.

9. The legislature further finds and declares that the employees of the Roswell Park Cancer Institute have contributed to the success of its cancer research and treatment efforts, and will continue to be critical to its future success. Therefore, the provisions of this act which provide for civil service coverage, collective bargaining rights, retirement rights and other employee protections shall be construed to ensure that the rights of employees are protected.

§ 3552. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Board" shall mean the board of directors of the corporation as established by section thirty-five hundred fifty-three of this title.

2. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the corporation pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Corporation" shall mean the public corporation created by section

thirty-five hundred fifty-three of this title, known as the Roswell Park Cancer Institute corporation.

4. "County" shall mean the county of Erie.

5. "Department" shall mean the department of health of the state of New York.

6. "Director" shall mean a voting director appointed to the board of directors of the corporation pursuant to section thirty-five hundred fifty-three of this title.

7. "Health facility" shall mean a building, structure or unit or any improvement to real property, including all necessary and usual attendant and related equipment, facilities or fixtures, or any part or parts thereof, or any combination or combinations thereof, including, but not limited to, a general hospital, ambulatory clinic or center, chronic disease hospital, dispensary or laboratory or any other related facility, or any combination of the foregoing, constructed, acquired or otherwise provided by or for the use of the corporation or the state in providing basic medical research, health and medical services to the public.

8. "President" shall mean the president of the corporation selected by the board of directors.

9. "Transfer" shall mean the effective date of the contract between the corporation and the commissioner of health as authorized by subdivision two of section four hundred three of the public health law.

§ 3553. Roswell Park Cancer Institute corporation. 1.(a) There is hereby created a corporation to be known as the Roswell Park Cancer Institute corporation which shall be a body corporate and politic constituting a public corporation.

(b) The corporation shall be governed by fifteen voting directors two of whom shall be the commissioner of health who shall serve ex-officio and the president of the corporation who shall serve ex-officio. Seven directors shall be appointed by the governor, two directors shall be appointed by the majority leader of the senate, two directors shall be appointed by the speaker of the assembly, one director shall be appointed by the minority leader of the senate and one director shall be appointed by the minority leader of the assembly.

(c) The terms of the directors, other than the commissioner of health and the president of the corporation, shall be three years, provided, however, that the initial terms of the directors shall be as follows:

(i) four of the directors appointed by the governor, five years;

(ii) three of the directors appointed by the governor, four years;

(iii) one of the directors appointed by the senate majority leader and one of the directors appointed by the speaker of the assembly, five years;

(iv) one of the directors appointed by the senate majority leader and one of the directors appointed by the speaker of the assembly, four years; and

(v) the directors appointed by the senate and the assembly minority leaders, three years. The commissioner of health and the president of the corporation shall serve as directors, ex-officio, only for so long as they shall occupy such offices.

2. (a) All directors shall hold office until their successors are appointed and qualify.

(b) Vacancies occurring otherwise than by expiration of term of office shall be filled for the unexpired terms in the manner provided for original appointment.

(c) The directors of the corporation shall receive no compensation for their services as directors, but shall be reimbursed for all their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title.

(d) The president of the corporation, sitting as director, shall not have any vote respecting the compensation or benefits to be paid to him or her.

(e) Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director of the corporation, nor shall service as such a director be deemed incompatible or in conflict with such office or employment.

3. (a) The chairperson of the board of directors shall be appointed by the governor; the president of the corporation shall not serve as chairperson.

(b) The powers of the corporation shall be vested in and shall be exercised by the board at a meeting duly called and held where a quorum of eight directors is present. No action shall be taken by the corporation except pursuant to the favorable vote of at least eight directors present at the meeting at which such action is taken.

(c) Any action required or permitted to be taken by the board or any committee thereof may be taken without a meeting if all members of the board or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the board or committee shall be filed with the minutes of the proceedings of the board or committee.

(d) The members of the board or any committee thereof may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time; participation by such means shall constitute presence in person at a meeting.

(e) The board of directors shall establish a subcommittee of the board responsible for inspections of and investigations within the Roswell Park Cancer Institute, and such subcommittee shall not include the president of the corporation nor the commissioner of health.

4. The directors shall select and shall determine the salary and benefits of the president of the corporation. The directors shall have the authority to discharge the president with or without cause; provided, however, that removal without cause shall not prejudice the contract rights, if any, of the president.

5. The corporation shall have a president, a secretary, a treasurer,

and such other officers as the board shall from time-to-time provide; such officers shall exercise the duties provided by the board or by this chapter.

6. The corporation and its corporate existence shall continue until terminated by law, provided, however, that no such termination shall take effect so long as the corporation shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the corporation, all of the rights and properties of the corporation then remaining shall pass to and vest in the state in such manner as prescribed by law.

7. The corporation may avail itself of the procedures prescribed under section one hundred four of the general municipal law for the utilization of the terms of state contracts, and the corporation may utilize the terms of a federal government general services contract where the terms are to the advantage of the corporation and have been offered to the corporation by the contractor.

8. (a) For purposes of applying section eighty-seven of the public officers law to the corporation or its subsidiaries, the term "trade secrets" shall include marketing strategy or strategic marketing plans, analyses, evaluations and pricing strategies or pricing commitments of the corporation, relating to business development including strategic alliances and contracts for managed care and other network arrangements, capitation contracts, and other similar arrangements, which, if disclosed, would be likely to injure the competitive position of the corporation.

(b) In addition to the matters listed in section one hundred five of the public officers law, the corporation may conduct an executive session for the purpose of considering marketing strategy or strategic marketing plans, analyses, evaluations and pricing strategies or pricing commitments of the corporation, relating to business development including strategic alliances and contracts for managed care and other network arrangements, capitation contracts, and other similar arrangements relating to business development, which, if disclosed, would be likely to injure the competitive position of the corporation.

§ 3554. General powers of the corporation. Except as limited by this title, the public health law, the mental hygiene law, the social services law, the education law, the civil practice law and rules or any other applicable law or regulation, the corporation shall have power:

1. to sue and be sued and to participate in actions and proceedings, whether judicial, administrative, arbitrative or otherwise and, except as is otherwise provided in subdivision four of section thirty-five hundred sixty-one of this title, the court of claims shall have exclusive jurisdiction in all actions against the corporation for money damages;

2. to have a corporate seal, and to alter such seal at pleasure, and to use it by causing it or a facsimile to be affixed or impressed or reproduced in any other manner;

3. to purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

4. to purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, use and otherwise deal in and with, bonds and other obligations, shares, or other securities or interests issued by others, whether engaged in similar or different business, governmental, or other activities;

5. to accept subventions from other persons or any unit of government;

6. to sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage or pledge, or create a security interest in, all or any of its property, or any interest therein, wherever situated, upon such terms and conditions and in such manner as the corporation shall

determine;

7. to make capital contributions to other not-for-profit corporations;

8. (a) to offer participation in the New York state and local employees' retirement system for all its officers and employees, and to establish and carry out other retirement plans authorized pursuant to the retirement and social security law, which may be offered to all of its officers and employees not participating in the New York state and local employees' retirement systems, and to establish and carry out other incentive and benefit plans, trusts and provisions for any or all of its officers and employees, subject to the applicable provisions of article fourteen of the civil service law; (b) provided, further, that employees of the corporation established pursuant to section thirty-five hundred fifty-three of this article who are division and department chairpersons holding scientific degrees, scientific faculty members such as assistant members, associate members, members, distinguished members, or who have graduate faculty status at the level of assistant professor or above at the Roswell Park graduate division of the state university of New York at Buffalo and as certified by the dean of the division, facility directors, and those employees who are in titles such as president and chief executive officer, senior vice president, vice president, assistant vice president, general counsel, and executive director, and who are eligible to participate in the New York state and local employees' retirement system may elect, within ninety days of the effective date of this paragraph or within ninety days of becoming eligible to participate in such system, in lieu of participating in such system, to participate in the optional retirement program available to employees of the state university of New York pursuant to article eight-B of the education law, subject to the terms and conditions of that article and to the provisions of the retirement and social security law;

9. to be a promoter, partner, member, associate or manager of other not-for-profit activities or business enterprises or ventures, or to the extent permitted in any other jurisdiction to be an incorporator of other corporations of any type or kind;

10. except as limited by state law or regulation, to fix, compromise and collect rates, rentals, fees, lease payments and other charges for the services rendered by it or for use of the facilities owned, controlled or administered by, or in the exercise of the powers of, the corporation;

11. to make contracts, give guarantees and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue notes, bonds and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property or any interest therein, wherever situated;

12. to issue bonds for any of its corporate purposes or its projects, or to refund the same, and to provide for the rights of the holders thereof;

13. to lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

14. to conduct the activities of the corporation and have offices and exercise the powers granted by this title in any jurisdiction within or without the United States;

15. to appoint such officers, employees and agents as the corporation may require for the performance of its duties and, subject to applicable provisions of agreements negotiated pursuant to article fourteen of the civil service law, to fix and determine their qualifications, duties, and compensation;

16. to retain or employ counsel, auditors, and engineers, subject to applicable provisions of agreements negotiated pursuant to article fourteen of the civil service law where appropriate and, private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

17. to make, adopt, amend, enforce and repeal rules for its governance and internal management and personnel practices, subject to article fourteen of the civil service law, where applicable;

18. to make and alter by-laws for its organization and management, and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

19. to designate the depositories of its money;

20. to establish its fiscal year;

21. to insure or otherwise to provide for the insurance of the corporation's property or operations and against such other risks as the corporation may deem advisable; and

22. to do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 3555. Special powers of the corporation. In order to effectuate the purposes of this title, the corporation shall have the following additional powers:

1. to contract with the state to operate, manage, superintend and control the Roswell Park Cancer Institute; and to establish, collect and adjust fees, rentals, and other charges for the lease or sublease of such health facility, subject to the terms and conditions of any contract, lease, sublease or other agreement with the state;

2. to provide health and medical services for the public directly or by agreement or lease with any person, firm or private or public corporation or association through or in the facilities of the corporation or in other health care facilities and to make internal policies governing admissions and health and medical services;

3. to provide and maintain training programs for resident physicians, post-graduate clinical fellows, graduate students and other allied health professionals;

4. to sponsor and conduct research, educational and training programs;

5. to participate in managed care networks, fee-for-service, and other joint and cooperative arrangements for the provision of general comprehensive and specialty health care services, directly or through contract with other service providers or entities including employees or entities of the state;

6. to establish subsidiary corporations or other entities in accordance with subdivision ten of this section:

(a) to meet the demands of health care delivery changes; and

(b) to market, manufacture or develop products or services developed by the corporation's clinical and research activities;

7. to affiliate with a medical college or colleges;

8. to contract to use employees, agents, consultants and facilities of the state, paying the state its agreed proportion of the compensation or costs pursuant to an agreement with the state;

9. to determine the conditions under which a physician may be extended the privilege of practicing within a health facility under the jurisdiction of the corporation, to promulgate internal policies for the conduct of all persons, physicians and allied health practitioners within such facility, and to appoint and grant privileges to qualified and competent clinical practitioners;

10. except as provided in this subdivision or as expressly limited by any applicable state law or regulation, and in support of the powers granted by subdivisions five and six of this section, to form and to participate in the formation of one or more corporations, and to exercise and perform such purposes, powers, duties, functions or

activities through one or more subsidiary corporations or other entities owned or controlled wholly or in part by the corporation, which shall be formed pursuant to the business corporation law, the limited liability company law, the not-for-profit corporation law, or the partnership law; any such subsidiary may be authorized to act as a general or limited partner in a partnership or as a member of a limited liability company, and enter into an arrangement calling for an initial and subsequent payment or payments or contributions to capital by such subsidiary in consideration of an interest in revenues or other contractual rights. An entity shall be deemed a subsidiary corporation whenever and so long as (a) more than half of any voting shares or other membership interest of such subsidiary are owned or held by the corporation or (b) a majority of the directors, trustees or members of such subsidiary are designees of the corporation;

11. to take all necessary and appropriate steps and arrangements to develop a plan and, on or before January first, two thousand fourteen, seek the necessary approvals to execute such plan which may include but are not limited to entering into arrangements, mergers or other affiliations with one or more health care, academic or other entities for the purposes of protecting and promoting the health of the patients served by its health facilities, advancing the corporation's mission of conducting innovative research into the causes and treatment of cancer, securing its financial viability and achieving operational and fiscal independence from the state, and to the extent possible, contributing to the economic revitalization of the region; provided that the commissioner of health shall monitor such steps and arrangements and participate with the corporation in establishment of goals and benchmarks for the achievement of such independence, and the corporation shall make requests for assistance and approvals needed to execute such steps and arrangements.

12. No subsidiary of the corporation shall own, operate, manage or control the existing research, education, acute inpatient or outpatient facilities and services now operated by the Roswell Park Cancer Institute.

§ 3556. Merit system; merit board. 1. Policy and applicable law. (a) Positions in the employ of Roswell Park Cancer Institute corporation shall be subject to section six of article five of the Constitution of the state of New York.

(b) Except as provided by this title and rules issued pursuant thereto, the corporation and its employees shall be subject to the provisions of the civil service law as the same shall be amended from time-to-time and employees of the corporation shall be deemed to have the rights of state employees for the purposes of such provisions of the civil service law.

2. Definitions. When used in this section:

(a) The term "classified service" means all positions in the corporation which are not in the unclassified service.

(b) The term "merit board" means the committee established by corporation's board of directors established by this title, which shall act in the capacity and fulfill the role of the "commission", "civil service commission" and "municipal civil service commission" for the purposes of applying the civil service law to positions in the corporation.

(c) The term "director of classification and compensation" or "director" means the director of classification and compensation of the Roswell Park Cancer Institute corporation.

(d) The term "jurisdictional classification" means the assignment of positions in the classified service to the competitive, noncompetitive, exempt or labor classes.

(e) The terms "position classification", "classification", "reclassification", and "classify" mean grouping together under common and descriptive titles positions that are substantially similar in the essential character and scope of their duties and responsibilities and required qualifications.

3. Roswell Park Cancer Institute merit board. (a) Three persons, other than directors, officers, employees or the president of the corporation, shall be selected by majority vote of the board for three-year terms and shall constitute the Roswell Park Cancer Institute merit board. The

terms of the members of the merit board shall be staggered so that the term of one member expires each year. The members of the merit board shall annually elect one of the members chairperson.

(b) The members of the merit board shall receive their necessary travel and other expenses incurred in the performance of the duties of such office, and shall receive in addition such compensation for services rendered as members of such merit board as shall be determined by the board of directors of the corporation by vote of a majority of the directors.

(c) The merit board shall prescribe and amend rules and regulations subject to the applicable provisions of article fourteen of the civil service law, for effecting the provisions of this title and of section six of article five of the Constitution of the state of New York, including but not limited to (i) rules for the jurisdictional classification of offices and positions in the classified service of the corporation; (ii) rules for examinations, appointments, promotions, transfers, leaves of absence, resignations and reinstatements; (iii) rules for sick leaves, vacations, time allowances and other conditions of employment in the classified service of the corporation; (iv) rules for the hearing and determination of appeals; and (v) rules designating positions in the non-competitive class which are confidential or require the performance of functions influencing policy.

(d) The merit board shall hear and determine appeals instituted by any person believing himself or herself aggrieved by any action or determination of the director of classification and compensation, acting as such; provided, however, that no appeal shall be allowed (i) if the action or determination involved relates solely to matters of internal management of the office of the director of classification and compensation, or (ii) if the action or determination involved was considered and approved in advance by the merit board. Any appeal authorized by this subdivision shall be instituted by filing with the secretary of the merit board a written notice of appeal stating the action or determination appealed from, the grounds for the appeal, and signed by the person or persons appealing or their representative; no particular form of appeal shall be required. Any such appeal shall be filed within thirty days following the appellant's receipt from the director of classification and compensation of notice of the action or determination to be reviewed; the merit board for good cause shown may waive such thirty-day limitation. The merit board may make such investigation or inquiry into the facts relative to the action or determination appealed from as may be deemed advisable, shall afford to the appellant and his or her representative an opportunity to be heard in person or in writing and to present evidence and argument. The merit board may affirm, modify or reverse such action or determination. The merit board shall decide each appeal filed within thirty days following the date on which the submission of facts, information and evidence is deemed complete by the merit board. The person seeking review and his or her representative shall be furnished a copy of the merit board's written decision concurrently with its filing with the secretary of the merit board. A decision of the merit board shall become final and binding when filed with the secretary of the merit board. Review of any such final decision shall be by a proceeding authorized by article seventy-eight of the civil practice law and rules; any such proceeding must be commenced within four months after the determination to be reviewed becomes final and binding.

(e) Before adopting any rule the merit board shall publish notice of the proposed rule no later than thirty days prior to the proposed effective date of such rule and shall afford an opportunity to any interested person to comment on the proposed rule.

(i) Publication of notice of proposed rule-making shall be accomplished by posting a copy on the main bulletin board of the corporation, by serving a copy of the notice by certified mail return receipt requested upon the designated representative of any employee union recognized to represent employees of the corporation and by mailing the copy of the notice to the temporary president of the senate and the speaker of the assembly; publication shall be complete upon the posting and mailing. Notice made pursuant to this subparagraph shall be deemed to be in compliance with the notice requirements prescribed in section one hundred one-a of the executive law.

(ii) A notice of proposed rule-making shall contain the complete text of the proposed rule, and the last date upon which the merit board will receive comment upon the proposed rule; provided, however, that if the text of the proposed rule exceeds two thousand words the notice shall contain only a description of the subject, purpose and substance of such rule, and shall state from what person the complete text may be obtained.

(iii) The last date for submission of comments upon a proposed rule shall be not less than twenty days following the publication of notice of proposed rule-making.

(iv) The merit board may receive comments on a proposed rule in writing or, in an appropriate case, may conduct a hearing upon the proposed rule.

(v) Any rule adopted by the merit board shall take effect when signed by the chairperson of the merit board and filed with the secretary of the corporation. Notice of adoption of a rule shall be published concurrently with its adoption in the same manner as the notice of proposed rule-making.

(vi) In the exercise of its rule-making authority the merit board shall not be subject to the provisions of the state administrative procedure act.

(f) The secretary of the corporation shall be the secretary to the merit board and shall serve ex officio without vote. The secretary shall maintain minutes of the meetings of the merit board and shall maintain complete copies of the rules adopted by the merit board. Such minutes and rules shall be open to public inspection and copying during all ordinary business hours of the corporation in accordance with the applicable provisions of article six of the public officers law.

(g) The merit board shall, subject to the provisions of article seven of the public officers law, meet annually at the offices of the corporation, and shall hold such other meetings at such places within the state as may be required. A majority of the members of the merit board shall constitute a quorum.

4. Director of classification and compensation. (a) The director of classification and compensation of the corporation shall be in the competitive class of the classified service appointed by the president of the corporation. The director of classification and compensation shall not be a part of the office of human resources of the corporation.

(b) The director of classification and compensation shall be charged with the duty and shall have the power, subject to appeal to the merit board:

(i) to classify and reclassify all positions in the classified service of the corporation; and

(ii) to allocate and reallocate to an appropriate salary grade all positions in the competitive, noncompetitive and labor classes of the classified service of the corporation including temporary and seasonal positions; provided that notwithstanding any inconsistent provisions of section one hundred thirty of the civil service law, employees of the corporation in the classified service of the corporation shall also be deemed to be in the classified civil service of the state of New York for purposes of section one hundred thirty of the civil service law.

(c) The principle of fair and equal pay for similar work shall be followed in the classification and reclassification and the allocation and reallocation of positions pursuant to this section and all positions having the same title shall be allocated to the same salary grade.

(d) The director of classification and compensation shall also have the following powers and duties:

(i) To ascertain and record the duties and responsibilities of all positions in the classified service of the corporation, establish adequate specifications showing the qualifications for and the nature and extent and scope of the duties and responsibilities of such positions, and assign uniform titles to positions that are so substantially similar in the essential character and scope of their duties and responsibilities and in the qualification requirements thereof that the same descriptive title may be used to designate them; that the same qualifications for appointment thereto may be reasonably required; that the same tests of fitness may be established, and that the same rate of compensation may be reasonably applied;

(ii) To investigate all matters affecting the classification and compensation of positions, to hear and determine all complaints and grievances with respect to the classification and compensation of positions, and from time to time to review the duties, responsibilities, qualification requirements and compensation of positions and to make such revisions in the classification or compensation of positions as changes in the service of the corporation may require;

(iii) To afford to any person aggrieved by the classification or allocation of a position a reasonable opportunity to present facts in support of or in relation to such classification or allocation, at a time and in such manner as may be specified by the director, and to render and furnish to the person aggrieved a written decision thereon.

(e) Any classification or reclassification of a position and any allocation or reallocation of a position to a salary grade made by the director pursuant to this section shall become effective on the date approved by the president of the corporation.

5. Authority to use services of New York state department of civil service. The merit board or the director may request of the New York state department of civil service technical advice and assistance in the administration of the provisions of this title for consideration, including but not limited to the preparation and administration of examinations, and in the absence of an eligible list of the corporation, may request the New York state department of civil service to furnish it with the names of persons on an appropriate eligible list. The merit board or the director shall provide such department with any information necessary to effectuate the provisions of this section.

6. Classes of position established. The classified service of the corporation shall comprise all offices and positions not included in the unclassified service. The offices and positions in the classified service of the corporation shall be divided into four classes designated as the exempt class, the non-competitive class, the competitive class, and the labor class.

(a) The exempt class shall consist of such positions and offices which the merit board shall determine to be impracticable to fill by competitive or non-competitive examination.

(b) The non-competitive class shall include all positions that are not in the exempt class or labor class and for which it is found by the merit board to be not practicable to ascertain the merit and fitness of applicants by competitive examination.

(c) The labor class shall comprise all unskilled laborers in the service of the corporation.

(d) The competitive class shall include all positions for which it is found by the merit board to be practicable to determine the merit and fitness of applicants by competitive examination, and shall include all positions in the classified service of the corporation except such positions as are in the exempt class, the non-competitive class or the labor class.

7. Examinations. (a) The merit and fitness of applicants for positions which are classified in the competitive class shall be ascertained by such examinations as may be prescribed by the merit board. The merit board shall issue an announcement of each competitive examination or promotional examination, setting forth the minimum qualifications required, the subjects of the examination, and such other information as they may deem necessary, and shall advertise such examination in such manner as the nature of the examination may require.

(b) The merit board, acting by the director, shall require prospective applicants to file during a prescribed time a formal application in which the applicant shall state such information as may reasonably be required, touching upon the applicant's background, experience and qualifications for the position sought and his or her merit and fitness for service. The application shall be subscribed by the applicant and shall contain an affirmation by the applicant that the statements therein are true under the penalties of perjury. Application forms shall be furnished without charge to all persons requesting them.

8. Abolition of positions; demotion. (a) Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive class of service of the corporation are abolished or reduced in rank or salary grade, suspension or demotion as the case may be among incumbents holding the same or similar positions within the same jurisdictional classification shall be made in the inverse order of original appointment on a permanent basis in the grade or title; provided, however, that upon the abolition or reduction of positions in the competitive class of service of the corporation incumbents holding the same or similar positions within the same jurisdictional classification who have not completed their probationary service shall be suspended or demoted as the case may be before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

(b) Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the non-competitive class of service of the corporation are abolished or reduced in rank or salary grade, suspension or demotion as the case may be among incumbents holding the same or similar positions within the same jurisdictional classification shall be made in the inverse order of original appointment on a permanent basis in the grade or title; provided, however, that upon the abolition or reduction of positions in the non-competitive class of service of the corporation incumbents holding the same or similar positions within the same jurisdictional classification who have not completed their probationary service shall be suspended or demoted as the case may be before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

(c) Upon the abolition or reduction of positions in the service of the corporation, suspension or demotion shall be made from among employees holding the same or similar positions within the same jurisdictional classification in the entirety of the corporation.

(d) In any case where an employee of the corporation is suspended or demoted because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, the director of classification and compensation shall, upon such suspension or demotion, furnish to the merit board a statement showing the employee's name, title or position, date of appointment and the date of and reason for suspension or demotion. The merit board shall place the name of such employee upon a preferred list together with others who may have been suspended or demoted from the same or similar positions in the same jurisdictional class in the service of the corporation, and shall certify such list for filling vacancies in the same jurisdictional class, first, in the same or similar position, second, in any position in a lower grade in line of promotion, and third, in any comparable position.

(e) For purposes of the civil service law, the date of original appointment of employees of the corporation shall be the date of original appointment on a permanent basis in the classified service of the corporation; except that for those employees who transfer from state service to the service of the corporation pursuant to section thirty-five hundred fifty-seven of this title, the date of original appointment shall be the date of original appointment on a permanent basis in the civil service of the state of New York.

9. Notwithstanding any inconsistent provision of section eighty-one of the civil service law, employees of the state who transfer to the corporation pursuant to subdivision one of section thirty-five hundred fifty-seven of this title shall be considered to be state employees under the jurisdiction of the state civil service commission for purposes of placement on and employment from preferred lists established by the state civil service commission.

10. Notwithstanding any inconsistent provisions of sections eighty-one-a and eighty-one-b of the civil service law, employees of the state who transfer to the corporation pursuant to subdivision one of section thirty-five hundred fifty-seven of this title shall be considered to be state employees for purposes of placement upon and employment from reemployment rosters pursuant to section eighty-one-a of the civil service law and for purposes of placement upon and employment from placement rosters pursuant to section eighty-one-b of the civil service law.

11. Reemployment rosters within the corporation. (a) Where an employee is to be suspended or demoted in accordance with subdivision eight of this section, the president of the corporation shall, upon such employee's suspension or demotion place the name of such employee upon a reemployment roster for filling vacancies in any comparable position as determined by the director of classification and compensation, except that employees suspended or demoted from positions in the non-competitive and labor classes may not be certified to fill vacancies in the competitive class. Such reemployment roster shall be certified for filling a vacancy in any such position before certification is made from any other list, including a promotion eligible list, but not prior to a preferred list. Eligibility for reinstatement of a person whose name appears on any such reemployment roster shall not continue for a period longer than four years from the date of suspension or demotion provided, however, in no event shall eligibility for reinstatement from a reemployment roster continue once the person is no longer eligible for

reinstatement from a preferred list.

(b) The names of persons on a reemployment roster shall be certified therefrom with equal ranking for reinstatement.

(c) All reinstatements from a reemployment roster shall require completion of a probationary term in accordance with rules promulgated by the merit board pursuant to subdivision two of section sixty-three of the civil service law.

(d) The merit board shall adopt rules providing for the relinquishment of eligibility for reinstatement upon reinstatement or upon failure or refusal to accept reinstatement from a preferred list or a reemployment roster.

(e) Notwithstanding any other provision of this title, the corporation may disqualify for reinstatement and remove from a reemployment roster the name of any otherwise eligible person who, by reason of physical or mental incapacity, is found to be unable to satisfactorily perform the duties of the position for which such roster has been established, or who has engaged in such misconduct as would warrant their dismissal from public employment, except that a person who is not completely physically incapacitated and who is suspended or demoted pursuant to section eighty of the civil service law because their position has been abolished or reduced, but who is certified for reinstatement to any position having the same physical requirements as the position from which such person was suspended or demoted, shall not be disqualified because of their incapacity, unless upon medical examination their incapacity has worsened to a degree that they would not be able to satisfactorily perform in such position. No person shall be disqualified pursuant to this subdivision unless they are first given a written statement of the reasons therefor and an opportunity to be heard at a hearing at which satisfactory proof of such reasons must be established by appropriate evidence, and at which such person may present independent evidence and be entitled to representation by counsel. The corporation shall designate a person to hold such hearing and report thereon.

(f) Notwithstanding any other provision of this title, any person may voluntarily remove his or her name from a reemployment roster by application to the corporation.

12. Placement rosters within the corporation. (a) Where an employee is

to be suspended or demoted in accordance with subdivision eight of this section, the president of the corporation shall, upon such employee's suspension or demotion place the name of such employee upon a reemployment roster for filling vacancies in any comparable position as determined by the director of classification and compensation except that employees suspended or demoted from position in the non-competitive and labor classes may not be certified to fill vacancies in the competitive class. Such placement roster shall be certified for filling a vacancy in any such position before certification is made from any other list, including a promotion eligible list, but not prior to a preferred list or a reemployment roster. Eligibility for appointment of an employee whose name appears on any such placement roster shall terminate at such time as the employee is suspended or demoted in accordance with the provisions of subdivision eight of this section. Upon such employee's suspension or demotion, the corporation shall place the name of such employee upon a preferred list, and a reemployment roster as appropriate, in accordance with the provisions of subdivision eight of this section.

(b) The names of employees on a placement roster shall be certified therefrom with equal ranking for appointment.

(c) All appointments from a placement roster shall require completion of a probationary term in accordance with rules promulgated by the civil service commission pursuant to subdivision two of section sixty-three of the civil service law.

(d) The merit board shall adopt rules providing for the relinquishment of eligibility for appointment upon appointment or upon failure or refusal to accept appointment from a placement roster.

(e) Notwithstanding any other provision of this title, any employee may voluntarily remove his or her name from a placement roster by application to the corporation.

13. Establishment of redeployment lists in the corporation; general provisions. (a) Notwithstanding any inconsistent provision of section seventy-nine of the civil service law, where, and to the extent that an agreement between the state and an employee organization entered into pursuant to article fourteen of the civil service law so provides, employees of the corporation shall be considered to be employees in

state service for purposes of primary and secondary redeployment pursuant to section seventy-nine of the civil service law and the applicable collective bargaining agreement.

(b) Where, an employee in the corporation is to be suspended or demoted in accordance with the provisions of subdivision eight of this section by reason of the corporation's exercise of its right to contract out for goods and services, and receipt of the information required pursuant to subdivision eleven of this section for purposes of establishing reemployment rosters, at least ninety days prior to the suspension or demotion of an affected employee, the corporation shall place the name of the employee upon a redeployment list. Such redeployment list shall be certified for filling positions in the same title or in any comparable title, as determined by the director of classification and compensation, before certification is made from any other eligible list, placement roster, reemployment roster or preferred list.

(c) The names of persons on a redeployment list shall be certified therefrom for appointment in the order of their original appointments, in accordance with the provisions of paragraph (e) of subdivision eight of this section.

(d) A person appointed from a redeployment list shall receive at least the same salary such person was receiving in the position from which he or she is to be or has been suspended or demoted.

(e) Probationers who are appointed from a redeployment list to a position in the same title will be required to complete their probationary term. Employees who are appointed from a redeployment list to a position in a comparable title shall be required to complete a probationary term in accordance with the rules promulgated by the merit board pursuant to subdivision two of section sixty-three of the civil service law.

(f) Eligibility for appointment of an employee whose name appears on a redeployment list shall terminate at such time as the employee is redeployed pursuant to the provisions of this section to a position in the same salary grade as the position from which they have been suspended or demoted, or has exercised their reemployment rights pursuant to the provisions of section eighty-one or eighty-one-a of the civil service law, provided, however, that eligibility for appointment shall terminate no later than six months following the suspension or demotion of such employee in accordance with the provisions of section eighty of the civil service law. Upon such employee's suspension or demotion, the corporation shall place the name of such employee upon a preferred list, and a reemployment roster, as appropriate, in accordance with the provisions of subdivision eight of this section.

(g) Notwithstanding any other provision of this chapter, any employee may voluntarily remove his or her name from a redeployment list by application to the corporation.

(h) (1) In the event the corporation determines, in accordance with the provisions of paragraph (b) of this subdivision, that there are no positions in the same title or any comparable title to which an employee to be suspended or demoted by reason of the state's exercise of its right to contract out for goods and services can be redeployed, the corporation may place the name of such employee on a special reemployment roster, for filling positions in titles for which the employee meets the essential tests and qualifications. Such special reemployment roster may be certified immediately upon the employee's placement on the roster for filling a position before certification is made from any other eligible list, including a promotion eligible list, but not prior to a redeployment list or preferred list.

(2) Eligibility for appointment of an employee whose name appears on a special reemployment roster shall not continue for a period longer than four years from the date of suspension or demotion, provided, however, that eligibility for appointment of an employee whose name appears on any such special reemployment roster shall terminate at such time as the employee is redeployed pursuant to the provisions of this section and, in no event, shall eligibility for appointment from a special reemployment roster continue once the employee is no longer eligible for reinstatement from a preferred list.

(3) Employees placed on a special reemployment roster in accordance with the provisions of this section, shall have all the rights and privileges provided employees placed on reemployment rosters in accordance with subdivision eleven of this section.

(i) The merit board shall adopt rules for carrying into effect the provisions of this section, including rules providing for the relinquishment of eligibility for appointment upon appointment or upon failure or refusal to accept appointment from a redeployment list. Additionally, notwithstanding any inconsistent provision of law, rule, or regulation, an agreement between the corporation and an employee organization recognized or certified pursuant to article fourteen of the civil service law can provide employment security rights and benefits where the state has exercised its right to contract out for goods and services. The merit board upon receipt of a written request of the director of the corporation is authorized to implement provisions of such agreement consistent with the terms thereof and, to the extent necessary, may adopt rules and regulations providing for the benefits to be thereunder provided. The merit board, with the approval of the president of the corporation, may extend such benefits in whole or in part, to corporation employees excluded from collective negotiating units.

§ 3557. Officers and employees; compensation; transfer. 1. On the effective date of the transfer of the operations of the Roswell Park Cancer Institute to the corporation pursuant to an agreement between the state and the corporation as authorized in this title, officers and employees of the state employed in Roswell Park Cancer Institute shall become officers and employees of the corporation; such persons transferred shall be deemed public officers or public employees as the case may be, in the civil service.

2. The civil service rights of such persons continuing in service of the corporation at the time of such transfer and for persons entering the service of Roswell Park Cancer Institute corporation following the date of transfer shall be governed by the civil service law and associated regulations except as otherwise provided pursuant to this title.

3. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the corporation.

4. The corporation shall, upon transfer, acknowledge and give credit for all leave balances held by such officers and employees of the state

who become officers or employees of the corporation on the date of transfer.

5. Notwithstanding any inconsistent provision of law for purposes of eligibility for promotional examinations offered for state employees generally, an employee of the corporation shall be entitled to all the rights thereto as if such employee was a state employee subject to the pertinent provisions of the civil service law.

§ 3558. Recognition and continuation of existing bargaining agents and units. 1. The employees of the corporation shall, for all purposes of article fourteen of the civil service law, be deemed to be employees of the state of New York and shall be employed within the current state of New York bargaining unit designations of either the professional, scientific and technical unit, the administration services unit, operational services unit, institutional services unit or security services unit. The governor's office of employee relations shall, for all purposes of article fourteen of the civil service law, act as agent for the corporation, and shall, with respect to the corporation, have all the powers and duties provided under sections six hundred fifty through six hundred fifty-four of the executive law. Those persons who become employees of the corporation pursuant to subdivision one of this section or who enter into the service of the corporation following the effective date of the transfer shall retain their current bargaining unit designations in either the professional, scientific and technical services unit, the administrative services unit, the institutional services unit, the operational services unit, the security services unit or the security supervisors unit of state employees. The corporation and the state shall recognize the existing certified or recognized employee organizations for state employees as the exclusive collective bargaining representatives for such employees.

Titles within collective bargaining units in existence prior to the transfer of operations to the corporation shall remain in those units and will not be altered by the public employment relations board without the consent of the corporation, the state and the recognized or certified representatives of the negotiating units involved. New titles created after the date of the transfer of operations to the corporation will be placed in the appropriate unit of state employees consistent with the provisions of article fourteen of the civil service law.

2. The corporation shall be bound by all collective bargaining agreements between the state of New York and such collective bargaining representatives, in effect as of the date of transfer of operations to the corporation and any successor agreements between such parties.

3. Nothing contained in this provision shall be construed to affect:

(a) the rights of employees pursuant to a collective bargaining agreement;

(b) the bargaining relationship between the executive branch of the state of New York and an employee organization;

(c) existing law with respect to an application to the public employment relations board seeking the designation of persons as managerial or confidential.

§ 3559. Transfer of property; relationship with the state; certain gifts, loans and guarantees by the state. 1. (a) The state may give, grant, sell, convey, loan, license the use of, or lease to the corporation and the corporation may accept any property which is useful in connection with the exercise by the corporation of any of its powers under this title.

(b) Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, for such consideration, if any, and for such term or terms of years, subject to the rights of the holders of any bonds, as the corporation and the state may agree. No real property of the state consisting of any health facility currently operated by the state as Roswell Park Cancer Institute shall be transferred to the corporation, except subject to a right of first refusal in favor of the state and subject to a right of reverter in the event that the corporation should cease to use such property for the purpose of provision of research, education and health care.

2. In addition to the authority granted elsewhere in this title and by other applicable laws, the corporation and the state may enter into a contract or contracts from time to time providing for one or more of the following:

(a) the payment of sums for health care services provided by the corporation which could otherwise be provided directly by the state, including services for uncompensated care;

(b) services to be provided by the state to or on behalf of the corporation;

(c) the transfer of employees of the state to the corporation as provided in section thirty-five hundred fifty-seven of this title;

(d) indemnification by the corporation of the state for claims associated with establishment of and operation of the corporation and its health facilities;

(e) such other matters as may be appropriate to accomplish the purposes hereof.

Such contract or contracts shall include such terms and conditions, be for such consideration, if any, and have such term or terms of years, as the corporation and the state may agree.

§ 3560. Bonds or notes of the corporation. 1. The corporation shall have power as hereby authorized from time to time to issue negotiable bonds in conformity with applicable provisions of the uniform commercial code provided, however, that such power shall only be exercised to the extent authorized in the contract between the corporation and the department of health provided for in subdivision two of section four hundred three of the public health law. The corporation shall have power from time to time to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Except as may otherwise be expressly provided by the corporation, every issue of new bonds shall be general obligations payable out of any moneys or revenues of the corporation, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues.

2. Such bonds shall be authorized by resolution of the board, be in such denominations and shall bear such date or dates, mature at the time or times not exceeding forty years from their respective dates, bear interest at such rate or rates payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. Such bonds may be sold at public or private sale for such price or prices as the corporation shall determine.

3. Such bonds may be issued for any corporate purposes of the corporation.

4. Bonds issued by the corporation may be general obligations secured by the faith and credit of the corporation or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the corporation under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or moneys. The corporation may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the corporation is authorized to pay.

5. Any resolution or resolutions authorizing any bonds may contain provisions which may be a part of the contract with the holders of the bonds as to:

(a) pledging all or any part of the moneys or property of the corporation to secure the payment of its bonds, including, but not limited to, the revenues of designated facilities of the corporation, the proceeds of any grant in aid of the corporation received from any private or public source, any federally guaranteed security and moneys received therefrom whether such security is initially acquired by the corporation or otherwise, any moneys received under the terms of any lease, loan or other agreement executed pursuant to this title, or any other revenues which may be received by the corporation;

(b) the setting aside of reserves or sinking funds and the regulation or disposition thereof;

(c) the purposes and limitations thereon to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied, including as authorized purposes, all costs and expenses necessary or incidental to the issuance of bonds, to the acquisition of or commitment to acquire any federally guaranteed security and to the issuance and obtaining of any federally insured mortgage note;

(d) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(e) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(f) the creation of special funds into which any moneys of the corporation may be deposited;

(g) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the corporation may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section three thousand five hundred sixty-one of this title and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(h) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the corporation to the bondholders and providing for the rights and remedies of the bondholders in the event of default, including as a matter of right the appointment of a receiver, providing, that such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this title; and

(i) any other matters, of like or different character, which in any way affect the security and protection of the bonds.

6. (a) The bonds of the corporation issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, whenever in the judgment of the corporation the interests of the corporation will be served thereby, the directors of the corporation, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on either a competitive or negotiated basis. The corporation shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the corporation shall include, but not be limited to, a requirement that where the interests of the corporation will be served by a private or public sale of bonds, the corporation shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process undertaken from time to time and consideration of proposals from qualified underwriters as determined by the corporation. Bonds of the corporation shall not be sold by the corporation at a private sale unless such sale and the terms thereof have been approved in writing by the comptroller where such sale is not to the comptroller, or by the director of the budget where such sale is to the comptroller.

(c) The corporation shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(d) The corporation shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the corporation is required to make.

(e) The corporation shall annually submit its bond sale report to the state comptroller, the senate finance committee and the assembly ways and means committee.

(f) The corporation shall make available to the public copies of its bond sale report upon reasonable request thereof.

(g) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

7. Any resolution or resolutions authorizing bonds or any issue of bonds by the corporation may also contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) the rates, rents, fees and other charges to be fixed and collected by the corporation and the amount to be raised in each year thereby and the use and disposition of revenues;

(b) limitations on the right of the corporation to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(c) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(d) limitations on the power of the corporation to sell or otherwise dispose of any project or any part thereof or other property;

(e) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the corporation;

(f) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the corporation may determine; and

(g) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

8. In addition to the powers herein conferred upon the corporation to secure its bonds, the corporation shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the corporation may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act, including refraining from doing any act which the

corporation would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The corporation shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments within the powers granted to the corporation by this title and to perform the obligations undertaken in such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the corporation.

9. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the corporation shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the corporation irrespective of whether such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

10. Whether or not the bonds of the corporation are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

11. Neither the directors nor the officers of the corporation nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

12. Subject to such agreements with bondholders as may then exist, the corporation shall have power out of any funds available therefor to purchase bonds of the corporation, in lieu of redemption, at a price not

exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

13. The corporation shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

§ 3561. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the corporation shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the corporation is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding shall, in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the corporation to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the corporation to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the corporation to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceeding shall be laid in Erie county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the corporation.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of any receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and

proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the corporation is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the corporation under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 3562. State not liable on corporation bonds. The state shall not be liable on the bonds or notes of the corporation and such bonds or notes shall not be a debt of the state, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 3563. Moneys of the corporation. All moneys of the corporation from whatever source derived shall be paid to the treasurer of the corporation and shall be deposited forthwith in a bank or banks designated by the corporation. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by such person or persons as the corporation may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. To the extent practicable, consistent with the cash requirements of the corporation, all such moneys shall be deposited in interest bearing accounts. The corporation shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the corporation or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the corporation and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the corporation not required for immediate use or disbursement may, at the discretion of the corporation, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and the approval of the comptroller, the corporation shall prescribe a system of accounts.

§ 3564. Bonds; legal investment for fiduciaries. The bonds of the corporation are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 3565. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the corporation shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation, provided, however, that the state reserves the right to adjust its medicaid rates in accordance with applicable law and implementing regulations, if any. The corporation shall include this pledge and agreement of the state in any agreement with the holders of bonds. In no event shall the provisions of this section limit the applicability and enforceability of any and all terms and conditions included in any contract or contracts entered into pursuant to subdivision two of section four hundred three of the public health law.

§ 3566. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the corporation and the fulfillment of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the corporation shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the corporation shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, except as provided pursuant to the public health law, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes, transfer taxes, mortgage taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the corporation. Provided however, that the corporation shall continue to pay any fee, charge, assessment or payment in lieu of taxes which had been heretofore paid by the state in conjunction with the operation of Roswell Park Cancer Institute at the effective date of transfer.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be free from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the corporation pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the corporation issued pursuant to this title and the income therefrom shall at all times be free from taxation.

4. The corporation may pay, or may enter into agreements with any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to real property owned by the corporation located within such municipality.

§ 3567. Actions against the corporation. 1. Except in an action for wrongful death, an action or proceeding under article fourteen of the civil service law or section thirty-five hundred fifty-six of this title, no action or special proceeding shall be prosecuted or maintained against the corporation, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the corporation or of any member, officer, agent or employee thereof, unless: (a) notice of claim shall have been made and served upon the corporation within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based, and (d) an action, against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the corporation, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The corporation may require any person presenting for settlement an account or claim for any cause whatsoever against the corporation to be sworn before a trustee, counsel or an attorney, officer or employee of the corporation designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The corporation shall have power to settle or adjust all claims in favor of or against the corporation.

4. Any action or proceeding to which the corporation or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the corporation or its counsel in any action or proceeding questioning the validity of this title in which the corporation may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the County of Erie.

5. The rate of interest to be paid by the corporation upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section one of chapter five hundred eighty-five of the laws of nineteen hundred thirty-nine, as amended.

Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the corporation for breach of contract, express or implied, or for the torts of its directors, officers or employees while acting as such directors, officers or employees, except for any action brought by a trustee pursuant to section thirty-five hundred sixty-one of this title, shall be brought in the court of claims.

§ 3568. Audit and annual reports. 1. In conformity with the provisions of section five of article ten of the constitution, the accounts of the corporation shall be subject to the supervision of the state comptroller.

2. The corporation annually shall cause an independent certified public accountant to perform an audit of the corporations accounts and to prepare a financial statement, income statement, and balance sheet of the corporation.

3. The corporation shall annually prepare a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter.

4. (a) The corporation shall also report on an annual basis the following information: the name, principal business address and principal business activities of each subsidiary of the corporation; the name of all partners, managers, board members and officers of each subsidiary; the number of employees of each subsidiary; a list of all contracts in excess of one hundred thousand dollars entered into by the corporation and its subsidiaries identifying the amount, purpose and duration of such contract; and a financial statement, income statement, and balance sheet of each of the corporation's subsidiaries, prepared by an independent certified public accountant all in accordance with generally accepted accounting principles.
(b) The corporation shall also report no less than quarterly its

income, expenses and relevant fiscal, programmatic and clinical data.

5. All such reports and financial statements shall be furnished to the governor, the comptroller, the majority leader of the senate, the speaker of the assembly, and to the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee.

§ 3569. Defense and indemnification. The provisions of sections seventeen and nineteen of the public officers law shall be applicable to employees of the corporation (as such term is defined in sections seventeen and nineteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the corporation to extend the provisions of sections seventeen and nineteen of the public officers law upon any independent contractor.

§ 3570. Transfer of applications, proceedings, approvals and permits. 1. Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the state or by the state with the federal government, the state department of health, or any other public corporation, shall inure to and for the benefit of the corporation to the same extent and in the same manner as if the corporation has been a party to such application, review, process, or proceeding from its inception, and the corporation shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the corporation and shall be assigned and transferred by the state to the corporation unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits,

determinations, findings, awards and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using or occupying any facility transferred by the state to the corporation pursuant to this title.

§ 3571. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 3572. Applicability of law. The provisions of this title shall be subject to the provisions of the civil practice law and rules, the public health law, the mental hygiene law, the social services law, the education law and any other applicable law or regulation, including any amendment thereto provided, however, nothing in this section shall require the state or corporation to seek approval or consent for any transfer pursuant to sections thirty-five hundred fifty-seven and thirty-five hundred fifty-nine of this title.

§ 3573. Moneys received; department of health. Notwithstanding any provision of this article or any other provision of law to the contrary, so long as bonds issued by the dormitory authority on or before March thirty-first, two thousand twenty-five to make loans to the department of health of the state of New York to finance state hospital facilities listed in section four hundred three of the public health law remain outstanding as defined in the bond resolution under which such bonds were issued, the following provisions shall be applicable:

1. All moneys derived or resulting from the care, maintenance and treatment of patients at Roswell Park Cancer Institute or any other health facility owned or operated by the corporation or a subsidiary

thereof, together with moneys received from fees, including parking fees, refunds, reimbursements, sales of property and miscellaneous receipts of the corporation or its subsidiaries attributable to Roswell Park Cancer Institute and other revenues of the corporation or its subsidiaries (other than gifts, grants, bequests and moneys received under research contracts, and clinical practice income received pursuant to a clinical practice plan established pursuant to subdivision fourteen of section two hundred six of the public health law) and any other net revenues received by the corporation from any of its subsidiaries or other entities shall be moneys of the department of health, whether collected or received by such corporation or any of its subsidiaries, and shall be paid into the health income fund as required by section four hundred nine of the public health law. Such corporation or any subsidiary created hereunder shall receive any moneys of the department of health described herein as agent of the department of health and shall pay such moneys to the commissioner for deposit into the health income fund.

2. Neither the corporation nor any subsidiary thereof shall create or permit to be created any pledge, assignment, encumbrance or security interest in any moneys of the department of health required to be deposited or maintained in the department of health income fund pursuant to section four hundred nine of the public health law or any agreement between the department of health and the dormitory authority, including investments and proceeds thereof, or the right of the department of health to receive or collect the same.

3. The state shall not give, grant, sell or convey, loan, license the use of or lease any property to the corporation or any subsidiary thereof except in compliance with the terms of any lease, sublease or other agreement between the dormitory authority and the department of health of the state of New York.

4. Neither the corporation nor any subsidiary thereof shall take any action, or suffer any action to be taken, which would adversely affect the exclusion of interest on any of the bonds issued by the dormitory authority to finance facilities for the department of health of the

state of New York from gross income for purposes of federal income taxation. The department of health shall provide oversight of the corporation's adherence to this subdivision as more fully described in the agreement set forth in subdivision two of section four hundred three of the public health law.

5. No power conferred upon the corporation or any subsidiary thereof by this article or any other provision of law shall be exercised in a manner that is inconsistent with the terms of any lease, sublease or other agreement between the dormitory authority and the department of health of the state of New York.

6. No lien granted by the corporation or any subsidiary thereof pursuant to this title shall give any lienor the right to compel the sale of any health facility which is currently owned by the state or the dormitory authority and which comprises the Roswell Park Cancer Institute.

TITLE 5
CLIFTON-FINE HEALTH CARE CORPORATION

§ 3600. Short title. This title may be cited as the "Clifton-Fine health care corporation act".

§ 3601. Legislative findings and purpose. The legislature hereby finds and declares as follows:

1. Currently, the Clifton-Fine Hospital is a public hospital owned and operated by the town of Clifton and the town of Fine.

2. The needs of the residents of the state of New York and of the towns of Clifton and Fine in St. Lawrence County can best be served by the operation of the Clifton-Fine Hospital by a public benefit corporation having the legal, financial and managerial flexibility to take full advantage of opportunities and challenges presented by the evolving health care environment.

3. In order to accomplish the purposes recited in this section to provide health care services and health facilities for the benefit of the residents of the state of New York and the towns of Clifton and Fine including persons in need of health care services without the ability to pay as required by law, a public benefit corporation to be known as the Clifton-Fine health care corporation shall be created to provide such services and facilities and to otherwise carry out such purposes; that the creation and operation of the Clifton-Fine health care corporation, as hereinafter provided, is in all respects for the benefit of the people of the state of New York and of the towns of Clifton and Fine and

is a state, municipal and public purpose; and that the exercise by such corporation of the functions, powers and duties as hereinafter provided constitutes the performance of an essential public and governmental function.

§ 3602. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Board" shall mean the board of directors of the corporation as established by section thirty-six hundred three of this title.

2. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the corporation pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Corporation" shall mean the public benefit corporation created by section thirty-six hundred three of this title, known as the Clifton-Fine health care corporation.

4. "Town" or "Towns" shall mean the towns of Clifton and Fine in St. Lawrence County, State of New York.

5. "Governing Board" shall mean with respect to each town, the town board.

6. "Supervisor or supervisors" shall mean the town supervisor of the town of Clifton or the town of Fine, St. Lawrence county.

7. "Health facility" shall mean a building, structure or unit or any improvement to real property, including all necessary and usual attendant and related equipment, facilities or fixtures, or any part or parts thereof, or any combination or combinations thereof, constructed, acquired or otherwise provided by or for the use of the corporation or the towns in providing health and medical services to the public.

8. "Director" shall mean a voting director appointed to the corporation pursuant to section thirty-six hundred three of this title.

§ 3603. Clifton-Fine health care corporation. 1. (a) There is hereby created a board to be known as the Clifton-Fine health care corporation which shall be a body corporate and politic constituting a public benefit corporation.

(b) The corporation shall be governed by eight voting directors to be appointed in the following manner as follows: (i) four directors shall be appointed by the town supervisor of the town of Fine; and (ii) four directors shall be appointed by the town supervisor of the town of Clifton, the governing body of each town shall make recommendations to their respective town supervisor pursuant to the recommendations of the board of the hospital for the initial directors, and pursuant to the recommendations of the board of the corporation for subsequent directors; provided, however, the town supervisors may appoint persons other than those so recommended. Any director absent for three successive regular meetings shall be deemed to have resigned from the board of directors unless said director has submitted in writing to the chairperson of the board of directors an acceptable reason for said absences. The first directors shall be appointed for the following terms from the first day of January, two thousand as follows: one from each town for a term of one year, one from each town for a term of two years, one from each town for a term of three years and one from each town for a term of four years. Subsequent appointments of directors shall be made in the same manner as set forth in this paragraph and for a term of five years. All directors shall continue to hold office until their successors are appointed and qualified. The resignation of any director shall be filed with the appointing authority and shall be effective when so filed. Vacancies occurring otherwise than by expiration of term of office, shall be filled in the same manner as set forth in this paragraph by the supervisor of the respective town for the unexpired term. Directors of the board may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of a town. The powers of the board shall be vested in and exercised by the directors as heretofore set forth and the board formed at a meeting called for said purpose by the chairperson of the existing board of managers of the Clifton-Fine Hospital.

(c) Each voting director should possess a high degree of experience or knowledge in relevant fields or a high degree of interest in the corporation and should reside in either the town of Clifton or the town of Fine. The appointment of any voting director to the corporation shall be based in part on the objective of ensuring that the corporation includes diverse and beneficial perspectives and experience, including, but not limited to, those of business management, law, finance, medical and/or other health professionals, health sector workers, and the patient or consumer perspective.

2. There shall be three non-voting members: one non-voting member shall be the chief executive officer of the corporation as appointed by the voting directors of the board; and two other non-voting members who shall be the town supervisors of the towns of Clifton and Fine. Such members shall have all of the rights and powers of the voting directors other than the right and power to vote including, but not limited to, the right to equal access to information, provided, however, when the board is acting pursuant to its authority under subdivision four of this section such chief executive officer may be excluded from such meeting and access to any information regarding actions of the board pursuant to such subdivision may be denied to him or her.

3. (a) The voting directors shall by majority vote elect from among its members annually a chairperson, a vice-chair to serve in the absence of the chairperson, a secretary and an assistant-secretary to serve in the absence of the secretary. The first election shall be held at the time of the first meeting of the members of the board.

(b) The members shall receive no compensation for their services, but may be reimbursed for their actual and necessary expenses incurred in connection with the performance of their official duties if the corporation shall so provide by resolution for such cases.

(c) The powers of the corporation shall be vested in and shall be exercised by the board at a meeting duly called and held where a quorum of five voting directors is present. No action shall be taken by the corporation except pursuant to the favorable vote of at least five voting directors present at the meeting at which such action is taken.

4. The voting directors shall select and shall determine the salary and benefits of the chief executive officer of the corporation. The voting directors shall have the authority to discharge the chief executive officer with or without cause; provided, however, that removal without cause shall not prejudice the contractual rights, if any, of the chief executive officer.

5. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director, non-voting representative, officer or employee of the corporation, nor shall service as such a director, non-voting representative, officer or employee be deemed incompatible or in conflict with such office, or employment, and provided further, however, that no employee of the corporation or public officer elected to his or her office pursuant to the laws of the state or any municipality thereof may serve as a voting member of the governing body of the corporation during his or her term of office.

6. The corporation and its corporate existence shall continue until terminated by law, provided, however, that no such termination shall take effect so long as the corporation shall have bonds or other obligations outstanding, unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the corporation, all of the rights and properties of the corporation then remaining shall pass as the corporation and the towns may agree, and such terms and conditions may include reversion of said property and rights to the towns.

7. Contracts for work, construction or purchases to which the corporation is a party shall be subject to the provisions of article five-A of the general municipal law except as provided in subdivisions eight and nine of this section. In addition to the procedures prescribed

under section one hundred four of the general municipal law for the utilization of the terms of state contracts, the corporation may utilize the terms of a federal government general services contract where the terms are to the advantage of the corporation and have been offered to the corporation by the contractor. When bids have already been received by the corporation no purchase under a federal government general services contract shall be made unless the purchase may be made upon the same terms, conditions and specifications at a lower price through such contractor.

7-a. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services, and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

8. It is the intent of the legislature that overall costs should in all cases by a major criterion in the selection of project developers for the award of contracts pursuant to this section and that, wherever practical, such contracts should be entered into through competitive bidding procedures as prescribed by sections one hundred one and one hundred three of the general municipal law. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of medical technology, diagnostic and treatment devices, the relative newness of a variety of devices, processes and procedures now available, the desirability of a single point of responsibility for the development of medical treatment and diagnostic facilities and the economic and technical utility of contracts for medical projects which include in their scope various combinations of design, construction, operation, management and/or maintenance responsibility over prolonged periods of time. In some instances it may be beneficial to the corporation to award a contract for a medical project on the basis of factors other than cost alone, including but not limited to facility design, system reliability, efficiency, safety, and compatibility with other elements of patient care. Accordingly, and notwithstanding the provisions of any general, special or local law, a contract for a medical project entered into between the corporation and any project developer pursuant to this

article may be awarded pursuant to public bidding in compliance with sections one hundred one and one hundred three of the general municipal law or pursuant to the following provisions for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the corporation:

(a) The corporation shall require that each proposal to be submitted by a project developer shall include:

(i) information relating to the experience and expertise of the project developer on the basis of which said project developer purports to be qualified to carry out all work required by a proposed contract; the ability of the project developer to secure adequate financing; and proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities by a proposed contract;

(ii) a proposal clearly identifying and specifying all elements of costs which would become charges to the corporation, in whatever form, in return for the fulfillment by the project developer for the full life-time of a proposed contract including, as appropriate, but not limited to the cost of planning, design, construction, operation, management and/or maintenance of any facility, and clearly identifying and specifying all elements of revenue which would accrue to the corporation from the operation of the facility or device or from any other source; provided, that the corporation may prescribe the form and content of such proposal and that, in any event, the project developer must submit sufficiently detailed information to permit a fair and equitable evaluation by the corporation of such proposal; and provided, further, that the corporation may set maximum allowable cost limits in any form in the request for proposals; and

(iii) such other information as the corporation may determine to have a material bearing on its ability to evaluate any proposal in accordance with this paragraph.

(b) Proposals received in response to such request for proposals shall be evaluated by the corporation as to net cost or, if a net revenue is projected, net revenue, and in a manner consistent with provisions set forth in the request for proposals, and may be evaluated on the basis of additional factors, including but not limited to the technical evaluation of the medical project including medical facility, facility design, system reliability, energy balance and efficiency. The evaluation of such proposals and the determination of whether a project developer is "responsible" may include, but shall not be limited to, consideration, in a manner consistent with provisions set forth in the request for proposals, the record of the project developer is complying with existing labor standards and recognizing state and federally approved apprentice training programs.

(c) The corporation may make a contract award to any responsible project developer based on a determination by the corporation that the selected proposal is most responsive to the request for proposals and may negotiate with any project developer.

Whenever the corporation enters into a contract pursuant to this section for a medical project which involves construction the provisions of section two hundred twenty of the labor law shall be applicable to such construction work.

9. Every contract entered into between the corporation and a project developer, pursuant to the provisions of paragraph (c) of subdivision eight of this section, for a medical project involving construction of a medical building by the project developer, shall contain provisions that such building shall be constructed through construction contracts awarded through bidding in accordance with paragraphs (a) through (g) of this subdivision; that the project developer or the project developer's construction subcontractor shall furnish a bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of such construction contracts, and that a copy of such payment bond shall be kept by the corporation and shall be open to public inspection; provided, however, that the requirements of this subdivision shall not apply when the cost of such construction, exclusive of the cost of medical equipment and devices, is less than five hundred thousand dollars.

(a) The project developer shall advertise for bids for such construction contracts in the official newspaper or newspapers, if any, or otherwise in a newspaper or newspapers designated for such purpose. Such advertisements shall contain a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read. An employee of the corporation shall be designated to open the bids at the time and place specified in the notice. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the publication of such advertisement and date on which the bids are opened.

(b) Except as otherwise provided in section two hundred twenty-two of the labor law, when the entire cost of constructing such building, exclusive of any medical equipment, apparatus or devices, shall exceed five hundred thousand dollars, the project developer shall prepare separate specifications for the following subdivisions of such work, so as to permit separate and independent bidding upon each subdivision:

(i) plumbing and gas fittings;

(ii) steam heating, hot water heating, ventilating and air conditioning apparatus; and

(iii) electric wiring and standard illuminating fixtures.

(c) After public competitive bidding, the project developer shall award one or more separate contracts for each of the subdivisions of such work set forth in subparagraphs (i), (ii) and (iii) of paragraph (b) of this subdivision, whenever separate specifications are required pursuant to paragraph (b) of this subdivision, and one or more contracts for the remainder of such work. The project developer may award such contract at different times. Contracts awarded pursuant to this subdivision shall be awarded by the project developer to the lowest responsible and responsive bidder and shall be contracts of the project developer and not of the corporation which shall have no obligation or liabilities, whatsoever, thereunder. The project developer shall have the responsibility for the supervision, coordination, and termination of such contracts, unless otherwise specified in contractual terms between the project developer and the corporation.

(c-1) Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: (i) plumbing and gas fitting, (ii) steam heating, hot water heating, ventilating and air conditioning apparatus and (iii) electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

(d) In determining whether a prospective contractor is responsible and responsive, the project developer may require that prospective contractors:

(i) have adequate financial resources or the ability to obtain such resources;

(ii) be able to comply with the required or proposed delivery or performance schedule;

(iii) have a satisfactory record of performance;

(iv) have the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them;

(v) have the necessary production, construction and technical equipment and facilities, or the ability to obtain them; and

(vi) be eligible to receive an award under applicable laws and regulations and be otherwise qualified.

(e) The project developer may reject any bid of a bidder which the project developer determines to be nonresponsible or nonresponsive to the advertisement for bids.

(f) The project developer may, in its discretion, reject all bids, and may revise bid specifications and may readvertise for bids as provided herein.

(g) As used in this section:

(i) "project developer" means any private corporation, partnership, limited liability company, or individual, or combination thereof which has submitted a proposal in response to a request for proposals;

(ii) "construction" shall include reconstruction, rehabilitation or improvement exclusive of the installation and assembly of any medical equipment, apparatus or device;

(iii) "medical building" means that component of a medical project constituting appurtenant structures or facilities necessary to house or render the remaining components of the medical project operational. Medical building shall not include apparatus, equipment, devices, systems, supplies or any combination thereof;

(iv) "medical project" means any substantial durable apparatus, equipment, device or system, or any combination of the foregoing, including services necessary to install, erect, or assemble the foregoing and any appurtenant structures or facilities necessary to house or render the foregoing operational, to be used for the purpose of care, treatment or diagnosis of disease or injury or the relief of pain and suffering of sick or injured persons. Medical projects shall not include ordinary supplies and equipment expended or utilized in the customary care and treatment of patients.

10. (a) For purposes of applying section eighty-seven of the public officers law, to the corporation, the term "trade secrets" shall include marketing strategy or strategic marketing plans, analyses, evaluations and pricing strategies or pricing commitments of the corporation, relating to business development, which, if disclosed, would be likely to injure the competitive position of the corporation.

(b) In addition to the matters listed in section one hundred five of the public officers law, the corporation may conduct an executive session for the purpose of considering marketing strategy or strategic marketing plans, analyses, evaluations and pricing strategies of the corporation, relating to business development, which, if disclosed, would be likely to injure the competitive position of the corporation.

§ 3604. Transfer of officers and employees; civil service. 1. (a) On the effective date of the transfer of the facilities and operations of the Clifton-Fine Hospital pursuant to an agreement between the towns and the corporation as authorized in this title, officers and employees employed in the hospital by the town shall become officers and employees of the corporation with equivalent offices, positions and employment therewith and shall be deemed public officers or public employees for all purposes.

(b) In accordance with the provisions of section seventy of the civil service law, for a period not to extend beyond six months from the effective date of the transfer of the facilities and operations of the Clifton-Fine Hospital pursuant to an agreement between the towns and the corporation as authorized in this title, any other officer or employee of the towns may, at the request of the corporation and with the consent of the appropriate town supervisor and the officer or employee, be transferred to the corporation and shall be eligible for such transfer and appointment, without further examination, to applicable offices, positions and employment under the corporation.

(c) Any person who, at the time he or she becomes an officer or employee of the Clifton-Fine Hospital pursuant to paragraph (a) or (b) of this subdivision, has a temporary or provisional appointment shall be transferred subject to the same right of removal, examination or termination as though such transfer had not been made except to the extent such rights are modified by a collective bargaining agreement.

(d) There shall be no layoffs of any officers or employees of the Clifton-Fine Hospital which are a direct consequence of the enactment of this title. There shall be a presumption that any layoffs occurring more than twenty-four months after the effective transfer date described in this subdivision shall be deemed not to be such a direct consequence.

(e) Nothing contained in this section shall be construed to prevent the elimination of any service at any time as a result of the elimination of state or federal assistance, the elimination of available revenue reimbursement, loss of certification or licensure, or loss of financial viability.

2. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the corporation. The corporation shall, upon transfer, acknowledge and give credit for all leave balances held by such officers and employees on the date of transfer.

3. The corporation shall be subject to the civil service law. For the purposes of such law, any titles, upon the effective transfer date described in subdivision one of this section, in the exempt class shall

remain exempt.

§ 3605. General powers of the corporation. Except as limited by this title, the public health law, the mental hygiene law, the social services law, the education law or any other applicable law or regulation, the corporation shall have power:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to borrow money and issue bonds for any of its corporate purposes or its projects, or to refund the same, and to provide for the rights of the holders thereof;

4. to make and alter by-laws for its organization and management, and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

5. (a) to acquire by purchase, grant, lease, gift, or otherwise and to hold and use property necessary, convenient or desirable to carry out its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the corporation shall determine;

(b) to acquire by condemnation pursuant to the provisions of the eminent domain procedures law any real property within the towns required by the corporation to carry out the powers granted by this title with the approval of both of the governing boards of the towns;

6. to acquire, construct, lease, expand, improve, maintain, equip, furnish, operate one or more projects and, if necessary, to pay or finance the cost thereof;

7. to accept gifts, grants, loans or contributions of funds or property or financial or other aid in any form from, and enter into

contracts or other transactions with, the federal government, the state or any public corporation or any other source, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

8. to grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the corporation may deem desirable;

9. to designate the depositories of its money;

10. to establish its fiscal year;

11. to enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the corporation to carry out any powers expressly given to it in this title;

12. to appoint such officers, employees and agents as the corporation may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation subject to the provisions of the civil service law, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional, management or technical services and advice;

13. to use employees, agents, consultants and facilities of the towns, paying such towns their agreed proportion of the compensation or costs pursuant to an agreement with the towns;

14. to make and adopt plans, surveys and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the corporation and to prepare recommendations in regard thereto;

15. except as limited by state law or regulation, to fix and collect rates, rentals, fees and other charges for the services rendered by or for use of the facilities or in the exercise of the powers of the corporation;

16. to enter upon such lands, waters or premises as in the judgment of

the corporation may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the corporation being liable for actual damage done;

17. the corporation may covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includable, under the United States Internal Revenue Code of 1986, as amended (the "code") or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders thereof under the code or any such subsequent law;

18. to insure or otherwise to provide for the insurance of the corporation's property or operations and also contract against such other risks as the corporation may deem advisable; and

19. to do all things necessary, convenient or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 3606. Special powers of the corporation. In order to effectuate the purposes of this title, the corporation shall have the following additional powers, except as limited by this title, the public health law, the mental hygiene law, the social services law, the education law and any other applicable law or regulation:

1. To operate, manage, superintend and control any health facility under its jurisdiction and to repair, maintain and otherwise keep up any such health facility; and to establish, collect and adjust fees, rentals, and other charges for the sale, lease or sublease of any such health facility, subject to the terms and conditions of any contract, lease, sublease or other agreement with the towns;

2. To provide health and medical services for the public directly or by agreement or lease with any person, firm or private or public corporation or association through or in the health facilities of the corporation or otherwise and to make internal policies governing admissions and health and medical services; and to establish, collect and adjust fees and other charges for the provision of such health and medical services; and to provide and maintain resident physician and intern medical services; and to sponsor and conduct research, educational and training programs;

3. To provide uncompensated care to persons in need of health care services without the ability to pay;

4. (a) To provide, maintain and operate a medical transport service, provided, however, nothing herein shall prohibit the corporation from adopting a schedule of charges for medical transport;

(b) For purposes of section three thousand eight of the public health law, the corporation shall be deemed to be a municipality for the purposes of determining a public need to operate an ambulance service;

5. To enter into contracts, leases, subleases and other agreements for the purpose of affiliating with a medical college in conjunction with the corporation's health facilities, which agreements may provide for the management, operation and staffing of health facilities, the reconstruction, renovation or addition to health facilities; the provision of necessary facilities, utilities and services; and such other conditions or features necessary and proper for such purpose and for the public health and general welfare;

6. To determine the conditions under which a physician may be extended the privilege of practicing within a health facility under the jurisdiction of the corporation, and to promulgate reasonable internal policies for the conduct of all persons, physicians and nurses within such facility;

7. To participate in managed care networks, fee-for-service, and other joint and cooperative arrangements for the provision of general

comprehensive and specialty health care services, directly or through contract with other service providers or entities including employees or entities of the state;

8. To establish subsidiary corporations or other entities in accordance with subdivision nine of this section:

(a) to meet the demands of health care delivery changes; and

(b) to market, manufacture or develop products or services developed by the corporation's clinical and research activities;

9. (a) To form or participate in the formation of one or more entities pursuant to the business corporation law, the limited liability company law, the not-for-profit corporation law, or the partnership law in order to effectuate the purposes and powers of subdivisions seven and eight of this section.

(b) No subsidiary of the corporation shall own, operate, manage or control the existing acute inpatient and outpatient facilities and services now in operation on the grounds of the Clifton-Fine Hospital.

(c) Any such subsidiary may be authorized to act as a general or limited partner in a partnership or as a member of a limited liability company, and enter into an arrangement calling for an initial and subsequent payment by such subsidiary in consideration of an interest in revenues or other contractual rights.

§ 3607. Transfer of property; relationship with the towns; certain gifts, loans and guarantees by the towns. 1. (a) Either town may give, grant, sell, convey, loan, license the use of, or lease to the corporation any property (except monies appropriated by the town and payable to the corporation pursuant to subdivision three and paragraph (a) of subdivision four of this section) which are useful in connection with the exercise by the corporation of any of its powers under this title in order to transfer the facilities and operations of the Clifton-Fine Hospital to the corporation by agreement between the towns and the corporation and any subsequent renewal or amendment thereof, by local law adopted by a majority of both town boards, notwithstanding any general, special or local law, ordinance, resolution or charter.

(b) Any such gift, grant, sale, conveyance, loan, license or lease shall be upon such terms and conditions, for such consideration, if any, and for such term or terms of years, subject to the rights of the holders of any bonds, as the corporation and the towns may agree. No real property of the towns consisting of any health facility currently operated by the Clifton-Fine Hospital shall be transferred to the corporation in fee, except under such restrictions regarding rights of first refusal, or other rights, to repurchase the property as the town boards shall approve by act, and subject to a restrictive covenant prohibiting the corporation from pledging or mortgaging the fee interest in the property. In the event that the town gives, grants, sells, conveys, loans, licenses or leases any facilities to the corporation, the towns may contract with the corporation to lease, borrow, license, operate, maintain, manage and provide services for such facilities upon such terms and conditions and for such term or terms of years, subject to the rights of holders of bonds, as the corporation and the towns may agree. The corporation, in furtherance of any purchase, conveyance or lease of any property or facility from the towns, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by the towns for such property or facility.

2. The town may acquire by purchase, grant, lease, gift or condemnation pursuant to the eminent domain procedure law, real property in the name of the towns for any corporate purpose of the corporation.

3. In addition to any other powers granted to it by law and consistent with the constitution and other provisions of law, the towns may, from time to time, appropriate sums of money to defray project costs or any other costs or expenses of the corporation including operating expenses.

Subject to the rights of bondholders, the towns may determine if the monies so appropriated shall be subject to repayment by the corporation to the towns and, in such event, the manner and time or times for such repayment.

4. In addition to the authority granted elsewhere in this title and by other applicable laws, the corporation and the towns may enter into a

contract or contracts from time to time providing for one or more of the following:

(a) the payment of sums appropriated by the towns pursuant to subdivision three of this section;

(b) the payment of sums for health care services provided by the corporation which could otherwise be provided directly by the towns, including services for uncompensated care;

(c) services to be provided by the towns to or on behalf of the corporation;

(d) the transfer of employees of the towns to the corporation as provided in section thirty-six hundred four of this title;

(e) indemnification by the corporation to the towns for claims associated with establishment of and operation of the corporation and its health facilities;

(f) the gift, grant, sale, conveyance, loan, license or lease by the towns to the corporation of any property (except monies appropriated by the county and payable to the corporation pursuant to subdivision three and paragraph (a) of this subdivision) or facilities which are useful in connection with the exercise by the corporation of any of its powers under this title not transferred pursuant to the authority granted in paragraph (a) of subdivision one of this section, which gift, grant, sale, conveyance, loan, license or lease shall nevertheless be subject to paragraph (b) of subdivision one of this section; and

(g) such other matters as may be appropriate to accomplish the purposes hereof.

Any such contract or contracts shall be authorized by the towns by act adopted by majority vote of the town boards. Such contract or contracts shall include such terms and conditions, be for such consideration, if any, and have such term or terms of years, as the corporation and the towns may agree.

5. (a) Notwithstanding any general, special or local law or charter provisions to the contrary, the towns of Clifton and Fine shall have the power and are hereby authorized, pursuant to section seven of article seventeen of the state constitution, to lend money or credit to or in aid of the corporation or any subsidiary thereof for the purpose of

providing health related facilities or hospital facilities for the prevention, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, and for facilities incidental or appurtenant thereto as may be prescribed by law. The towns are hereby authorized to prescribe such facilities by local law of the towns. The corporation or any such subsidiary thereof, as a condition to any such loan of money or credit, shall enter into a regulatory agreement with the towns as to its charges, profits, dividends and disposition of its property of franchises, which agreement shall be binding and enforceable by the towns insofar as this regulates such charges, profits, dividends and disposition of property. The towns may elect in such regulatory agreement to refrain from exercising all or any portion of its authority to so regulate such charges, profits, dividends and disposition of property to the extent such charges, profits, dividends and disposition of property are regulated by the state or any agency thereof. The towns shall authorize such regulatory agreement by local law.

(b) In pursuance of the authority granted herein, the towns shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in such principal amounts as they shall deem necessary, after taking into account other monies which may be available for the purposes set forth herein. Such bonds, notes or obligations shall be issued for the purpose of making loans to the corporation or any subsidiary thereof, paying interest on such bonds, notes or other obligations, establishment of reserves to secure such notes, bonds, or other obligations, and paying all other obligations and expenditures incidental to and necessary or convenient for the making of such loans. Such bonds, notes or obligations shall be issued in accordance with the applicable provisions of this chapter and the local finance law and applicable local laws.

(c) Any guarantee by the towns made pursuant to the authority granted in this section shall be authorized by act or acts of the towns in the same manner as such act or acts authorizing the issuance of bonds of the towns for the purposes for which such guarantee is undertaken.

(d) The towns shall also be authorized to enact laws governing the conditions under which such loans, commitments and guarantees shall be made.

6. For purposes of subdivision four of paragraph a of section 25.00 of the local finance law, amounts to be derived by the towns from the corporation, or any subsidiary thereof, shall be included in the term "other income".

7. (a) Notwithstanding the provisions of any other state or local law to the contrary, including, but not limited to, sections six-n and six-j of the general municipal law, with the approval of the town boards, amounts deposited for or on behalf of the Clifton-Fine Hospital in the liability and casualty and workers' compensation reserve funds established by the towns pursuant to said sections of the general municipal law, and investment earnings thereon, may be withdrawn by the towns from such funds and transferred to the corporation and shall be used by the corporation for the purposes for which such funds were established.

(b) No amounts shall be withdrawn and transferred to the corporation pursuant to this subdivision unless prior thereto the corporation has agreed in writing to indemnify and hold harmless the towns, and provide defense, for all claims, cases, proceedings, actions or other matters against the towns arising out of the properties, facilities, operations or employees of the corporation of the Clifton-Fine Hospital, whether commenced before or after the date of transfer of said amounts, and to provide such other security for this obligation as the towns may reasonably require.

§ 3608. Bonds or notes of the corporation. 1. The corporation shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The corporation shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee or other subsidy with respect to any bonds.

2. The corporation shall have the power from time to time to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other corporate purpose of the corporation. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds or notes to be refunded.

3. Bonds issued by the corporation may be general obligations secured by the faith and credit of the corporation or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the corporation under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The corporation may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees or other credit enhancements to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the corporation is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the corporation, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the corporation issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sunday excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the corporation, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the corporation, in its discretion, may reject any or all bids made pursuant to such advertisements, and in the event of such rejection, the corporation is authorized to negotiate a private or public sale or readvertise for bids in the form and manner above described as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, whenever in the judgment of the corporation the interests of the corporation will be served thereby, the directors of the corporation, on the written recommendation of the chairperson may authorize the sale of such bonds at private or public sale on a negotiated basis or on either a competitive or negotiated basis. The corporation shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the corporation shall include, but not be limited to, a requirement that where the interests of the corporation will be served by a private or public sale of bonds, the corporation shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process undertaken from time to time and consideration of proposals from qualified underwriters as determined by the corporation.

(d) The corporation shall have the power from time to time to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) No private or public bond sale on a negotiated basis shall be conducted by the corporation without prior approval of the state comptroller. The corporation shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the corporation is required to make.

(f) The corporation shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(g) The corporation shall make available to the public copies of its bond sale report upon reasonable request thereof.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds by the corporation may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the revenues, together with any other monies or property of the corporation to secure the payment of the bonds, or any costs of issuance thereof, including but not limited to, any contracts, earnings or proceeds of any grant to the corporation received from any private or public source subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees and other charges to be fixed and collected by the corporation and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the corporation to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with

bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the corporation may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the corporation to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the corporation to sell or otherwise dispose of any project or any part thereof or other property;

(m) limitations on the amount of revenues and other monies to be expended or operating, administrative or other expenses of the corporation;

(n) the payment of the proceeds of bonds, revenues and other monies to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the corporation may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

6. In addition to the powers herein conferred upon the corporation to secure its bonds, the corporation shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the corporation may deem necessary, convenient or desirable concerning the use or

disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the corporation would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The corporation shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments within the powers granted to the corporation by this title and to perform such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the corporation.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles or other personal property made or created by the corporation shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the corporation irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds of the corporation are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the directors nor the non-voting representative nor the officers of the corporation nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the corporation shall have power out of any funds available therefor to purchase bonds of the corporation, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The corporation shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note.

§ 3609. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the corporation shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the corporation is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may, and upon written request of the holders of

twenty-five per centum in principal amount of such bonds outstanding shall, in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the corporation to collect rents, rates, fees and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees and charges and to require the corporation to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the corporation to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of St. Lawrence.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the corporation.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of any receiver of any part or parts of the

project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all monies and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the corporation is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the corporation under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

§ 3610. State and towns not liable on corporation bonds. (a) The state shall not be liable on the bonds or notes of the corporation and such bonds or notes shall not be a debt of the state, and such bonds and notes shall contain on the face thereof a statement to such effect.

(b) Except as may be authorized by the town pursuant to section seven of article seventeen of the state constitution and section thirty-six hundred eight of this title, the town shall not be liable on the bonds or notes of the corporation and such bonds or notes shall not be a debt of the town, and such bonds and notes shall contain on the face thereof a statement to such effect or a statement describing the town liability thereon, if any.

§ 3611. Monies of the corporation. All monies of the corporation from whatever source derived shall be paid to the treasurer of the corporation and shall be deposited forthwith in a bank or banks designated by the corporation. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the corporation may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Alternatively, monies of the corporation may be deposited in money market funds rated in the highest short term or long term rating category by at least one nationally recognized rating agency. To the extent practicable, consistent with the cash requirements of the corporation, all such monies shall be deposited in interest bearing accounts. The corporation shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any monies of the corporation or any monies held in trust or otherwise for the payment of bonds or any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the corporation and all banks and trust companies are authorized to give such security for such deposits. Any monies of the corporation not required for immediate use or disbursement may, at the discretion of the corporation, be invested in accordance with guidelines established by the corporation's board and amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the corporation shall prescribe a system of accounts.

§ 3612. Bonds; legal investment for fiduciaries. The bonds of the corporation are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 3613. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the corporation shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 3614. Agreement with towns. The towns are authorized to pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the towns will not alter, limit or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the corporation shall have been issued, to establish, collect and adjust rates, rents, fees and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation.

§ 3615. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the corporation and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose. Accordingly, the corporation shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the corporation shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, except as provided pursuant to the public health law, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by the title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the corporation. Provided, however, that any real property owned or acquired by the corporation outside of the towns shall be exempt from real property taxes, ad valorem levies or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located. Provided, further, subsidiaries of the corporation are not included within the foregoing exemption.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the corporation pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the corporation issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to pay or to secure the payment of such bonds shall at all times be free from taxation.

4. The corporation may pay, or may enter into agreements with the towns or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to real property owned by the corporation located within the towns or such municipality.

§ 3616. Actions against corporation. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the corporation, its members, officers or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort or wrongful act of the corporation or of any member, officer, agent or employee thereof, unless (a) notice of claim shall have been made and served upon the corporation within the time limit set by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action, against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the corporation, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The corporation shall have power to settle or adjust all claims in favor of or against the corporation.

4. Any action or proceeding to which the corporation or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same performance shall be granted upon application of the corporation or its counsel in any action or proceeding questioning the validity of this title in which the corporation may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of St. Lawrence county.

5. The rate of interest to be paid by the corporation upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the corporation of whatever nature shall be brought in St. Lawrence county.

§ 3617. Audit and annual reports. 1. In conformity with the provisions of section five of article ten of the state constitution, the accounts of the corporation shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified public accountant. The corporation shall annually submit to the town boards of supervisors a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of each town.

2. The corporation shall report on an annual basis the following information: the name, principal business address and principal business activities of each subsidiary of the corporation; the name of all board members and officers of each subsidiary; the number of employees of each subsidiary; a list of all contracts in excess of one hundred thousand dollars entered into by the corporation and its subsidiaries identifying the amount, purpose and duration of such contract; and a financial statement, income statement, and balance sheet performed by an independent certified public accountant all in accordance with generally accepted accounting principles of the corporation and each of its subsidiaries. At the time the reports required by subdivision one of this section are submitted, such reports shall be provided to the governor, the speaker of the assembly, the temporary president of the senate and a copy of such report shall be filed with the clerk of each town and the town supervisors and with the clerk of the county.

§ 3618. Defense and indemnification. The corporation shall not execute any of its powers, including the special powers authorized by section thirty-six hundred six of this title, except as necessary to commence its corporate existence, until the town by local resolution has elected to make the provision of section eighteen of the public officers law applicable to employees of the corporation (as such term is defined in section eighteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the corporation to extend the provisions of section eighteen of the public officers law upon any independent contractor.

§ 3619. Transfer of applications, proceedings, approvals and permits. 1. Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding or award made, by the town or by the town with the federal government, the state department of health or any other public corporation shall inure to and for the benefit of the corporation to the same extent and in the same manner as if the corporation has been a party to such application, review, process, or proceeding from its inception, and the corporation shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the corporation and shall be assigned and transferred by the towns to the corporation unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits, determinations, findings, awards and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using or occupying any facility transferred by the towns to the corporation pursuant to this title.

§ 3620. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 3621. Applicability of law. The provisions of this title shall be subject to the provisions of the civil practice law and rules, the public health law, the mental hygiene law, the social services law, the education law and any other applicable law or regulation, including any amendment thereto provided, however, nothing in this section shall require the towns or corporation to seek approval or consent for any transfer pursuant to sections thirty-six hundred seven and thirty-six hundred nineteen of this title.

TITLE 6

ERIE COUNTY MEDICAL CENTER CORPORATION

§ 3625. Short title. This title may be cited as the "Erie County Medical Center Corporation".

§ 3626. Legislative findings and declarations. The legislature hereby finds and declares as follows:

1. Currently, the Erie County Medical Center is a public hospital owned and operated by the county of Erie.

2. The Erie County Medical Center healthcare network includes a general hospital, the Erie County Home, and several clinics in Erie county.

3. The Erie County Medical Center is a tertiary care facility for Erie county and the seven other counties in western New York and an affiliated hospital of the health science center at Buffalo of the state university of New York. As such, the Erie County Medical Center serves as an integral part of the education and research mission of the state university and fulfills an important public purpose. The Erie County Medical Center provides the health science center at Buffalo with the clinical settings essential to the fulfillment of its public mission to educate and train physicians, nurses, and other health care professionals, conducts critical research, and delivers health care services to the residents of the western New York region.

4. The Erie County Medical Center is the only major public hospital in western New York and provides certain sophisticated and specialized patient care services not available in other area hospitals. As the regional level I trauma center for the eight counties of western New York, the Erie County Medical Center has earned a reputation for high quality care. The comprehensive program also features the region's only burn treatment center, a designated spinal cord injury unit, and a head trauma unit. Trauma services are supported by a broad scope of rehabilitation, home care, and outpatient services. The Erie County Medical Center also is the designated AIDS treatment center for the eight counties of western New York, the central point of admission into the local mental health community, and the largest acute care mental health hospital program in western New York. The Erie County Medical Center is the leading provider of inpatient and outpatient medical

rehabilitation services in western New York, a major center for undergraduate and graduate medical education, and a productive source of clinical and basic science research in rehabilitation medicine. The Erie County Medical Center also is a recognized leader in providing quality medical care to the elderly. The Erie County Medical Center healthcare network's geriatric services program includes the area's only acute inpatient geriatric unit and nearly eight hundred long term care beds at both the Erie county home in Alden and a skilled nursing unit at the Erie County Medical Center.

5. The needs of the residents of the state of New York and of the county of Erie can best be served by the operation of the Erie County Medical Center healthcare network through a public benefit corporation having the legal, financial, and managerial flexibility to take full advantage of opportunities and challenges presented by the evolving health care environment.

6. In order to accomplish the purposes recited in this section of providing health care services and health facilities for the benefit of the residents of the state of New York and the county of Erie, including persons in need of health care services without the ability to pay, as required by law, a public benefit corporation to be known as the Erie County Medical Center Corporation shall be created to provide such services and facilities and to otherwise carry out such purposes. The creation and operation of the Erie County Medical Center Corporation, as provided in this title, is in all respects for the benefit of the people of the state of New York and of the county of Erie and is a state, county, and public purpose. The exercise by such corporation of the functions, powers, and duties provided in this title constitutes the performance of an essential public and governmental function.

7. In authorizing the Erie County Medical Center healthcare network to be operated through a public benefit corporation, it is intended that the hospital continue as a general, municipal hospital available to the residents of the city of Buffalo, county of Erie, and western New York state generally, that the health care services provided by the Erie County Medical Center healthcare network's hospital, clinics, long term

care facilities, and ancillary facilities by dedicated public employees who treat tens of thousands of New York residents annually will continue, and that the network's role as a leading provider of services to medicaid patients will also continue.

§ 3627. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Board" means the board of directors of the corporation established by section thirty-six hundred twenty-eight of this title.

2. "Bonds" means the bonds, notes, or other evidences of indebtedness issued by the corporation pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

3. "Corporation" means the public benefit corporation created by section thirty-six hundred twenty-eight of this title, known as the Erie County Medical Center Corporation.

4. "County" means the county of Erie.

5. "Health facility" means a building, structure, or unit, or any improvement to real property, including all necessary and usual attendant and related equipment, facilities, or fixtures, or any part or parts thereof, or any combination or combinations thereof, including, but not limited to, a general hospital, psychiatric hospital, ambulatory clinic or center, chronic disease hospital, nursing home, extended-care facility, dispensary, or laboratory, or any other related facility, or any combination of the foregoing, constructed, acquired, or otherwise provided by or for the use of the corporation or the county in providing medical research and health and medical services to the public.

6. "Director" means a voting director appointed to the corporation pursuant to section thirty-six hundred twenty-eight of this title.

7. "Network" shall mean the Erie County Medical Center healthcare network.

§ 3628. Erie County Medical Center Corporation. 1. (a) There is hereby created a state board to be known as the Erie County Medical Center Corporation, which shall be a body corporate and politic constituting a public benefit corporation.

(b) The corporation shall be governed by fifteen voting directors, of whom eight directors shall be appointed by the governor and seven directors shall be appointed by the county executive of the county of Erie. The governor shall make appointments to the corporation as follows: three directors from a recommendation submitted by the county executive of the county of Erie; three directors from a recommendation submitted by the legislature of the county of Erie; one director, who shall be a resident of the county of Erie, from a recommendation submitted by the temporary president of the senate; and one director, who shall be a resident of the county of Erie, from a recommendation submitted by the speaker of the assembly. The county executive of the county of Erie shall make seven appointments to the board with the advice and consent of the legislature of the county of Erie.

The terms of the initial directors appointed by the governor shall be five years for such directors appointed upon recommendation of the temporary president of the senate and the speaker of the assembly. The terms of the initial directors appointed by the governor upon the recommendation of the county executive of the county of Erie shall be five years for one, four years for one, and three years for one. The terms of the initial directors appointed by the governor upon the recommendation of the legislature of the county of Erie shall be four years for two and three years for one. The terms of the initial directors appointed by the county executive of the county of Erie shall be one year for two of such directors, two years for three of such directors, and three years for two of such directors.

(c) Each director shall possess a high degree of experience and knowledge in relevant fields and a high degree of interest in the corporation. The appointment of any director to the corporation shall be based in part on the objective of ensuring that the corporation includes diverse and beneficial perspectives and experience, including, but not limited to, those of business management, law, finance, medical or other health professionals or both, health sector workers, the patient or consumer perspective, and residence in the western New York community.

2. There shall be four non-voting representatives, who shall include the chief executive officer of the corporation appointed by the voting directors of the board, one selected by the Erie county executive, one selected by the majority leader of the Erie county legislature, and one member selected by the minority leader of the Erie county legislature. Such representatives shall have all of the rights and powers of the directors other than the right and power to vote, including, but not limited to, the right to equal access to information.

3. All directors and non-voting representatives shall continue to hold office until their successors are appointed and qualify. All subsequent appointments made upon the expiration of an initial term shall be for a term of five years, and all appointees shall be eligible for reappointment. Vacancies occurring otherwise than by expiration of term of office shall be filled for the unexpired terms in the manner provided for original appointment. Members of the board may be removed from office by the board for inefficiency, neglect of duty, or misconduct in office after the board has given such member a copy of the charges against him or her and an opportunity to be heard in person or by counsel in his or her defense, upon not less than ten days notice.

4. (a) The directors shall, by majority vote, select one of the fifteen directors as the chairperson of the board. The chairperson shall preside over all meetings of the board and shall have such other duties as the directors may provide.

(b) The voting directors and non-voting representatives of the corporation shall receive no compensation for their services, but shall be reimbursed for all their actual and necessary expenses incurred in connection with carrying out the purposes of this title.

(c) The powers of the corporation shall be vested in and shall be exercised by the board at a meeting duly called and held, where a quorum of eight directors is present. No action shall be taken by the corporation except pursuant to the favorable vote of at least eight directors present at the meeting at which such action is taken.

(d) The members of the board or any committee thereof may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time; participation by such means shall constitute presence in person at a meeting.

(e) Any action required or permitted to be taken by the board or any committee thereof may be taken without a meeting if all members of the board or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the board or committee shall be filed with the minutes of the proceedings of the board or committee.

5. The voting directors shall select and shall determine the salary and benefits of the chief executive officer of the corporation. The directors shall have the authority to discharge the chief executive officer with or without cause; provided, however, that removal without cause shall not prejudice the contract rights, if any, of the chief executive officer.

6. Notwithstanding any inconsistent provision of any general, special, or local law, ordinance, resolution, or charter, no officer, member, or employee of the state or of any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director, non-voting representative, officer, or employee of the corporation, nor shall service as such a director, non-voting representative, officer, or employee be deemed incompatible or in conflict with such office or employment; and provided further, however, that no public officer elected to his or her office pursuant to the laws of the state or any municipality thereof may serve as a member of the governing body of the corporation during his or her term of office.

7. The corporation shall have a chief executive officer, a secretary, a treasurer, and such other officers as the board shall from time to time provide; such officers shall exercise the duties provided by the board or by this title.

8. The corporation and its corporate existence shall continue until terminated by law; provided, however, that no such termination shall take effect so long as the corporation shall have bonds or other obligations outstanding, unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the corporation, all of the rights and properties of the corporation then remaining shall pass to and vest in the county in such manner as is or may be prescribed by law.

9. Contracts for works, construction, or purchases to which the corporation is a party shall be subject to the provisions of article five-A of the general municipal law, except as provided in subdivisions ten and eleven of this section. In addition to the procedures prescribed under section one hundred four of the general municipal law for the utilization of the terms of state contracts, the corporation may utilize the terms of a federal government general services contract where the terms are to the advantage of the corporation and have been offered to the corporation by the contractor. When bids have already been received by the corporation, no purchase under a federal government general services contract shall be made, unless the purchase may be made upon the same terms, conditions, and specifications at a lower price through such contractor.

10. It is the intent of the legislature that overall cost shall in all cases be a major criterion in the selection of project developers for award of contracts pursuant to this section and that, whenever practical, such contracts shall be entered into through competitive bidding procedures, as prescribed by sections one hundred one and one hundred three of the general municipal law. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of medical technology and diagnostic and treatment devices, the relative newness of a variety of devices, processes, and procedures now

available, the desirability of a single point of responsibility for the development of medical treatment and diagnostic facilities, and the economic and technical utility of contracts for medical projects which include in their scope various combinations of design, construction, operation, management, or maintenance responsibility, or any combination thereof, over prolonged periods of time, and to acknowledge that, in some instances, it may be beneficial to the corporation to award a contract for a medical project on the basis of factors other than cost alone, including, but not limited to, facility design, system reliability, efficiency, safety, and compatibility with other elements of patient care. Accordingly, and notwithstanding the provisions of any general, special, or local law or charter, a contract for a medical project entered into between the corporation and any project developer pursuant to this section may be awarded pursuant to public bidding in compliance with sections one hundred one and one hundred three of the general municipal law or pursuant to the following provisions for the award of a contract based on an evaluation of proposals submitted in response to a request for proposals prepared by or for the corporation:

(a) The corporation shall require that each proposal to be submitted by a project developer include:

(i) information relating to the experience and expertise of the project developer on the basis of which said project developer purports to be qualified to carry out all work required by a proposed contract; the ability of the project developer to secure adequate financing; and proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities required by a proposed contract;

(ii) a proposal clearly identifying and specifying all elements of costs which would become charges to the corporation, in whatever form, in return for the fulfillment by the project developer for the full lifetime of a proposed contract, including, as appropriate, but not limited to, the cost of planning, design, construction, operation, management, or maintenance, or any combination thereof, of any facility, and clearly identifying and specifying all elements of revenue which would accrue to the corporation from the operation of the facility or device or from any other source; provided that the corporation may prescribe the form and content of such proposal and that, in any event, the project developer must submit sufficiently detailed information to permit a fair and equitable evaluation by the corporation of such proposal; and provided, further, that the corporation may set maximum allowable cost limits in any form in the request for proposals; and

(iii) such other information as the corporation may determine to have a material bearing on its ability to evaluate any proposal in accordance with this paragraph;

(b) Prior to the issuance of a request for proposals pursuant to this subdivision, the corporation shall publish notice of such issuance in at least one newspaper of general circulation. Concurrent with the publication of such notice, a draft request for proposals shall be filed with the county commissioner of health;

(c) Proposals received in response to such request for proposals shall be evaluated by the corporation as to net cost or, if a net revenue is projected, net revenue, and in a manner consistent with provisions set forth in the request for proposals, and may be evaluated on the basis of additional factors, including, but not limited to, the technical evaluation of the medical project, including medical facility, facility design, system reliability, energy balance, and efficiency. The evaluation of such proposals and the determination of whether or not a project developer is "responsible" may include, but shall not be limited to, consideration, in a manner consistent with provisions set forth in the request for proposals, of the record of the project developer in complying with existing labor standards and recognizing state and federally approved apprentice training programs and consideration of the willingness of the project developer to provide for meaningful participation of minority group persons and business enterprises in the conduct of the work; and

(d) The corporation may make a contract award to any responsible project developer based on a determination by the corporation that the selected proposal is most responsive to the request for proposals and may negotiate with any project developer; provided, however, that, if any award is made to any project developer whose total proposal does not provide either the lowest net cost, or, if a net revenue is projected, the greatest net revenue, of any proposal received, the corporation shall adopt a resolution which includes particularized findings relevant to factors pursuant to paragraph (c) of this subdivision indicating that the corporation's requirements are met by award and that such action is in the public interest.

Whenever the corporation enters into a contract pursuant to this section for a medical project which involves construction, the provisions of section two hundred twenty of the labor law shall be applicable to such construction work.

11. Every contract entered into between the corporation and a project developer, pursuant to the provisions of paragraph (d) of subdivision ten of this section, for a medical project involving construction of a medical building by the project developer, shall contain provisions that such building shall be constructed through construction contracts awarded through competitive bidding in accordance with paragraphs (a) through (g) of this subdivision; that the project developer or the project developer's construction subcontractor shall furnish a bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of such construction contracts, and that a copy of such payment bond shall be kept by the corporation and shall be open to public inspection; provided, however, that the requirements of this subdivision shall not apply when the cost of such construction, exclusive of the cost of medical equipment, apparatus, and devices, is less than five hundred thousand dollars.

(a) The project developer shall advertise for bids for such construction contracts in a daily newspaper having general circulation in the county. Such advertisement shall contain a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read. An employee of the corporation shall be designated to open the bids at the time and place specified in the notice. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the publication of such advertisement and the date on which the bids are opened.

(b) Except as otherwise provided in section two hundred twenty-two of the labor law, when the entire cost of constructing such building, exclusive of any medical equipment, apparatus, or devices, exceeds five hundred thousand dollars, the project developer shall prepare separate specifications for the following subdivisions of such work, so as to permit separate and independent bidding upon each subdivision:

(i) plumbing and gas fittings;

(ii) steam heating, hot water heating, ventilating, and air conditioning apparatus; and

(iii) electric wiring and standard illuminating fixtures.

(c) After public competitive bidding, the project developer shall award one or more separate contracts for each of the above subdivisions of such work, whenever separate specifications are required pursuant to paragraph (b) of this subdivision, and one or more contracts for the remainder of such work. The project developer may award such contracts at different times. Contracts awarded pursuant to this subdivision shall be awarded by the project developer to the lowest responsible and responsive bidder and shall be contracts of the project developer and not of the corporation, which shall have no obligation or liabilities, whatsoever, thereunder. The project developer shall have the responsibility for the supervision, coordination, and termination of such contracts, unless otherwise specified in contractual terms between the project developer and the corporation.

(c-1) Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: (i) plumbing and gas fitting, (ii) steam heating, hot water heating, ventilating and air conditioning apparatus and (iii) electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

(d) In determining whether or not a prospective contractor is responsible and responsive, the project developer may require that prospective contractors:

(i) have adequate financial resources or the ability to obtain such resources;

(ii) be able to comply with the required or proposed delivery or performance schedule;

(iii) have a satisfactory record of performance;

(iv) have the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them;

(v) have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and

(vi) be eligible to receive an award under applicable laws and regulations and be otherwise qualified.

(e) The project developer may reject any bid of a bidder if the project developer determines the bidder to be non-responsible or the bid non-responsive to the advertisement for bids.

(f) The project developer may, in its discretion, reject all bids, may revise bid specifications, and may re-advertise for bids as provided in this subdivision for original advertisements.

(g) Only as used in this section:

(i) "project developer" means any private corporation, partnership, limited liability company, or individual, or combination thereof which has submitted a proposal in response to a request for proposals;

(ii) "construction" includes reconstruction, rehabilitation, or improvement, exclusive of the installation and assembly of any medical equipment, apparatus, or device;

(iii) "medical building" means that component of a medical project constituting appurtenant structures or facilities necessary to house or render the remaining components of the medical project operational. Medical building does not include apparatus, equipment, devices, systems, supplies, or any combination thereof; and

(iv) "medical project" means any substantial durable apparatus, equipment, device, or system, or any combination of the foregoing, including services necessary to install, erect, or assemble the foregoing, and any appurtenant structures or facilities necessary to house or render the foregoing operational, to be used for the purpose of care, treatment, or diagnosis of disease or injury or the relief of pain and suffering of sick or injured persons. Medical projects do not include ordinary supplies and equipment expended or utilized in the customary care and treatment of patients.

12. (a) For purposes of applying section eighty-seven of the public officers law to the corporation, the term "trade secrets" shall include marketing strategy or strategic marketing plans, analyses, evaluations, and pricing strategies or pricing commitments of the corporation relating to business development, including strategic alliances and contracts for managed care and other network arrangements, capitation contracts, and other similar arrangements relating to business development which, if disclosed, would be likely to injure the competitive position of the corporation.

(b) In addition to the matters listed in section one hundred five of the public officers law, the corporation may conduct an executive session for the purpose of considering marketing strategy or strategic marketing plans, analyses, evaluations, and pricing strategies or pricing commitments of the corporation relating to business development, including strategic alliances and contracts for managed care and other network arrangements, capitation contracts, and other similar arrangements relating to business development which, if disclosed, would be likely to injure the competitive position of the corporation.

13. The county shall provide the corporation with full funding of the network's existing capital program for the years two thousand four, two thousand five, and two thousand six, as authorized in the county's two thousand three capital budget.

§ 3629. Transfer of officers and employees; recognition and continuation of existing bargaining agents and units; layoffs; services.
1. On the effective date of the transfer of the facilities and operations of the Erie County Medical Center healthcare network pursuant

to an agreement between the county and the corporation, as authorized in this title, officers and employees employed in the network shall become officers and employees of the corporation with equivalent offices, positions, and employment therewith and shall be deemed public officers or public employees for all purposes.

2. The employees of the corporation shall, for all purposes of article fourteen of the civil service law, be deemed to be employees of the county of Erie and shall be employed within the current county of Erie bargaining unit designation. The county office of labor relations shall, for all purposes of article fourteen of the civil service law, act as agent for the corporation and shall, with respect to the corporation, have all the powers and duties provided under article twenty-four of the executive law. Those persons who become employees of the corporation pursuant to subdivision one of this section or who enter into the service of the corporation following the effective date of the transfer shall retain their current bargaining unit designations. The corporation and the county shall recognize the existing certified or recognized employee organizations for county employees as the exclusive collective bargaining representatives for such employees.

Titles within collective bargaining units in existence prior to the transfer of operations to the corporation shall remain in those units and shall not be altered by the public employment relations board without the consent of the corporation, the county, and the recognized or certified representatives of the negotiating units involved. New titles created after the date of the transfer of operations to the corporation shall be placed in the appropriate unit of county employees consistent with the provisions of article fourteen of the civil service law.

3. The corporation shall be bound by all collective bargaining agreements between the county of Erie and such collective bargaining representatives in effect as of the date of transfer of operations to the corporation and any successor agreements between such parties.

4. The corporation shall be subject to the civil service law. For the

purposes of such law, the following titles, including the proposed comparable corporate titles where applicable, shall, upon the effective date of the transfer described in subdivision one of this section, continue to be classified or designated exempt or managerial/confidential unless, pursuant to the provisions of the civil service law, a lesser or greater number of titles or positions is properly classified or designated exempt or managerial/confidential: Assistant Director Labs, Assistant Director MMS, Assistant Director Neuropathology, Assistant Director Nursing Medicine, Assistant Director Nursing Med. Surgery, Assistant Director Nursing Services, Assistant Director Sp. Cl. Services, Assistant Hospital Administrator, Associate Administrator HLT, Associate Director Medicine, Associate Director of Finance, Associate Director of Pathology, Associate Director Output Services, Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Chief Orthopedic Surgery, Clinical Director, Coordinator Int. Services, Director Burn Treatment, Director Corporate Compliance, Director Nursing Services, Director of Information Services, Director of Labs, Director of Mental Health Special Services, Director of Nursing Services, Director Pharmacy, Director Social Work Services, Director Surgical Services, Nurses Facilities Administrator, Secretary Board of Managers, and Secretary to Chief Executive Officer. Employees in existing or new titles that are properly classified or designated as exempt or managerial/confidential shall be considered employees of the corporation.

5. Nothing contained in this title shall be construed to affect:
(a) the rights of employees pursuant to a collective bargaining agreement;
(b) the bargaining relationship between the executive branch of the county of Erie and an employee organization; or
(c) existing law with respect to an application to the public employment relations board seeking the designation of persons as managerial or confidential.

6. There shall be no layoffs of any officers or employees of the Erie County Medical Center Corporation which are a direct consequence of the enactment of this title. There shall be a presumption that any layoffs

occurring more than twenty-four months after the effective transfer date described in this subdivision shall be deemed not to be such a direct consequence.

7. Nothing contained in this section shall be construed to prevent the elimination of any service at any time as a result of the elimination of state or federal assistance, the elimination of available revenue reimbursement, loss of certification or licensure, or loss of financial viability.

§ 3630. General powers of the corporation. Except as limited by this title, the public health law, the mental hygiene law, the social services law, the education law, the civil practice law and rules, or any other applicable law or regulation, the corporation shall have power:

1. to sue and be sued and to participate in actions and proceedings, whether judicial, administrative, or otherwise;

2. to have a seal and to alter such seal, and to use it by causing it or a facsimile thereof to be affixed, impressed, or reproduced in any other manner;

3. to borrow money and issue bonds for any of its corporate purposes or its projects, or to refund the same, and to provide for the rights of the holders thereof;

4. to make and alter by-laws for its organization and management and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

5. to purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

6. to purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, use, and otherwise deal in and with, bonds and other obligations, shares, or other securities or interests issued by others, whether engaged in similar or different business, governmental, or other activities;

7. to accept subventions from other persons or any unit of government;

8. to sell, convey, lease, exchange, transfer, or otherwise dispose of, mortgage or pledge, or create a security interest in, all or any of its property, or any interest therein, wherever situated, upon such terms and conditions and in such manner as the corporation shall determine;

9. to acquire by condemnation pursuant to the provisions of the eminent domain procedure law any real property within Erie county required by the corporation to carry out the powers granted by this title with the approval of both the Erie county legislature and the county executive;

10. to make capital contributions to other not-for-profit corporations;

11. to offer participation in the New York state and local employees' retirement system for all its officers and employees and to establish and carry out other retirement plans authorized pursuant to the retirement and social security law, which may be offered to all of its officers and employees not participating in the New York state and local employees' retirement system, and to establish and carry out other incentive and benefit plans, trusts, and provisions for any or all of its officers and employees, subject to the applicable provisions of article fourteen of the civil service law;

12. to be a promoter, partner, member, associate, or manager of other not-for-profit activities or business enterprises or ventures, or, to

the extent permitted in any other jurisdiction, to be an incorporator of other corporations of any type or kind;

13. to make contracts, give guarantees, and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property or any interest therein, wherever situated;

14. to issue bonds for any corporate purpose or project, to refund the same, and to provide for the rights of holders thereof;

15. to accept gifts, grants, loans, or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state, or any public corporation or any other source, and to use any such gifts, grants, loans, or contributions for any of its corporate purposes;

16. to grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the corporation may deem desirable;

17. to lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so lent or invested;

18. to designate the depositories of its money;

19. to establish its fiscal year;

20. to conduct the activities of the corporation, have offices, and exercise the powers granted by this title in any jurisdiction within or without the United States;

21. to appoint such officers, employees, and agents as the corporation may require for the performance of its duties and to fix and determine

their qualifications, duties, and compensation, subject to the provisions of the civil service law and any applicable collective bargaining agreement, and to retain or employ counsel, auditors, engineers, and private consultants on a contract basis or otherwise for rendering professional, management, or technical services and advice;

22. to use employees, agents, consultants, and facilities of the county, paying the county its agreed proportion of the compensation or costs pursuant to an agreement with the county;

23. to make and adopt plans, surveys, and studies necessary, convenient, or desirable to the effectuation of the purposes and powers of the corporation and to prepare recommendations in regard thereto;

24. except as limited by state law or regulation, to fix and collect rates, rentals, fees, lease payments, and other charges for the services rendered by it or for the use of the facilities owned, controlled, or administered by or in the exercise of the powers of the corporation;

25. to enter upon such lands, waters, or premises as in the judgment of the corporation may be necessary, convenient, or desirable for the purpose of making surveys, soundings, borings, and examinations to accomplish any purpose authorized by this title, the corporation being liable for actual damage done;

26. the corporation may covenant and consent that the interest on any of its bonds or notes issued pursuant to this title shall be includable, under the United States Internal Revenue Code of 1986, as amended (the "code") or any subsequent corresponding internal revenue law of the United States, in gross income of the holders of the bonds or notes to the same extent and in the same manner that the interest on bills, bonds, notes, or other obligations of the United States is includable in the gross income of the holders thereof under the code or any such subsequent law;

27. to make, adopt, amend, enforce, and repeal rules for its governance and internal management and personnel practices, subject to

article fourteen of the civil service law, where applicable;

28. to insure or otherwise to provide for the insurance of the corporation's property or operations and also contract against such other risks as the corporation may deem advisable, including the interest rate risk for obligations it issues bearing interest at a floating or otherwise adjustable rate which prevents the actual rate over the term of the debt from being ascertained at the date of its incurrence, and including the power to make any payments with respect thereto; and

29. to do all things necessary, convenient, or desirable, including ancillary and incidental activities, to carry out its purposes and for the exercise of the powers granted in this title.

§ 3631. Special powers of the corporation. In order to effectuate the purposes of this title, the corporation shall have the following additional powers, except as limited by this title, the public health law, the mental hygiene law, the social services law, the education law, the civil practice law and rules, and any other applicable law or regulation:

1. To operate, manage, superintend, and control any health facility under its jurisdiction and to repair, maintain, and otherwise keep up any such health facility, and to establish, collect, and adjust fees, rentals, and other charges for the sale, lease, or sublease of any such health facility or real property, subject to the terms and conditions of any contract, lease, sublease, or other agreement with the county;

2. To provide health and medical services for the public, directly or by agreement or lease with any person, firm, partnership, limited liability company, or private or public corporation or association through or in the health facilities of the corporation or otherwise, and to make internal policies governing admissions and health and medical services; and to establish, collect, and adjust fees and other charges for the provision of such health and medical services; and to provide

and maintain training programs for resident physicians, post-graduate clinical fellows, graduate students, other allied health professionals and intern medical services; and to sponsor and conduct research, educational, and training programs;

3. To provide uncompensated care to persons in need of health care services without the ability to pay;

4. To provide, maintain, and operate a medical transport service; provided, however, that nothing in this section shall prohibit the corporation from adopting a schedule of charges for medical transport;

5. To participate in managed care networks, fee-for-service, and other joint and cooperative arrangements for the provision of general comprehensive and specialty health care services, directly or through contract with other service providers or entities;

6. To establish subsidiary corporations or other entities in accordance with subdivision nine of this section:

(a) to meet the demands of health care delivery changes; and

(b) to market, manufacture, or develop products or services developed by the corporation's clinical and research activities;

7. To enter into contracts, leases, subleases, and other agreements for the purpose of affiliating with a medical college or colleges, including the state university of New York, in conjunction with the corporation's health facilities, which agreements may provide for the management, operation, and staffing of health facilities, the reconstruction, renovation, or addition to health facilities; the provision of necessary facilities, utilities, and services; and such other conditions or features necessary and proper for such purpose and for the public health and general welfare;

8. To determine the conditions under which a physician may be extended the privilege of practicing within a health facility under the jurisdiction of the corporation, to promulgate reasonable internal policies for the conduct of all persons, physicians, and allied health

practitioners within such facility, and to appoint and grant privileges to qualified and competent clinical practitioners; and

9. (a) Except as provided in this subdivision or as expressly limited by any applicable state law or regulation, to exercise and perform all or part of its purposes, powers, duties, functions, or activities through one or more subsidiary corporations or companies owned or controlled wholly or in part by the corporation, which shall be formed pursuant to the business corporation law, the limited liability company law, or the not-for-profit corporation law, in each case subject to all the limitations provided in this title.

(b) Any such subsidiary may be authorized to act as a general or limited partner in a partnership or as a member of a limited liability company and to enter into an arrangement calling for an initial and subsequent payment by such subsidiary in consideration of an interest in revenues or other contractual rights.

(c) No subsidiary of the corporation shall own, operate, manage, or control the existing acute inpatient and outpatient facilities and services in operation as part of the Erie County Medical Center healthcare network on the effective date of this title.

(d) An entity shall be deemed a subsidiary corporation or company whenever and so long as: (i) more than half of any voting shares of such subsidiary are owned or held by the corporation or (ii) a majority of the directors, trustees, or members of such subsidiary are designees of the corporation.

10. As set forth in section thirty-six hundred twenty-six of this title, the creation and operation of the Erie County Medical Center Corporation is in all respects for the benefit of the people of the state of New York and of the county of Erie and is a state, county, and public purpose. The exercise by such corporation of the functions, powers, and duties provided in this title constitutes the performance of an essential public and governmental function. The corporation has advised that it intends to continue engaging in certain collaborative activities with, and limited to, the other parties to the Great Lakes Health, Inc. Restated Binding Agreement of 2012 and the University at Buffalo of the State University of New York for the purpose of promoting

improved quality of and access to health care services and improved clinical outcomes, consisting of: (a) development of a non-exclusive joint health information technology platform; (b) joint marketing of health care services; (c) joint purchasing of services, supplies and equipment related to the provision of health care services; (d) development of a joint set of clinical quality standards; (e) coordination and integration of clinical services to reduce redundancy and increase efficiency; (f) joint management of graduate medical education and academic affiliations; and (g) joint discussions with rural hospitals regarding the possibility of coordinating and integrating clinical services. To promote improved quality of and access to health care services and improved clinical outcomes, and consistent with the corporation's furtherance of its health care purposes through the exercise of the special powers exercised pursuant to this section and the general powers exercised pursuant to this title, it is the policy of the state to supplant competition for the purpose of immunizing the planning and implementation of the enumerated activities by the corporation in collaboration with any one of the aforementioned entities from liability under the federal and state antitrust laws, to the extent that such collaborative activities are reflected in agreements executed by two or more of the aforementioned entities during such time as the Great Lakes Health, Inc. Restated Binding Agreement of 2012 remains in effect; provided, however, that nothing in this subdivision shall be construed to extend such declaration of policy to any activities other than those specifically enumerated and described herein, which remain subject to any and all applicable state and federal antitrust laws.

§ 3632. Transfer of property; relationship with county; certain gifts, loans, and guarantees by the county. 1. (a) The county may give, grant, sell, convey, lend, license the use of, or lease to the corporation, and the corporation may accept any property (except monies appropriated by the county and payable to the corporation pursuant to subdivision three of this section) which are useful in connection with the exercise by the corporation of any of its powers under this title in order to transfer the facilities and operations of the Erie County Medical Center healthcare network to the corporation by agreement between the county and the corporation and any subsequent renewal or amendment thereof, by local law adopted by a majority vote of the Erie county legislature, notwithstanding any general, special, or local law, ordinance, resolution, or charter.

(b) Any such gift, grant, sale, conveyance, loan, license, or lease shall be upon such terms and conditions, for such consideration, if any, and for such term or terms of years, subject to the rights of the holders of any bonds, as the corporation and the county may agree. No real property of the county consisting of any health facility operated on the effective date of this title by the Erie County Medical Center healthcare network shall be transferred to the corporation in fee, except under such restrictions regarding rights of first refusal in favor of the county and subject to a right of reverter in the event that the corporation should cease to use such property for the provision of research, education, and health care, or other rights, to repurchase the property as the Erie county legislature shall approve by act, and subject to a restrictive covenant prohibiting the corporation from pledging or mortgaging the fee interest in the property. In the event that the county gives, grants, sells, conveys, lends, licenses, or leases any facilities to the corporation, the county may contract with the corporation to lease, borrow, license, operate, maintain, manage, and provide services for such facilities upon such terms and conditions and for such term or terms of years, subject to the rights of holders of bonds, as the corporation and the county may agree. The corporation, in furtherance of any purchase, conveyance, or lease of any property or facility from the county, may assume the primary responsibility for the payment of the principal and interest on any bonds or notes issued by the county for such property or facility.

2. The county may acquire by purchase, grant, lease, gift, or condemnation, pursuant to the eminent domain procedure law, real property in the name of the county for any corporate purpose of the corporation.

3. In addition to any other powers granted to it by law and consistent with the constitution and other provisions of law, the county shall

appropriate sums of money to defray project costs or any other costs or expenses of the corporation, including operating expenses.

4. On the effective date of the transfer of the facilities and operations of the Erie County Medical Center healthcare network pursuant to an agreement between the corporation and the county, the Erie County Medical Center board of managers shall cease to be responsible for operation of the network; provided, however, that the county shall continue the existence of the board of managers in the event that the contract between the corporation and the county requires the operation of the network to revert to the county in the event that the corporation should cease to use such property for the provision of health care or the corporation otherwise fails to meet its obligations under any agreement between the county and the corporation.

5. The county shall maintain its efforts to provide annual operating funding to the corporation to permit it to serve all uninsured and under-insured patients, foster its role as a teaching hospital, and provide tertiary care services that are unavailable at other health care facilities in the western New York region. The county shall maintain and provide an operating contribution to the corporation in an annual amount that is the difference between the corporation's total revenues minus total expenses. For purposes of this section, total revenue and total expenses shall include amounts attributable to the corporation, any subsidiary of the corporation, and any entity providing health care services thereto. The manner of calculating the county's annual maintenance of effort of the corporation shall be the process followed by the county in determining the maintenance of effort for the network. The county shall have the right of audit at any time and from time to time to confirm the details of corporate operations. The corporation shall provide monthly financial reports to the county that provide details concerning all business operations for the corporation on a consistent basis.

6. (a) Notwithstanding any general, special, or local law or charter provisions to the contrary, the county of Erie shall have the power and is hereby authorized, pursuant to section seven of article seventeen of

the state constitution, to lend its money or credit to or in aid of the corporation or any subsidiary thereof for the purpose of providing health related facilities or hospital facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, disability, deformity, or physical condition, and for facilities incidental or appurtenant thereto, as may be prescribed by law. The county is hereby authorized to prescribe such facilities by local law. The corporation or any such subsidiary thereof, as a condition to any such loan of money or credit, shall enter into a regulatory agreement with the county as to its charges, profits, dividends, and disposition of its property or franchises, which agreement shall be binding and enforceable by the county insofar as such agreement regulates such charges, profits, dividends, and disposition of property. The county may elect in such regulatory agreement to refrain from exercising all or any portion of its authority to so regulate such charges, profits, dividends, and disposition of property to the extent such charges, profits, dividends, and disposition of property are regulated by the state or any agency thereof. The county shall authorize such regulatory agreement by local law.

(b) In pursuance of the authority granted in this title, the county of Erie shall have the power and is hereby authorized, from time to time, to issue its bonds, notes, or other obligations in such principal amounts as it shall deem necessary, after taking into account other monies which may be available for the purposes set forth in this title. Such bonds, notes, or obligations shall be issued for the purpose of making loans to the corporation or any subsidiary thereof, paying interest on such bonds, notes, or other obligations, establishment of reserves to secure such notes, bonds, or other obligations, and paying all other obligations and expenditures incidental to and necessary or convenient for the making of such loans. Such bonds, notes, or obligations shall be issued in accordance with the applicable provisions of this chapter, the local finance law, and applicable local laws.

(c) Any guarantee by the county made pursuant to the authority granted in this section shall be authorized by act or acts of the county in the same manner as such act or acts authorizing the issuance of bonds of the county for the purposes for which such guarantee is undertaken.

(d) The county is also authorized to enact laws governing the conditions under which such loans, commitments, and guarantees shall be made.

7. For purposes of subdivision four of paragraph a of section 25.00 of the local finance law, amounts to be derived by the county of Erie from the corporation, or any subsidiary thereof, shall be included in the term "other income".

8. (a) Notwithstanding the provisions of any other state or local law to the contrary, including, but not limited to, sections six-n and six-j of the general municipal law, with the approval of the Erie county legislature, amounts deposited for or on behalf of the Erie County Medical Center healthcare network in the liability and casualty and workers' compensation reserve funds established by the county pursuant to such sections of the general municipal law, and investment earnings thereof, may be withdrawn by the county from such funds and transferred to the corporation and shall be used by the corporation for the purposes for which such funds were established.

(b) No amounts shall be withdrawn and transferred to the corporation pursuant to this subdivision unless, prior to such withdrawal or transfer, the corporation has agreed in writing to indemnify and hold harmless the county, and provide defense, for all claims, cases, proceedings, actions, or other matters against the county arising out of the properties, facilities, operations, or employees of the corporation, whether commenced before or after the date of transfer of such amounts, and to provide such other security for such obligation as the county may reasonably require.

9. The county shall be responsible for the payment of all outstanding bonded indebtedness of the Erie County Medical Center healthcare network that was accumulated prior to the creation of the public benefit corporation.

§ 3633. Bonds or notes of the corporation. 1. The corporation shall have the power and is hereby authorized, from time to time, to issue bonds, notes, or other obligations to pay the cost of any project or for any other corporate purpose, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The corporation shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee or other subsidy with respect to any bonds.

2. The corporation shall have the power, from time to time, to renew bonds or to issue renewal bonds for such purpose, to issue bonds to pay bonds, and, whenever it deems refunding expedient, to refund any bond by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds, partly to refund bonds then outstanding and partly for any other corporate purpose of the corporation. Bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds or notes to be refunded.

3. Bonds issued by the corporation may be general obligations secured by the faith and credit of the corporation or may be special obligations payable solely out of particular revenues or other monies as may be designated in the proceedings of the corporation under which the bonds shall be authorized to be issued, subject as to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues or monies. The corporation may also enter into loan agreements, lines of credit, and other security agreements and obtain for or on its behalf letters of credit, insurance, guarantees, or other credit enhancements, to the extent now or hereafter available, in each case for securing its bonds or to provide direct payment of any costs which the corporation is authorized to pay.

4. (a) Bonds shall be authorized by resolution of the corporation, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide; provided that bonds and renewals thereof shall mature within forty years from the date of original issuance of any such bonds.

(b) Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Notwithstanding any other provision of law, the bonds of the corporation issued pursuant to this section shall be sold to the bidder offering the lowest true interest cost, taking into consideration any premium or discount not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a newspaper of general circulation in the area served by the corporation, which shall state the terms of the sale. The terms of the sale may not change unless notice of such change is published in such newspaper at least one day prior to the date of the sale as set forth in the original notice of sale. Advertisements shall contain a provision to the effect that the corporation, in its discretion, may reject any or all bids made pursuant to such advertisements, and, in the event of such rejection, the corporation is authorized to negotiate a private or public sale or readvertise for bids in the form and manner described in this paragraph as many times as, in its judgment, may be necessary to effect satisfactory sale.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, whenever in the judgment of the corporation the interests of the corporation will be served thereby, the directors of the corporation, on the written recommendation of the chairperson, may authorize the sale of such bonds at private or public sale on a negotiated basis, or on either a competitive or negotiated basis. The corporation shall set guidelines governing the terms and conditions of any such private or public sales. The private or public bond sale guidelines set by the corporation shall include, but not be limited to, a requirement that where the interests of the corporation will be served by a private or public sale of bonds, the corporation shall select underwriters for each private or public bond sale conducted pursuant to a request for proposal process undertaken from time to time and consideration of proposals from qualified underwriters as determined by the corporation.

(d) The corporation shall have the power, from time to time, to amend such private bond sale guidelines in accordance with the provisions of this subdivision.

(e) In addition to the authority to sell notes at private sale contained in this section, the corporation may sell its notes at private negotiated sale to the county. The county is hereby authorized to temporarily invest county funds in such notes; provided that such notes mature at or before the time the county expects to expend such funds for the purposes for which such funds were raised.

(f) No private or public bond sale on a negotiated basis shall be conducted by the corporation without prior approval of the state comptroller. The corporation shall annually prepare and approve a bond sale report, which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the corporation is required to make.

(g) The corporation shall annually submit its bond sale report to the state comptroller and copies thereof to the senate finance committee and the assembly ways and means committee.

(h) The corporation shall make available to the public copies of its bond sale report upon reasonable request thereof.

(i) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

5. Any resolution or resolutions authorizing bonds or any issue of bonds by the corporation may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the revenues, together with any other monies or property of the corporation, to secure the payment of the bonds, or any costs of issuance thereof, including, but not limited to, any contracts, earnings, or proceeds of any grant to the corporation received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees, and other charges to be fixed and collected by the corporation and the amount to be raised in each year and the use and disposition of revenues;

(e) limitations on the right of the corporation to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent to any such amendments or abrogations, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or monies may be deposited;

(i) the terms and provisions of any trust, mortgage, deed, or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers, and duties in trust as the corporation may determine, which may include any or all of the rights, powers, and duties of the trustees appointed by the bondholders pursuant to this title or limiting the rights, duties, and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the corporation to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including, as a matter of right, appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the corporation to sell or otherwise dispose of any project or any part of such project or other property;

(m) limitations on the amount of revenues and other monies to be expended on operating, administrative, or other expenses of the corporation;

(n) the payment of the proceeds of bonds, revenues, and other monies to a trustee or other depository, and for the method of disbursement of such payments with such safeguards and restrictions as the corporation may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of the bondholders.

6. In addition to the powers conferred in this title upon the corporation to secure its bonds, the corporation shall have the power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements, or other instruments as the corporation may deem necessary, convenient, or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging, or creation of any other security interest in any such revenues, monies, or property, and the doing of any act, including refraining from the doing of any act, which the corporation would have the right to do in the absence of such resolutions, trust indentures, agreements, or other instruments. The corporation shall have power to enter into amendments of any such resolutions, trust indentures, agreements, or other instruments within the powers granted to the corporation by this title and to perform such resolutions, trust indentures, agreements, or other instruments. The provisions of any such resolutions, trust indentures, agreements, or other instruments may be made a part of the contract with the holders of bonds of the corporation.

7. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, monies, accounts, contract rights, general intangibles, or other personal property made or created by the corporation shall be valid, binding, and perfected from the time when such pledge is made or other security interest attaches, without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the corporation irrespective of whether or not such parties have

notice of such pledge or security interest. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

8. Whether or not the bonds of the corporation are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

9. Neither the directors nor the non-voting representatives nor the officers of the corporation nor any person executing its bonds shall be liable personally on its bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

10. Subject to such agreements with bondholders as may then exist, the corporation shall have power out of any funds available therefor to purchase bonds of the corporation, in lieu of redemption, at a price not exceeding, if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or, if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date. Bonds so purchased shall thereupon be canceled.

11. The corporation shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time, but the maximum maturity of any such notes, including renewals thereof, shall not exceed five years from the date of issue of such original notes.

§ 3634. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

1. In the event that the corporation shall default in the payment of

principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the corporation is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose provided in this title.

2. Such trustee may, and upon written request of the holders of twenty-five percent in aggregate principal amount of such bonds outstanding shall, in its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the corporation to collect rents, rates, fees, and charges adequate to carry out any agreement as to, or pledge of, such rents, rates, fees, and charges and to require the corporation to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the corporation to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of the twenty-five percent of the aggregate principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this title or incident to the general representation of bondholders in the enforcement and protection

of such bondholders' rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the corporation.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled, as of right, to the appointment of any receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with the holders of such bonds, shall take possession of all monies and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the corporation is under obligation to do, and to operate, maintain, and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom, subject to any pledge or agreement with bondholders relating thereto, and perform the public duties and carry out the agreements and obligations of the corporation under the direction of the court. In any suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements, and all costs and disbursements, allowed by the court shall be a first charge on any revenues derived from the properties.

§ 3635. State and county not liable on corporation bonds. 1. The state shall not be liable on the bonds or notes of the corporation, and such bonds or notes shall not be a debt of the state, and such bonds and notes shall contain on the face thereof a statement to such effect.

2. Except as may be authorized by the county pursuant to section seven of article seventeen of the state constitution and section thirty-six hundred thirty-two of this title, the county shall not be liable on the bonds or notes of the corporation, and such bonds or notes shall not be a debt of the county, and such bonds and notes shall contain on the face thereof a statement to such effect or a statement describing the county liability thereon, if any.

§ 3636. Monies of the corporation. All monies of the corporation from whatever source derived shall be paid to the treasurer of the corporation and shall be deposited forthwith in a bank or banks designated by the corporation. The monies in such accounts shall be paid out or withdrawn on the order of such person or persons as the corporation may authorize to make such requisitions. All deposits of such monies shall be secured by obligations of the United States or of the state or of any municipality of a market value equal at all times to the amount on deposit, and all banks and trust companies are authorized to give such security for such deposits. Alternatively, monies of the corporation may be deposited in money market funds rated in the highest short term or long term rating category by at least one nationally recognized rating agency. To the extent practicable, consistent with the cash requirements of the corporation, all such monies shall be deposited in interest bearing accounts. The corporation shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment, and payment of any monies of the corporation or any monies held in trust or otherwise for the payment of bonds or in any way to secure bonds, and carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such monies may be secured in the same manner as monies of the corporation, and all banks and trust companies are authorized to give such security for such deposits. Any monies of the corporation not required for immediate use or disbursement may, at the discretion of the corporation, be invested in accordance with guidelines established by the corporation's board and amended from time to time. Subject to the provisions of any contract with bondholders and with the approval of the state comptroller, the corporation shall prescribe a system of accounts.

§ 3637. Bonds; legal investments for fiduciaries. The bonds of the corporation are hereby made securities in which all public officers and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, and savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 3638. Agreement with state. The state does hereby pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the state will not alter, limit, or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the corporation shall have been issued, to establish and collect rates, rents, fees, and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

§ 3639. Agreement with county. The county is authorized to pledge to and agree with the holders of any bonds issued by the corporation pursuant to this title and with those persons or public corporations who may enter into contracts with the corporation pursuant to the provisions of this title that the county will not alter, limit, or impair the rights hereby vested in the corporation to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof, for which bonds of the corporation shall have been issued, to establish, collect, and adjust rates, rents, fees, and other charges referred to in this title, to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the corporation.

§ 3640. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the corporation and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state of New York and are public purposes. Accordingly, the corporation shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the corporation shall not be required to pay any fees, taxes, special ad valorem levies, or assessments of any kind, except as provided pursuant to any public health law, whether state or local, including but not limited to fees, taxes, special ad valorem levies, or assessments on real property, franchise taxes, sales taxes, or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control, or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues, or other income received by the corporation; provided, however, that any real property owned or acquired by the corporation outside of the county shall be exempt from real property taxes, ad valorem levies, or special assessments only pursuant to and to the extent provided by an agreement with the governing body of the municipality in which such real property is located; and provided, further, that subsidiaries of the corporation are not included within the foregoing exemption.

2. Any bonds issued pursuant to this title, together with the income from such bonds, shall at all times be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the corporation pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the corporation issued pursuant to this title and the income from such bonds, and all revenues, monies, and other property pledged to pay or to secure the payment of such bonds shall at all times be free from taxation.

4. The corporation may pay, or may enter into agreements with the county or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to real property owned by the corporation located within the county or such municipality.

§ 3641. Actions against corporation. 1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the corporation, its members, officers, or employees for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence, tort, or wrongful act of the corporation or of any member, officer, agent, or employee thereof, unless:

(a) notice of claim shall have been made and served upon the corporation within the time limit set by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and

(c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based; and

(d) an action against the corporation for wrongful death shall be commenced in accordance with notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the corporation, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The corporation may require any person presenting for settlement an account or claim for any cause whatsoever against the corporation to be sworn before a director, counsel, attorney, officer, or employee of the corporation designated for such purpose, concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The corporation shall have power to settle or adjust all claims in favor of or against the corporation.

4. Any action or proceeding to which the corporation or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state and shall be heard and determined in preference to

all other civil business pending therein, except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the corporation or its counsel in any action or proceeding questioning the validity of this title in which the corporation may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court of the county.

5. The rate of interest to be paid by the corporation upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

6. All actions or proceedings against the corporation of whatsoever nature shall be brought in the county.

§ 3642. Audit and annual reports. 1. In conformity with the provisions of section five of article ten of the state constitution, the accounts of the corporation shall be subject to the supervision of the state comptroller, and an annual audit shall be performed by an independent certified public accountant. The corporation shall annually submit to the Erie county legislature, county executive, governor, state comptroller, chairperson of the senate finance committee, and chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the clerk of the Erie county legislature and the county executive.

2. The corporation shall report, on an annual basis, the following information: the name, principal business address, and principal business activities of each subsidiary of the corporation; the name of all board members and officers of each subsidiary; the number of employees of each subsidiary; a list of all contracts in excess of one hundred thousand dollars entered into by the corporation and its subsidiaries, identifying the amount, purpose, and duration of such

contract; and a financial statement, income statement, and balance sheet prepared by an independent certified public accountant, all in accordance with generally accepted accounting principles applicable to the corporation and each of its subsidiaries. At the time the reports required by subdivision one of this section are submitted, such reports shall be provided to the governor, the temporary president of the senate, and the speaker of the assembly and a copy of such report shall be filed with the clerk of the Erie county legislature and the county executive.

§ 3643. Defense and indemnification. The corporation shall not execute any of its powers, including the special powers authorized by section thirty-six hundred thirty-one of this title, except as necessary to commence its corporate existence, until it has elected to make the provision of section eighteen of the public officers law applicable to its employees (as such term is defined in section eighteen of the public officers law) pursuant to subdivision two of such section; provided, however, that nothing contained within this section shall be deemed to permit the corporation to extend the provisions of section eighteen of the public officers law to any independent contractor.

§ 3644. Transfer of applications, proceedings, approvals, and permits. 1. Any application, review, or process in relation to or in furtherance of the purposes of or contemplated by this title heretofore filed or undertaken, or any proceeding heretofore commenced, or any determination, finding, or award made, by the county or by the county with the federal government, the state department of health, or any other public corporation shall inure to and for the benefit of the corporation to the same extent and in the same manner as if the corporation has been a party to such application, review, process, or proceeding from its inception, and the corporation shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award, or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process, or proceeding shall inure to the benefit of and be binding upon the corporation and shall be assigned and transferred by the county to the corporation, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits, determinations, findings, awards, and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, financing, constructing, maintaining, operating, using, or occupying any facility transferred by the county to the corporation pursuant to this title.

§ 3645. Separability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

§ 3646. Applicability of laws. The provisions of this title shall be subject to the provisions of the civil practice law and rules, the public health law, the mental hygiene law, the social services law, the education law, and any other applicable law or regulation, including any amendment thereto; provided, however, that nothing in this section shall require the county or corporation to seek approval or consent for any transfer pursuant to sections thirty-six hundred thirty-two and thirty-six hundred forty-four of this title.

ARTICLE 10-D

MISCELLANEOUS AUTHORITIES

ARTICLE 10-D

MISCELLANEOUS AUTHORITIES

TITLE 1

NASSAU COUNTY INTERIM FINANCE AUTHORITY

§ 3650. Short title. This title shall be known and may be cited as the "Nassau County Interim Finance Authority Act".

§ 3651. Definitions. For the purposes of this title, unless the context otherwise requires:

1. "Authority" or "Nassau county interim finance authority" means the

public benefit corporation created by this title.

2. "Bonds" means bonds, notes and other evidences of indebtedness, issued or incurred by the authority.

3. "Chief fiscal officer" means the chief fiscal officer of the county as defined in the county charter.

4. "Comptroller" means the comptroller of the county.

5. "Control period" means a period determined by the authority in accordance with section thirty-six hundred sixty-nine of this title.

6. "County" means the county of Nassau.

7. "County charter" means the county government law of Nassau county, as amended.

8. "County executive" means the county executive of the county.

9. "County tax revenues" means (a) that portion of tax revenues that is deducted and withheld for transfer and credit by the authority to the county of Nassau revenue anticipation note withholding fund established by the authority and (b) the balance of tax revenues transferred by the authority to the county, pursuant to section thirty-six hundred fifty-seven of this title.

10. "Covered organization" means the Nassau health care corporation, and any other governmental agency, public authority or public benefit corporation which receives or may receive moneys directly, indirectly or contingently from the county, but excluding the authority and (i) any governmental agency, public authority or public benefit corporation specifically exempted from the provisions of this title by order of the authority upon application of such agency, public authority, or corporation to the authority or at the authority's own motion upon a finding by the authority that such exemption does not materially affect the ability of the county to adopt and maintain a budget pursuant to the

provisions of this title, and provided that at the time of such exemption, there shall have been and during the period of such exemption there shall be an annual audit by a nationally recognized independent certified public accounting firm or consortium of firms, one of which shall be a nationally recognized firm, of the covered organization's financial statements performed in accordance with generally accepted auditing standards and report by such auditor thereon which includes an opinion that the financial statements so audited have been prepared in accordance with generally accepted accounting principles and such other information as such auditors deem appropriate, (ii) any state public authority as defined in section two hundred one of the civil service law, unless specifically named above, or (iii) any governmental agency, authority, commission or instrumentality created by compact or agreement between the state of New York and another state or states; provided, however, that the authority may terminate any exemption granted by order of the authority pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

11. "Director of the budget" means the director of the budget of the state.

12. "Financeable costs" or "costs" means costs to finance (a) amounts necessary to accomplish a refunding, repayment or restructuring of a portion of the county's outstanding indebtedness or that of any covered organization, (b) cash flow needs of the county, (c) tax certiorari settlements and judgments of any kind to which the county is a party, (d) appropriated capital costs of the county, including the costs of any preliminary studies, surveys, maps, plans, estimates and hearings, (e) amounts necessary to finance any county deficit, to the extent authorized by state law, or (f) incidental costs, including, but not limited to, legal fees, printing or engraving, publication of notices, taking of title, apportionment of costs, and capitalized interest, insurance premiums, costs related to items authorized in subdivisions seven through ten of section thirty-six hundred fifty-four of this title or any underwriting or other costs incurred in connection with the financing thereof.

13. "Financial plan" means the financial plan of the county and the covered organizations to be developed pursuant to section thirty-six hundred sixty-seven of this title, as from time to time amended.

14. "Interim finance period" means the period of time from the effective date of this title until the date when (a) the authority shall determine, based on annual audit reports furnished in accordance with this title, that for each fiscal year, through and including fiscal year two thousand eight, that the county has adopted and adhered to budgets covering all expenditures the results of which did not show a major operating funds deficit when reported in accordance with generally accepted accounting principles, subject to the provisions of this title, and shall further determine that in the then current fiscal year there is a substantial likelihood that the results of the county's operations will not show a deficit in the major operating funds when so reported and (b) the chief fiscal officer shall certify that securities sold by or for the benefit of the county during the fiscal year immediately preceding such date and the then current fiscal year in the general public market satisfied the financing requirements of the county during such period and that there is a substantial likelihood that such securities can be sold in the general public market from such date through the end of the next succeeding fiscal year in amounts which will satisfy substantially all of the capital and seasonal financing requirements of the county during such period in accordance with the financial plan then in effect.

15. "Legislature" means the legislature of the county.

16. "Major operating funds" means the general fund, the police district fund, the police headquarters fund, the county parks fund and the fire prevention fund of the county, together with any other funds of the county or a covered organization from time to time designated by the authority.

17. "NCIFA assistance" means the amount of debt service savings in a given fiscal year generated from the proceeds of bonds made available to

or for the benefit of the county or any covered organization as determined by the authority.

18. "Presiding officer" means the presiding officer of the legislature, elected pursuant to the rules of the legislature.

19. "Projected gap" means the excess, if any, of annual aggregate projected expenditures over annual aggregate projected revenues for the major operating funds in each year of a financial plan as determined by the county and certified by the authority. For purposes of determining the projected gap in each fiscal year, annual aggregate projected revenues shall not include the amount of NCIFA assistance or transitional state aid expected to be available for such fiscal year.

20. "Public corporation" means and includes the county, the state and every public corporation as defined in the general construction law.

21. "Revenues" means the tax revenues and all aid, rents, fees, charges, payments and other income and receipts paid or payable to the authority or a trustee for the account of the authority to the extent such amounts are pledged to bondholders, but in no event shall revenues include any transitional state aid.

22. "State" means the state of New York.

23. "Tax revenues" means sales and compensating use tax net collections paid or payable to the authority pursuant to section twelve hundred sixty-one of the tax law.

24. "Transitional state aid" means any state aid appropriated to the authority for the benefit of the county for (a) unrestricted aid purposes and (b) the purpose of assisting the county in streamlining the tax certiorari claims process and eliminating the need to borrow for such costs.

§ 3652. Nassau county interim finance authority. 1. There is hereby created the Nassau county interim finance authority. The authority shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation.

2. In accordance with the provisions of this title, the authority may issue bonds only to finance costs, including the refunding of bonds issued by the authority to finance costs, and fund reserves to secure such bonds.

3. The authority shall continue until its oversight, control or other responsibilities, and its liabilities have been met or otherwise discharged. Upon the termination of the existence of the authority, all of its rights and property shall pass to and be vested in the county.

§ 3653. Administration of the authority. 1. The authority shall be administered by seven directors appointed by the governor. Of the seven directors, one each shall be appointed on the written recommendation of the majority leader of the state senate, the speaker of the state assembly and the state comptroller, respectively. Two of the members appointed directly by the governor and the members appointed on the recommendation of the majority leader of the state senate, the recommendation of the speaker of the state assembly and the recommendation of the state comptroller shall be residents of the county of Nassau. Each director shall be appointed for a term of four years, provided however, that two of the directors first appointed by the governor shall serve for a term ending December thirty-first, two thousand four, and the five other directors first appointed shall serve for the following terms: the directors appointed on recommendation of the majority leader of the state senate, the speaker of the state assembly and the state comptroller shall serve for a term ending December thirty-first, two thousand five and the two remaining directors first appointed directly by the governor shall serve for a term ending on December thirty-first, two thousand six. Each director shall hold office until his or her successor has been appointed and qualified. Thereafter each director shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of his or her predecessor's term.

2. The governor shall designate a chairperson and a vice-chairperson from among the directors. The chairperson shall preside over all meetings of the directors and shall have such other duties as the directors may prescribe. The vice-chairperson shall preside over all meetings of the directors in the absence of the chairperson and shall have such other duties as the directors may prescribe.

3. The directors of the authority shall serve without salary, but each director shall be reimbursed for actual necessary expenses incurred in the performance of such director's official duties as a director of the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state of New York, any city, county, town or village, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality which exercises governmental powers under the laws of the state, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director, officer or employee of the authority, nor shall service as such director, officer or employee of the authority be deemed incompatible or in conflict with such office or employment.

5. Four directors shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. No action shall be taken by the authority except pursuant to a favorable vote of at least four directors participating in a meeting at which such action is taken.

6. The authority shall appoint a treasurer and may appoint officers and agents as it may require and prescribe their duties.

7. At least annually, commencing no more than one year after the date on which authority bonds are first issued, the authority shall report to the county executive, county legislature, the county comptroller, the

director of the budget, the speaker of the assembly, the temporary president of the senate and the state comptroller on the costs financed by the authority and the amount of such financing for each such cost over the past year.

§ 3654. General powers of the authority. Except as otherwise limited by this title, the authority shall have the following powers in addition to those specially conferred elsewhere in this title, subject only to agreements with bondholders:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to make and alter by-laws for its organization and management and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and fulfillment of its purposes under this title;

4. to make and execute contracts and all other instruments or agreements necessary or convenient to carry out any powers and functions expressly given in this title;

5. to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;

6. to borrow money and issue bonds, or to refund the same, and to provide for the rights of the holders of its bonds;

7. as security for the payment of the principal of and interest on any bonds issued by it pursuant to this title and any agreements made in connection therewith and for its obligations under bond facilities, to pledge all or any part of its revenues or assets;

8. to procure insurance, letters of credit or other credit enhancement with respect to its bonds, or facilities for the payment of tenders of

such bonds or facilities for the payment upon maturity of short-term notes not renewed;

9. to enter into interest rate exchange or similar arrangements with any person under such terms and conditions as the authority may determine, not inconsistent with the general laws of this state and other provisions of this title, including, without limitation, provisions as to default or early termination and indemnification by the authority or any other party thereto for loss of benefits as a result thereof; provided, however, that such exchanges or similar arrangements shall be limited to fifty percent of the amount authorized in subdivision one of section thirty-six hundred fifty-six of this article to pay the financeable costs described in paragraph (a) of subdivision eleven of section thirty-six hundred fifty-one of this article;

10. to procure insurance, letters of credit or other credit enhancement with respect to arrangements described in subdivision nine of this section;

11. to accept gifts, grants, loans or contributions of funds or financial or other aid in any form from the county, state or federal government or any agency or instrumentality thereof, or from any other source and to expend the proceeds for any of its corporate purposes in accordance with the provisions of this title;

12. subject to the provisions of any contract with bondholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) certificates of deposit, whether negotiable or non-negotiable, and banker's acceptances of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding unsecured, uninsured and unguaranteed debt issue ranked in either of the two highest rating categories of two nationally recognized independent rating agencies, (d) commercial paper of any bank or corporation created

under the laws of either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies, (e) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage corporation, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies, (f) any bonds or other obligations of any state or the United States of America or of any political subdivision thereof or any agency, instrumentality or local governmental unit of any such state or political subdivision which bonds or other obligations, at the time of the investment, have received any of the three highest ratings of two nationally recognized independent rating agencies, (g) any repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of New York State or any national banking association domiciled in New York State, as custodian, and (h) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of New York State or any national banking association domiciled in New York State, as custodian.

13. to appoint such officers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation, and to retain or employ counsel, auditors and private financial consultants and other services on a contract basis or otherwise for rendering professional, business or technical services and advice; and, in taking such actions, the authority shall consider the financial impact on the county; and

14. to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title; provided, however, such authority shall under no circumstances acquire, hold or transfer title to, lease, own beneficially or otherwise, manage, operate or otherwise exercise control over any real property, any improvement to real property or any interest therein other than a lease or sublease of office space deemed necessary or desirable by the authority.

§ 3655. Declaration of need. 1. The county shall determine and declare whether it requests the authority to undertake a financing of costs. Any such request shall be made by the county executive and approved by the legislature. Any such financing shall be consistent with the adopted budget and financial plan required under sections thirty-six hundred sixty-six and thirty-six hundred sixty-seven of this title, as applicable.

2. Upon declaration by the county of such need, the county executive shall request that the authority provide financing in accordance with the provisions of this title.

3. Upon approval by the authority, in its discretion in accordance with the provisions of this title, of such financing request, the authority may enter into agreements with the county, and the county, acting by the county executive, approved by the legislature, may enter into agreements with the authority in accordance with the provisions of this title as to the financing of costs by the authority, the

application of tax revenues to the authority to secure its bonds, and further assurances in respect of the authority's receipt of such revenues and the fiscal affairs of the county, including but not limited to the manner of preparation of budget reports and financial plans as provided for in sections thirty-six hundred sixty-six and thirty-six hundred sixty-seven of this title, as applicable. The authority's revenues shall not be deemed funds of the county. Any such agreements may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge.

4. Such agreements shall (a) describe the particular financeable costs to be financed in whole or in part by the authority, (b) describe the plan for the financing of the costs, (c) set forth the method by which and by whom and the terms and conditions upon which money provided by the authority shall be disbursed to the county, (d) where appropriate, provide for the payment of such costs by the county under such contracts as shall be awarded by the county or for the county to make a capital contribution of such proceeds as county funds to another entity for the payment or reimbursement of such costs, and (e) require every contract entered into by the county, or another entity receiving funds from the county, for costs to be financed in whole or in part by the authority to be subject to the provisions of the county charter and other applicable laws governing contracts of the county or such entity, as the case may be. Nothing contained in this title shall relieve or modify the application to the county or any entity acting on behalf of the county or any covered organization of the requirements of law relating (i) to contracts for procurement, design, construction, services and materials, or (ii) the provisions of section two hundred twenty of the labor law, or (iii) the provisions of article five-A of the general municipal law.

5. At least annually, commencing no more than one year after the date on which authority bonds are first issued, the county executive shall report to the authority, the comptroller, the legislature, the state comptroller, the chairs of the senate finance committee and the assembly ways and means committee, and the director of the budget on the costs financed by the authority and the amount of such financing over the past year, which report shall describe, by reference to the specific items in

the county's budget or financial plan, its compliance therewith.

§ 3656. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary pursuant to section thirty-six hundred fifty-five of this title to pay any financeable costs and to fund reserves to secure such bonds, including incidental expenses in connection therewith. Provided, however, the aggregate principal amounts of such bonds issued to pay the financeable county costs described in paragraph (c) of subdivision twelve of section thirty-six hundred fifty-one of this title, which resulted from certiorari proceedings commenced on or after June first, two thousand, shall not exceed eight hundred million dollars in the aggregate, excluding bonds, notes, or other obligations issued to refund or otherwise repay bonds, notes, or other obligations theretofore issued for such purposes. Effective in the year two thousand six, upon request of the county, the authority shall issue, in the amount requested, bonds to pay tax certiorari settlements or judgments of any kind to which the county is a party, not to exceed fifteen million dollars; and effective in the year two thousand seven, upon request of the county, the authority shall issue, in the amount requested, bonds to pay tax certiorari settlements or judgments of any kind to which the county is a party, not to exceed ten million dollars. Whenever this title establishes a limit on the principal amount of bonds that the authority is authorized to issue, there shall not be counted against such limit (i) amounts determined by the authority as reasonable to be used to pay the cost of issuing such bonds, (ii) the amount of bonds that would constitute interest under the Internal Revenue Code of 1986, as amended, and (iii) amounts determined by the authority as necessary to establish any reserves.

The authority shall have the power from time to time to refund any bonds of the authority by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds of the authority then outstanding and partly to pay the financeable costs pursuant to section thirty-six hundred fifty-five of this title. Bonds issued by the authority shall be payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the county, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys; but in no event shall transitional state aid be pledged as security for or be made available for the payment of bonds.

2. The authority is authorized to issue its bonds for a period ending not later than December thirty-first, two thousand twenty-one. The authority may issue bonds to refund bonds previously issued without regard to the limitation in the first sentence of this subdivision, but in no event shall any bonds of the authority finally mature later than January thirty-first, two thousand fifty-one. Notwithstanding any other provision of law, no bond of the authority shall mature more than thirty years from the date of its issue.

3. Bonds of the authority may be issued, amortized, redeemed and refunded without regard to the provisions of the local finance law; provided, however, that the principal amount of outstanding bonds issued by the authority shall be deemed to be indebtedness of the county solely in ascertaining the amount of indebtedness the county may contract pursuant to the local finance law and the state constitution and the authority shall not exceed such limitation.

4. The directors may delegate to the chairperson or other director or officer of the authority the power to set the final terms of bonds.

5. The authority in its sole discretion shall determine that the issuance of its bonds is appropriate. Bonds shall be authorized by resolution of the authority. Bonds shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at such public or private sale, be executed in such manner, be denominated in United States currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may provide in such resolution. No

bonds of the authority may be sold at private sale unless such sale and the terms thereof have been approved in writing by (a) the state comptroller where such sale is not to the state comptroller, or (b) the director of the budget, where such sale is to the state comptroller.

6. As a condition precedent to authorizing the issuance of any bonds hereunder, the authority may include in any agreement with the county such provisions as are deemed necessary and appropriate including express provisions regarding compliance with sections thirty-six hundred sixty-six and thirty-six hundred sixty-seven of this title, as applicable.

7. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the authority's revenues, together with any other moneys, securities or contracts, to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purposes to which the proceeds from the sale of bonds may be applied;

(d) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of bonds;

(e) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given;

(f) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section thirty-six hundred sixty-four of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; and

(g) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such acts or omissions to act which may constitute a default and such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title.

8. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements for the benefit of the bondholders as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys, including the entrusting, pledging or creation of any other security interest in any such revenues, moneys and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

9. Notwithstanding any provision of the uniform commercial code to the contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

10. Whether or not the bonds of the authority are of such form and character as to be negotiable instruments under the terms of the uniform

commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

11. Neither the directors of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof. The bonds or other obligations of the authority shall not be a debt of either the state or the county, and neither the state nor the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority; and such bonds shall contain on the face thereof a statement to such effect.

12. The authority, subject to such agreements with bondholders as then may exist, shall have power to purchase bonds of the authority out of any moneys available therefor, which shall thereupon be cancelled.

§ 3657. Resources of the authority. 1. Subject to the provisions of this title, the directors of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all money of the authority from whatever sources derived including (a) tax revenues; (b) the proceeds of bonds; and (c) any other payments, gifts or appropriations to the authority from any other source.

2. Subject to the provisions of any contract with bondholders, (a) the money of the authority shall be paid to the authority and shall not be commingled with any other money, and (b) all money received by the authority which, together with other money of the authority available for the expenses of the authority, the payment of debt service and payments to reserve funds, exceeds the amount required for such purposes, as determined by the authority, shall, subject to the provisions of subdivision six of this section and to the terms of any agreement between the authority and the county, be transferred to the county as frequently as practicable.

3. The money in any of the authority's accounts shall be paid out on

checks signed by the treasurer of the authority, or by other lawful and appropriate means such as wire or electronic transfer, on requisitions of the chairperson of the authority or of such other officer as the directors shall authorize to make such requisition, or pursuant to a bond resolution or trust indenture.

4. All deposits of authority money shall be secured by obligations of the United States or of the state or of the county at a market value at least equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The authority shall have the power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the other provisions of this title. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such money may be secured in the same manner as money of the authority, and all banks and trust companies are authorized to give such security for such deposits.

5. Tax revenues received by the authority pursuant to section twelve hundred sixty-one of the tax law, together with any other revenues received by the authority, shall be applied in the following order of priority: first pursuant to the authority's contracts with bondholders, then to pay the authority's operating expenses not otherwise provided for, and then, subject to the authority's agreements with the county, to transfer the balance of such tax revenues not required to meet contractual or other obligations of the authority to the county as frequently as practicable.

6. (a) This subdivision shall apply only to revenue anticipation notes, including renewals thereof, issued by the county during its fiscal year ending December thirty-first, two thousand, in anticipation of the receipt of county tax revenues, and only to such issues of revenue anticipation notes as to which the certificate described in

paragraph (b) of this subdivision is filed.

(b) Notwithstanding the provisions of subdivision five of this section with respect to the transfer of the balance of tax revenues to the county, prior to the delivery of each such issue of revenue anticipation notes, the chief fiscal officer of the county shall file with the authority a request that the authority establish a county of Nassau revenue anticipation note withholding fund which shall constitute a special bank account for purposes of paragraph g of section 25.00 of the local finance law. Such request by such chief fiscal officer shall be accompanied by a certificate setting forth with respect to such issue (i) the principal amount, (ii) the date of issue, (iii) the maturity date, (iv) the interest rate or rates, (v) if interest shall be payable otherwise than at maturity, the date or dates for the payment thereof, (vi) the name and address of the paying agent, (vii) the name and address of each purchaser, or, if a purchaser shall be a syndicate or similar account, the name and address of each managing underwriter of such syndicate or similar account, (viii) the amount payable on each principal payment date and interest payment date, and (ix) a schedule setting forth the total amount of county tax revenues anticipated to be received, and the expected date or dates of anticipated receipt of such county tax revenues. Such certificate shall be accompanied by a statement executed by the chief fiscal officer certifying that the amounts and times of payments of county tax revenues contained in such schedule have been estimated by the use of reasonable and appropriate data and methods of estimation, all in accordance with applicable law.

(c) All such revenue anticipation notes, in addition to a pledge of the faith and credit of the county for the payment thereof, shall contain a recital to the effect that they are entitled to the benefits of the provisions of this subdivision.

(d) Commencing on the date not less than five days prior to and on each day thereafter up to and including any principal and/or interest payment date referred to in the certificate filed by the chief fiscal officer with the authority pursuant to paragraph (b) of this subdivision, the authority shall pay to such paying agent from county tax revenues transferred and credited by the authority to the county of Nassau revenue anticipation note withholding fund as provided in paragraph (e) of this subdivision the amount required to pay in full the principal and/or interest due on such payment date as set forth in such certificate. Moneys so paid shall pass immediately from the authority and vest in such paying agent in trust for the benefit of the holders of the revenue anticipation notes to which such certificate relates. No other person having any claim of any kind in tort, contract or otherwise against the county shall have any right to or claim against the moneys held by such paying agent, and such moneys shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any such other person. Such moneys shall be held by such paying agent in a separate trust account and shall be applied only to the payment of the principal and/or interest due on such revenue anticipation notes, provided, however, that the contract by and between the county and such paying agent may provide for (i) the investment by such paying agent of such moneys in direct obligations of, or in obligations guaranteed by, the United States of America, provided such obligations shall be payable or redeemable at the option of the holder within such time as the proceeds shall be needed to pay such principal and/or interest due on such revenue anticipation notes, and (ii) the use by such paying agent of such moneys for the purchase of direct obligations of, or obligations guaranteed by, the United States of America under one or more repurchase agreements with any bank or trust company having its principal office in the state of New York, provided that any such repurchase agreement shall provide for the repurchase of such obligations within such time as such moneys are needed to pay the principal and/or interest due on such revenue anticipation notes at a repurchase price at least sufficient to make the amount so invested available for the payment of principal and/or interest due on such revenue anticipation notes, and provided, further, that, at the time of such purchase, the market value of such obligations shall be at least equal to one hundred two per centum of the amount so invested. No person having any claim of any kind in tort, contract or otherwise against the county shall have any right to or claim against any moneys in anticipation of which such notes have been issued, other than a claim for payment by the holders of such notes, and such moneys shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any such person. Notwithstanding any provision of law to the contrary, no instrument relating to any transaction authorized or contemplated by this paragraph need be filed under the provisions of the uniform commercial code.

(e) Commencing on the day when the authority determines that the principal and interest due or to come due on such outstanding revenue anticipation notes issued against such county tax revenues in accordance with the provisions of this subdivision shall equal the amount of such county tax revenues as set forth on the schedule included in the certificate filed with the authority pursuant to paragraph (b) of this subdivision remaining to be paid to the county on or prior to any principal and/or interest payment date, the authority shall deduct and withhold from the amount of such county tax revenues otherwise payable to the county an amount sufficient to pay, when due, the principal of and interest on all such revenue anticipation notes issued and then outstanding in anticipation thereof. Amounts so deducted and withheld shall be transferred and credited by the authority to the account established for such county tax revenues in the county of Nassau revenue anticipation note withholding fund established by the authority in accordance with the chief fiscal officer's request pursuant to paragraph (b) of this subdivision. The payments required to be made by the authority pursuant to paragraph (d) of this subdivision shall be made from amounts on deposit in the accounts established for such county tax revenues in the county of Nassau revenue anticipation note withholding fund.

(f) Notwithstanding any other provision of this subdivision, at the expiration of one hundred eighty days after the maturity date of any issue of revenue anticipation notes issued in accordance with the provisions of this subdivision, the amounts held by the paying agent thereof for the payment of the principal of and interest on the notes of such issue which have not been presented for payment shall be paid over and remitted by such paying agent to the county and thereafter the holders of such notes shall look only to the county for such payment.

(g) All other provisions of the local finance law not inconsistent with the provisions of this subdivision shall continue to apply to the authorization and issuance of revenue anticipation notes by the county.

§ 3658. Agreement with the state. The state does hereby pledge to and agree with the holders of any issue of bonds issued by the authority pursuant to this title and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds until such bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds. Nothing contained in this title shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter statutes imposing or relating to taxes or fees, or appropriations relating thereto. The authority shall not include within any resolution, contract or agreement with holders of the bonds issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter such taxes, fees, or appropriations. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 3659. Agreement with the county. The county is authorized to pledge to and agree with the holders of any issue of bonds issued by the authority pursuant to this title and secured by such a pledge that the county will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds until such bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. Nothing contained in this title shall be deemed to restrict any right of the county to amend, modify or otherwise alter local laws, ordinances or resolutions imposing or relating to the taxes imposed pursuant to the authority of article twenty-nine of the tax law or other taxes or fees or appropriations related to any such taxes or fees, so long as, after giving effect to such amendment, modification or other alteration, the amount of tax revenues projected by the authority to be available during each of its fiscal years following the effective date of such amendment, modification or other alteration shall be not less than two hundred percent of maximum annual debt service on authority bonds then outstanding. Subject to the foregoing sentence, the authority shall not include in any resolution, contract or agreement with the holders of its bonds any provision which provides that a default occurs as a result of the county exercising its right to amend, modify, or otherwise alter such taxes imposed pursuant to the authority of article twenty-nine of the tax law or other taxes or fees. Nothing in this title shall be deemed to obligate the county to make additional payments or impose taxes other than those imposed pursuant to the authority of paragraph one of subdivision (a) of section twelve hundred ten of the tax law to satisfy the debt service obligations of the authority.

§ 3660. Bonds legal for investment and deposit. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all public corporations, municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, conservators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 3661. Tax exemption and tax contract by the state. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state of New York and are public purposes. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title. The property of the authority, its income and its operations shall be exempt from taxation, assessments, special assessments and ad valorem levies. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title, their transfer and the income therefrom shall, at all times, be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to pay or to secure the payment of such bonds shall at all times be exempt from taxation.

§ 3662. Actions against the authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any director, officer, agent or employee thereof, unless (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a director, counsel or an attorney, officer or employee thereof designated for such purpose, concerning such account or claim and when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust any claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on bonds, shall not exceed the maximum rate of interest on judgments and accrued claims against municipal authorities as provided in the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate specified in the general municipal law until paid or otherwise satisfied.

5. The venue of every action, suit or special proceeding brought against the authority shall be laid in the supreme court in the county of Nassau.

6. Neither any director of the authority nor any officer, employee, or

agent of the authority, while acting within the scope of his or her authority, shall be subject to any liability resulting from exercising or carrying out any of the powers given in this title.

7. Indemnification. (a) The state shall save harmless and indemnify directors, officers and employees of and representatives to the authority, all of whom shall be deemed officers and employees of the state for purposes of section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, employee or representative occurring in the discharge of his or her duties and within the scope of his or her service on behalf of the authority including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations. In the event of any such claim, demand, suit or judgment, a director, officer or employee of or representative to the authority shall be saved harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he or she reasonably believed to be in the best interest of the authority or not to have had reasonable cause to believe that his or her conduct was lawful.

(b) In connection with any such claim, demand, suit, or judgment, any director, officer or employee of or representative to the authority shall be entitled to representation by private counsel of his or her choice in any civil judicial proceeding whenever the attorney general determines based upon his or her investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the state comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is entitled to representation under the terms and conditions of this section by the authority, upon the audit and warrant of the state comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers, or employees of and representatives to the authority by section seventeen of the public officers law, by action of the authority or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of and representatives to the authority, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 3663. Audits. 1. The accounts of the authority shall be subject to the audit of the comptroller and the state comptroller. In addition, the authority shall be subject to an annual financial audit performed by an independent certified accountant selected by the authority. Such audit report shall be submitted to the county executive, the presiding officer, the comptroller, the governor, the state comptroller, the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee.

2. For each fiscal year during the existence of the authority, and within one hundred twenty days after the close of the county's fiscal year, the county shall submit its audited financial statements to the authority.

§ 3664. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (f) of subdivision seven of section thirty-six hundred fifty-six of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or shall default in any agreement made with the holders of any issue of bonds, the holders of at least twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose provided in this section.

2. Such trustee may, and upon written request of the holders of at least twenty-five per centum in principal amount of such bonds outstanding shall, in his or her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders and require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holder of such bonds; and

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds.

3. Such trustee shall, in addition to the provisions of subdivisions one and two of this section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders.

§ 3665. Assistance to the authority; employees of the authority. 1. With the consent of any public corporation, the authority may use agents, employees and facilities thereof, paying to such public corporation its agreed proportion of the compensation or costs.

2. Officers and employees of state or county agencies may be transferred to the authority without examination and without loss of any civil service or retirement status or rights. Any officer or employee of the authority who heretofore acquired or shall hereafter acquire such position status by transfer and who at the time of such transfer was a member of the New York state and local employees' retirement system shall continue to be a member of such system as long as he or she continues in such service, and shall continue to have all the rights, privileges and obligations of membership in such system.

§ 3666. 2000 fiscal year budget modification. 1. The control period as set forth in section thirty-six hundred sixty-nine of this title shall be instituted on June thirtieth, two thousand, unless prior to such date (a) the county executive, after approval by the legislature, shall have submitted to the authority a modification to the county's budget for the 2000 fiscal year, as in effect on May tenth, two thousand; and (b) the authority shall have determined that such modification when implemented will ensure a reduction of the projected gap, through recurring or nonrecurring actions, for the 2000 fiscal year and, together with any budget modifications prior to May tenth, two thousand, through recurring actions, for the three next succeeding fiscal years, in an amount not less than fifty million dollars per year.

2. In order that such budget modification be effective on or before June thirtieth, two thousand, the county executive shall within seven days following the effective date of this title submit a proposed modification to the legislature. Within seven days thereafter, the legislature shall approve such modification or a substitute modification. Upon approval by the legislature, the county executive shall submit such modification to the authority. Not later than ten days after such budget modification shall have been submitted to the authority, the authority shall approve or disapprove such modification, provided that the authority may approve such modification only upon its

determination that such modification when implemented will ensure such reduction of the projected gap for each fiscal year as required by subdivision one of this section.

3. In the event the authority shall disapprove such budget modification based on disapproval of certain actions or assumptions, the authority shall promptly thereafter notify the county executive of its reasons. The county executive shall thereafter, after approval by the legislature, resubmit a budget modification, based on actions or assumptions other than those that have been disapproved by the authority, for consideration by the authority and in sufficient time for the authority to have a seven day review period prior to June thirtieth, two thousand.

§ 3667. County financial plans. 1. The county executive shall prepare and submit to the authority a four-year financial plan, initially for the fiscal years ending December thirty-first, two thousand one through two thousand four, together with the proposed budget for the fiscal year ending on December thirty-first, two thousand one, not later than the date required for submission of such budget to the legislature pursuant to the county charter. Such financial plan shall, in addition to the requirements for financial plans set forth in subdivisions two and three of this section, contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. For purposes of determining operating revenues in the fiscal years ending December thirty-first, two thousand one through two thousand seven, such plan may assume (a) borrowings by the county or the authority to finance tax certiorari judgments or settlements in annual amounts not exceeding one hundred million dollars, or, in the aggregate for all such years, four hundred million dollars; however, of said four hundred million dollars, no more than fifteen million dollars may be counted as operating revenue in the fiscal year two thousand six and no more than ten million dollars may be counted as operating revenue in fiscal year two thousand seven, and (b) receipt by the county of NCIFA assistance and transitional state aid in the following collective amounts for each respective fiscal year:

Amount	Fiscal Year
2001 amount	2001
2002 amount	2002
2003 amount	2003
2004 amount	2004.

The one hundred million dollars annual limit on assumed tax certiorari borrowings may be waived by the authority respecting any fiscal year, upon its determination that the results of any increased and accelerated settlement or litigation efforts by the county justify such waiver.

As used in this subdivision:

"2001 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close between thirty-five per centum (35%) and forty per centum (40%) of the projected gap.

"2002 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close between forty-five per centum (45%) and fifty per centum (50%) of the projected gap.

"2003 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close between sixty per centum (60%) and sixty-five per centum (65%) of the projected gap.

"2004 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close between eighty per centum (80%) and eighty-five per centum (85%) of the projected gap.

2. Pursuant to the procedures contained in this subdivision, each year during the interim finance period or during a control period the county shall develop, and may from time to time modify, taking into account recommendations of the authority, a four year financial plan covering

the county and the covered organizations. Each such financial plan and financial plan modification shall conform to the requirements of paragraph (a) of this subdivision and shall provide that the major operating funds of the county will be balanced in accordance with generally accepted accounting principles. The financial plan shall be developed and approved, and may from time to time be modified, in accordance with the following procedures:

(a) The county executive shall prepare and submit to the authority and the legislature a revised financial plan to the authority covering the four year period beginning with the ensuing fiscal year, together with the proposed budget for the ensuing fiscal year, not later than the date required for submission of such budget pursuant to the county charter. On such dates, the county executive shall also submit to the authority a certificate stating that such budget is consistent with the financial plan submitted therewith and that operation within the budget is feasible.

(b) Not more than twenty days after submission of a financial plan or more than fifteen days after submission of a financial plan modification, the authority shall determine whether the financial plan or financial plan modification is complete and complies with the provisions of section thirty-six hundred sixty-six and this section and the other requirements of this title, and shall submit its recommendations with respect to the financial plan or financial plan modification in accordance with the provisions of this subdivision.

(c) Upon the approval by the county of a budget in accordance with the provisions of the county charter and approval of the financial plan by the legislature, the county executive shall submit such approved budget and financial plan to the authority accompanied by expenditure, revenue and cash flow projections on a quarterly basis and certify to the authority that such budget is consistent with the financial plan to be submitted to the authority.

(d) If the authority determines that the financial plan or financial plan modification provided pursuant to paragraphs (c) or (f) of this subdivision is complete and complies with the standards set forth in this subdivision, the authority shall make a certification to the county setting forth revenue estimates agreed to by the authority in accordance with such determination.

(e) The authority shall, in the event it disagrees with elements of the financial plan provided pursuant to paragraphs (c) or (f) of this subdivision, provide notice thereof to the county executive, the legislature and the comptroller, with copies to the director of the budget, the state comptroller, the chair of the assembly ways and means committee and the chair of the senate finance committee, if, in the judgment of the authority, such plan:

(i) is incomplete;

(ii) fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimation;

(iii) fails to provide that operations of the county and the covered organizations will be conducted within the cash resources available according to the authority's revenue estimates; or

(iv) fails to comply with the provisions of this title or other requirements of law.

(f) After the initial adoption of an approved financial plan, the revenue estimates certified by the authority and the financial plan shall be regularly reexamined by the authority in consultation with the county and the covered organizations and the county executive shall provide a modified financial plan in such detail and within such time periods as the authority may require. In the event of reductions in such revenue estimates, or in the event the county or a covered organization shall expend funds at a rate that would exceed the aggregate expenditure limitation for the county or covered organization prior to the expiration of the fiscal year, the county executive shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or aggregate expenditure limitations.

(g) If, within a time period specified by the authority, the county fails to make such modifications after reductions in revenue estimates, or to provide a modified plan in detail and within such time period required by the authority, the authority shall adopt a resolution so finding.

(h) The county shall amend its budget or shall submit a financial plan modification for the approval of the authority such that the county's budget and the approved financial plan shall be consistent. In no event shall the county operate under a budget that is inconsistent with an approved financial plan.

3. The financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect as the authority may specify, and shall include the county and all the covered organizations, and shall, in such detail as the authority from time to time may prescribe, include (a) statements of all estimated revenues and of all expenditures and cash flow projections of the county and each of the covered organizations, (b) a report on the status of efforts to reform and streamline the tax certiorari claims process and eliminate the need in each year of the plan for the county to borrow to finance such claims or judgments, including an accounting of the expenditure of any transitional state aid for such purposes, and (c) an accounting of the expenditure of any remaining transitional state aid available to the county for each year of the plan.

4. The financial plan shall include any information which the authority may request to satisfy itself that (a) projected employment levels, collective bargaining agreements and other actions relating to employee costs, capital construction and such other matters as the authority may specify are consistent with the provisions made for such obligations in the financial plan, (b) the county and the covered organizations are taking whatever action is necessary with respect to programs mandated by state and federal law to ensure that expenditures for such programs are limited to and covered by the expenditures stated in the financial plan, (c) adequate reserves are provided to maintain essential programs in the event revenues have been overestimated or expenditures underestimated for any period, and (d) the county has adequate cash resources to meet its obligations. In addition, except to the extent such reporting requirements may be modified pursuant to agreement between the authority and the county, for each fiscal year occurring during the interim finance period or while bonds issued pursuant to this title are outstanding, the county executive shall prepare a quarterly report of summarized budget data depicting overall trends of actual revenues and budget expenditures for the entire budget

rather than individual line items and updated quarterly cash flow projections of receipts and disbursements. Such reports shall compare revenue estimates and appropriations as set forth in such budget and in the quarterly revenue and expenditure projections submitted therewith with the actual revenues and expenditures made to date. Such reports shall also compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with variances and their explanation. All quarterly reports shall be accompanied by recommendations from the county executive to the legislature setting forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations. These reports shall be completed within thirty days after the end of each quarter and shall be submitted to the legislature, the authority, the director of the budget and the state comptroller. Except during a control period, for each fiscal year occurring during the interim finance period or while bonds issued pursuant to this title are outstanding, the county executive shall submit a proposed budget or revision thereto to the authority concurrent with submission to the legislature, and shall submit the adopted budget to the authority immediately upon its adoption.

5. For each financial plan and financial plan modification to be prepared and submitted by the county executive to the authority pursuant to the provisions of this section, the covered organizations shall submit to the county such information with respect to their projected expenditures, revenues and cash flows for each of the years covered by such financial plan or modification as the county executive shall determine. Notwithstanding any other provision of law limiting the authority of the county with respect to any covered organization, the county, in the preparation and submission of the financial plan and modifications thereof, shall (except for debt service or for other expenditures to the extent that such expenditures are required by law) have the power to determine the aggregate expenditures to be allocated to any covered organization in the financial plan and any modifications thereto.

6. The authority and the county shall confer concerning the projected

effect on the budgets of the county and the covered organizations of any change in generally accepted accounting principles, or change in the application of generally accepted accounting principles to the county and the covered organizations, made or to be implemented after the effective date of this title. If the authority determines that immediate compliance with such change will have a material effect on such budgets over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services by the county, the authority may authorize and approve a method of phasing the requirements of such change into such budgets over such reasonably expeditious time period as the authority deems appropriate.

§ 3668. Monitoring and review. Except as otherwise provided in section thirty-six hundred sixty-nine of this title, the authority shall:

1. conduct meetings at least annually;

2. conduct audits of the Nassau county industrial development agency established pursuant to section nine hundred twenty-two of the general municipal law, the Nassau county off-track betting corporation established pursuant to article five of the racing, pari-mutuel wagering and breeding law, and the Nassau university medical center established pursuant to section three thousand four hundred two of this chapter; provided, however, that such audits shall to be completed no later than December thirty-first, two thousand twenty-two, and shall continue on a biennial basis for subsequent years thereafter. The authority shall make its audit findings publicly available on its website and provide copies of its respective reports to the governor, temporary president of the senate, speaker of the assembly, and authorities budget office;

3. investigate, within the county and covered organizations, potential violations of the provisions of this chapter, fiscal mismanagement or systemic negligence; provided further that the authority shall provide an annual report to the governor, temporary president of the senate, speaker of the assembly, and authorities budget office detailing such investigations;

4. obtain from the county or the Nassau health care corporation all information required pursuant to this section, and such other financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title;

5. recommend to the county and the covered organizations such measures relating to their operation, management, efficiency and productivity as the authority deems appropriate to reduce costs and improve services so as to advance the purposes of this title;

6. consult with the county in the preparation of the budget of the county, and consult with the Nassau health care corporation in the preparation of the budget of the Nassau health care corporation;

7. with respect to any county or Nassau health care corporation borrowing proposed to be issued after July first, two thousand, review the terms of and comment, within thirty days after notification by the county or the Nassau health care corporation of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the county or the Nassau health care corporation and no such borrowing shall be made unless first reviewed and commented upon by the authority. The authority shall provide such comments within thirty days after notification by the county or the Nassau health care corporation of a proposed borrowing to the county executive, the comptroller, the legislature, the director of the budget and the state comptroller;

8. determine whether to make transitional state aid available, and on what schedule, based upon the county's compliance with the requirements of sections thirty-six hundred sixty-six and thirty-six hundred sixty-seven of this title, as applicable, and the requirements, if any, of the appropriations bills authorizing such transitional state aid; and

9. perform such audits and reviews of the county and any agency thereof and any covered organizations as it deems necessary.

§ 3669. Control period. 1. The authority shall impose a control period over the county or the Nassau health care corporation upon its determination at any time that any of the following events has occurred or that there is a substantial likelihood and imminence of such occurrence: (a) the county or the Nassau health care corporation shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (b) the county or the Nassau health care corporation shall have incurred a major operating funds deficit of one percent or more in the aggregate results of operations of such funds during its fiscal year assuming all revenues and expenditures are reported in accordance with generally accepted accounting principles, subject to the provisions of this title, (c) the county or the Nassau health care corporation shall have otherwise violated any provision of this title and such violation substantially impairs the marketability of the county's bonds or notes or the Nassau health care corporation's bonds or notes, (d) the chief fiscal officer's certification at any time, at the request of the authority or on the chief fiscal officer's initiative, which certification shall be made from time to time as promptly as circumstances warrant and reported to the authority, that on the basis of facts existing at such time such officer could not make the certification described by paragraph (b) of this subdivision in the definition of interim finance period in section thirty-six hundred fifty-one of this title, or (e) the authority makes the finding required under paragraph (g) of subdivision two of section thirty-six hundred sixty-seven of this title. The authority shall terminate any such control period when it determines that none of the conditions which would permit the authority to impose a control period exist. After termination of a control period the authority shall annually consider paragraphs (a) through (e) of this subdivision and determine whether, in its judgment, any of the events described in such paragraphs have occurred and the authority shall publish each such determination. Any certification made by the chief fiscal officer hereunder shall be based on such officers' written determination which shall take into account a report and opinion of an independent expert in the marketing of municipal securities selected by the authority, and the opinion of such expert and any other information taken into account shall be made public when delivered to the authority. Notwithstanding any part of the foregoing to the contrary, in no event shall any control period continue beyond the later of (i) January first, two thousand thirty, or (ii) the date when all bonds of the authority are refunded, discharged or otherwise defeased.

2. In carrying out the purposes of this title during any control period:

(a) The authority shall (i) consult with the county or the covered organizations in the preparation of the financial plan, and certify to the county the revenue estimates approved therein, (ii) prescribe the form of the financial plan and the supporting information required in connection therewith, (iii) exercise the rights of approval, disapproval and modification with respect to the financial plan, including but not limited to the revenue estimates contained therein, and (iv) in the event the authority has made the finding required under section thirty-six hundred sixty-seven of this title, formulate and adopt its modifications to the financial plan, such modifications to become effective on their adoption by the authority.

(a-1) If a control period is imposed over the Nassau health care corporation, the authority shall require the Nassau health care corporation to report financial information to the authority in such form and manner and containing such information as the authority shall prescribe, including, but not limited to, expenditure and cash flow projections, disbursements and receipts, and budget data depicting overall trends of actual revenue and expenditures and any other information described in section thirty-six hundred sixty-seven of this title determined to be relevant by the authority.

(b) The authority shall, from time to time and to the extent it deems necessary or desirable in order to accomplish the purposes of this title, (i) review the operations, management, efficiency and productivity of such county operations and of such covered organizations or portions thereof as the authority may determine, and make reports thereon; (ii) audit compliance with the financial plan in such areas as the authority may determine; (iii) recommend to the county and the covered organizations such measures relating to their operations, management, efficiency and productivity as it deems appropriate to reduce costs and improve services so as to advance the purposes of this title; and (iv) obtain information on the financial condition and needs of the county and the covered organizations. Nothing herein shall diminish the powers of the state comptroller otherwise provided by law and the authority may request the assistance of the state comptroller in the performance of the above functions.

(c) The authority shall (i) receive from the county and the covered organizations and from the state comptroller, and review, such financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title, and (ii) inspect, copy and audit such books and records of the county and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title.

(d) All contracts entered into by the county or any covered organization during any control period must be consistent with the provisions of this title and must comply with the requirements of the financial plan as approved by the authority. With respect to all contracts or other obligations to be entered into by the county or any covered organization during any control period requiring the payment of funds or the incurring of costs by the county or any covered organizations:

(i) Within twenty days from the commencement of a control period, the county executive, or the chairperson of the Nassau health care corporation in the case of a control period imposed pursuant to paragraph a-one of subdivision two of this section, shall present to the authority proposed guidelines respecting the categories and types of contracts and other obligations required to be reviewed by the authority pursuant to this subdivision. Any such guidelines may provide a different standard for review with respect to contracts of any covered organization as the authority shall determine. Within thirty days from the commencement of a control period, the authority shall approve or modify and approve such proposed guidelines or promulgate its own in the event that such proposed guidelines are not submitted to it within the twenty days as provided for herein. Such guidelines may thereafter be modified by the authority from time to time on not less than thirty days' notice to the county executive or chairperson of the Nassau health care corporation and the county executive or chairperson of the Nassau health care corporation may from time to time propose modifications to the authority. Unless expressly disapproved or modified by the authority within thirty days (or such additional time, not exceeding thirty days, as the authority shall have notified the county or covered organization that it requires to complete its review and analysis) from the date of submission by the county executive or chairperson of the Nassau health care corporation, any such proposed guidelines or modifications shall be deemed approved by the authority;

(ii) Prior to entering into any contract or other obligation subject to review of the authority under its guidelines, the county or any covered organization shall submit a copy of such contract or other obligation to the authority accompanied by an analysis of the projected costs of such contract or other obligation and certification that performance thereof will be in accordance with the financial plan, all in such form and with such additional information as the authority may prescribe. The authority shall promptly review the terms of such contract or other obligation and the supporting information in order to determine compliance with the financial plan;

(iii) The authority shall, by order, disapprove any contract or other obligation reviewed by it only after adoption of a resolution determining that, in its judgment, the performance of such contract or other obligation would be inconsistent with the financial plan, and upon such order the county or covered organization shall not enter into such contract or other obligation; and

(iv) If the authority approves the terms of a reviewed contract or other obligation, the county or covered organization may enter into such contract or other obligation upon the terms submitted to the authority. Failure of the authority to notify the county or covered organization within thirty days (or such additional time, not exceeding thirty days, as the authority shall have notified the county or covered organization that it requires to complete its review and analysis) after submission to it of a contract or other obligation that such contract or other obligation has been disapproved shall be deemed to constitute authority approval thereof.

(e) The authority shall review the terms of each proposed long-term and short-term borrowing by the county and any covered organization to be effected during any control period, and no such borrowing shall be made during any control period unless it is approved by the authority. Neither the county nor any covered organization shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes.

(f) The authority shall issue, to the appropriate official of the county and each covered organization, such orders as it deems necessary to accomplish the purposes of this title, including, but not limited to, timely and satisfactory implementation of an approved financial plan. Any order so issued shall be binding upon the official to whom it was issued and failure to comply with such order shall subject the official to the penalties described in subdivision four of this section.

(g) The authority is authorized to and shall withhold any transitional state aid and not pay such moneys to the county during any control period.

3. Authorization for wage freeze. (a) During a control period, upon a finding by the authority that a wage freeze is essential to the adoption or maintenance of a county budget or a financial plan that is in compliance with this title, the authority, after enactment of a resolution so finding, may declare a fiscal crisis. Upon making such a declaration, the authority shall be empowered to order that all increases in salary or wages of employees of the county and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards, now in existence or hereafter entered into, requiring such salary increases as of any date thereafter are suspended. Such order may also provide that all increased payments for holiday and vacation differentials, and shift differentials for employees of the county and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards requiring such increased payments as of any date thereafter are, in the same manner, suspended. Such order may also provide that all increased payments for salary adjustments according to plan and step-ups or increments be suspended; provided, however, when (i) the county executive provides a four year financial plan approved by the county legislature pursuant to paragraph (a) of subdivision two of section

thirty-six hundred sixty-seven of this title and the authority determines, pursuant to paragraph (b) of such subdivision, that such financial plan is complete and complies with the standards set forth in such subdivision, and (ii) the authority makes a certification to the county setting forth revenue estimates agreed to by the authority in accordance with such determination, the salary adjustments according to plan and step-ups or increments, not including cost of living increases, shall not be suspended for each year in which the four year financial plan has been certified. This inability to suspend the salary adjustments according to plan and step-ups or increments shall be applicable to county employees and employees of covered organizations, whether or not they are covered by a collectively negotiated agreement, if an individual employee or members of an employee's bargaining unit previously participated in a wage freeze implemented by the authority under this section and such wage freeze was subsequently lifted by the authority by the issuance of a resolution, pursuant to paragraph (b) or (c) of this subdivision, certifying that the suspension of their wage increases or an agreement by the collective bargaining representative or by such unrepresented employee was an acceptable and appropriate contribution toward alleviating the fiscal crisis of the county. Irrespective of the duration of any approved or accepted four-year financial plan, for employees who are members of a bargaining unit, this inability to suspend the salary adjustment according to plan and step-ups or increments shall take effect October first, two thousand sixteen and shall be in effect for employees for the duration of the next collective bargaining agreement succeeding either (i) the collective bargaining agreement in effect on November sixth, two thousand eighteen or (ii) the most recently expired collective bargaining agreement prior to November sixth, two thousand eighteen; whichever is later. If the succeeding collective bargaining agreement's duration is modified, extended, or renewed, this modification, extension or renewal does not modify, extend or renew the term of the inability to suspend salary adjustments according to plan and step-ups or increments. For employees who are not members of a bargaining unit, this inability to suspend the salary adjustment according to plan and step-ups or increments shall be effective October first, two thousand sixteen through December first, two thousand twenty-one. For the purposes of computing the pension base of retirement allowances, any suspended salary or wage increases and any suspended other payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable. The suspensions authorized hereunder shall continue until one year after the date of the order and, to the extent of any determination of the authority that a continuation of such suspensions, to a date specified by the authority, is necessary in order to achieve the objectives of the financial plan, such suspensions shall be continued to the date specified by the authority, which date shall in no event be later than the end of the interim finance period, provided that such suspensions shall terminate with respect to employees who have agreed to a deferral of salary or wage increase upon the certification of the agreement by the authority pursuant to paragraph (b) of this subdivision.

(b) This subdivision shall not be applicable to employees of the county or employees of a covered organization covered by a collective bargaining agreement or an employee of the county or a covered organization not covered by a collective bargaining agreement where the collective bargaining representative or such unrepresented employee has agreed to a deferment of salary or wage increase, by an instrument in writing which has been certified by the authority as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the county. Any such agreement to a deferment of salary or wage increase may provide that for the purposes of computing the pension base of retirement allowances, any deferred salary or wage increase may be considered as part of compensation or final compensation or of annual salary earned or earnable.

(c) The authority may, if it finds that the fiscal crisis has been sufficiently alleviated or for any other appropriate reason, direct that the suspensions of salary or wage increases or suspensions of other increased payments or benefits shall, in whole or in part, be terminated.

4. Prohibition; penalties. (a) During any control period (i) no officer or employee of the county or of any of the covered organizations shall make or authorize an obligation or other liability in excess of the amount available therefor under the financial plan as then in

effect; (ii) no officer or employee of the county or of any of the covered organizations shall involve the county or any of the covered organizations in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the authority unless such contract has been so approved and unless such contract or obligation or liability is in compliance with the financial plan as then in effect.

(b) No officer or employee of the county or any of the covered organizations shall take any action in violation of any valid order of the authority or shall fail or refuse to take any action required by any such order or shall prepare, present or certify any information (including any projections or estimates) or report to the authority or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the authority or its agents thereof.

(c) In addition to any penalty or liability under any other law, any officer or employees of the county or any of the covered organizations who shall violate paragraph (a) or (b) of this subdivision shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the county executive; and any officer or employees of the county or any of the covered organizations who shall knowingly and willfully violate paragraph (a) or (b) of this subdivision shall, upon conviction, be guilty of a misdemeanor.

(d) In the case of a violation of paragraph (a) or (b) of this subdivision by an officer or employee of the county or any of the covered organizations, the county executive or the chief executive officer of such covered organization shall immediately report to the authority all pertinent facts together with a statement of the action taken thereon.

§ 3670. Miscellaneous provisions. 1. Notwithstanding anything to the contrary in title six-A of article two of the local finance law, neither the county nor any covered organization shall file any petition authorized by such title six-A without the approval of the authority and the state comptroller. No such petition shall be filed as long as any bonds issued by the authority remain outstanding. Failure of the authority or the state comptroller to notify the county or a covered organization within thirty days (or such additional time, not exceeding thirty days, as the authority or state comptroller shall have notified the county or covered organization that it requires to complete its review) after submission to it of a petition shall be deemed to constitute authority or state comptroller approval thereof.

2. Nothing contained in this title shall limit the right of the county or any covered organization to comply with the provisions of any existing contract within or for the benefit of the holders of any bonds or notes of the county or such covered organization.

3. Nothing contained in this title shall be construed to limit the power of the county or a covered organization during any interim finance period to determine, from time to time, within available funds for the county or for such covered organization, the purposes for which expenditures are to be made by the county or such covered organization and the amounts of such expenditures, consistent with the aggregate expenditures then permitted under the financial plan for the county or such covered organization.

4. The authority's fiscal year shall be January first through December thirty-first.

5. Nothing contained in this title shall alter or modify the right of any town, city or village within the county regarding funding assistance due from the county as authorized pursuant to section twelve hundred sixty-two-e of the tax law.

6. The authority shall adopt guidelines for procurement contracts in accordance with section twenty-eight hundred seventy-nine of this chapter.

§ 3671. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

§ 3672. Separability; construction. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered. The provisions of this title shall be liberally construed to assist the effectuation of the public purposes furthered hereby.

ARTICLE 10-D

MISCELLANEOUS AUTHORITIES

TITLE 2

BUFFALO FISCAL STABILITY AUTHORITY

§ 3850. Short title. This title shall be known and may be cited as the "Buffalo fiscal stability authority act."

§ 3850-a. Legislative declaration of need for state intervention. The legislature hereby finds and declares that the city of Buffalo is facing a severe fiscal crisis, and that the crisis cannot be resolved absent assistance from the state. The legislature finds that the city has repeatedly relied on annual extraordinary increases in state aid to balance its budget, and that the state cannot continue to take such extraordinary actions on the city's behalf. The legislature further finds and declares that maintenance of a balanced budget by the city of Buffalo is a matter of overriding state concern, requiring the legislature to intervene to provide a means whereby: the long-term fiscal stability of the city will be assured, the confidence of investors in the city's bonds and notes is preserved, and the economy of both the region and the state as a whole is protected.

§ 3851. Definitions. For the purposes of this title, unless the context otherwise requires: 1. "Advisory period" means that period no earlier than July first, two thousand six, after which the authority has determined that (a) for each of the three immediately preceding city fiscal years, the city has adopted and adhered to budgets covering all expenditures, other than capital items, the results of which did not show a deficit, without the use of any authority assistance, as provided for under section thirty-eight hundred fifty-seven of this title, when reported in accordance with generally accepted accounting principles and (b) the comptroller and the state comptroller jointly certify that securities were sold by the city during the immediately preceding city fiscal year in the general public market and that there is a substantial likelihood that such securities can be sold by the city in the general public market from such date through the end of the next succeeding city fiscal year in amounts that will satisfy substantially all of the capital and cash flow requirements of the city during that period in accordance with the financial plan then in existence. The joint certification made by the comptroller and the state comptroller shall be based on their separate written determinations which may take into account a report and opinion of an independent expert in the marketing of securities selected by the authority as well as other information available to the comptrollers. Once begun, an advisory period shall continue through June thirtieth, two thousand thirty-seven unless a control period is imposed.

2. "Authority" or "Buffalo fiscal stability authority" or "BFSA" means the public benefit corporation created by this title.

3. "BFSA assistance" means: (a) the amount of debt service savings in a given city fiscal year generated from the proceeds of bonds, notes or other obligations made available to or for the benefit of the city or any covered organization as determined by the authority; or (b) the proceeds of any deficit financing authorized by the authority, or some combination thereof pursuant to the provisions of section thirty-eight hundred fifty-seven of this title. Such assistance shall be made available only upon a declaration of need by the city pursuant to section thirty-eight hundred sixty-one of this title and the approval of the BFSA board.

4. "Bonds, notes or other obligations" means bonds, notes and other evidences of indebtedness, issued or incurred by the authority.

5. "Chief fiscal officer" means the chief fiscal officer of the city as defined in section 2.00 of the local finance law.

6. "City" means the city of Buffalo.

7. "City charter" means the city government law of the city of Buffalo, as amended.

8. "City tax revenues" means the portion of the county's "net collections", as defined in section twelve hundred sixty-two of the tax law, payable to the city under the agreement among the county, the city and the cities of Lackawanna and Tonawanda entered into pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of the tax law. In the event that the city imposes sales and compensating use taxes pursuant to the authority of section twelve hundred ten of the tax law, "city tax revenues" shall also include net collections from such city taxes.

9. "Comptroller" means the comptroller of the city.

10. "Control period" means that period of time from the effective date of this title, continuing until the authority determines that conditions have been met as provided in subdivision one of this section and the city qualifies for the onset of an advisory period. A control period may be reimposed as determined by the authority in accordance with section thirty-eight hundred fifty-eight of this title.

11. "Council" means the city council of the city of Buffalo.

12. "County" means the county of Erie.

13. "Covered organization" means the city school district, the joint schools construction board of the city, as described in chapter six hundred five of the laws of two thousand, as amended, and the Buffalo

municipal housing authority and any governmental agency, public authority or public benefit corporation which receives or may receive moneys directly, indirectly or contingently from the city, but excluding the authority and (a) any other governmental agency, public authority or public benefit corporation specifically exempted from the provisions of this title by order of the authority upon application of such agency, public authority, or corporation to the authority or on the authority's own motion upon a finding by the authority that such exemption does not materially affect the ability of the city to adopt and maintain a budget pursuant to the provisions of this title, or (b) any state public authority defined in section two hundred one of the civil service law, unless specifically named above; provided, however, that the authority may terminate any exemption granted by order of the authority pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

14. "Director of the budget" means the director of the budget of the state.

15. "Financeable costs" or "costs" means costs to finance (a) amounts necessary to accomplish a refunding, repayment or restructuring of a portion of the city's outstanding indebtedness or that of any covered organization, (b) cash flow needs of the city or any covered organization, (c) any object or purpose of the city or any covered organization, for which a period of probable usefulness is prescribed in section 11.00 of the local finance law, including the costs of any preliminary studies, surveys, maps, plans, estimates and hearings, (d) amounts necessary to finance a portion of the operating costs of the city or any covered organization as provided in section thirty-eight hundred fifty-seven of this title, to the extent approved by the authority, or (e) incidental costs, including, but not limited to, legal fees, printing or engraving, publication of notices, taking of title, apportionment of costs, and capitalized interest, insurance premiums, costs related to items authorized in subdivisions seven through nine of section thirty-eight hundred fifty-four of this title or any underwriting or other costs incurred in connection with the financing thereof; provided however that, to the maximum extent practicable, all

financeable costs shall not adversely affect the requirements of subdivision two of section thirty-eight hundred sixty-nine of this title.

16. "Financial plan" means the financial plan of the city and the covered organizations to be developed pursuant to section thirty-eight hundred fifty-seven of this title, as from time to time amended.

17. "Major operating funds" means the city general fund, the board of education general fund, the city enterprise funds, the board of education special project funds, together with any other funds of the city or a covered organization from time to time designated by the authority.

18. "Mayor" means the mayor of the city.

19. "Presiding officer" means the presiding officer of the council elected pursuant to the rules of the council.

20. "Projected gap" means the excess, if any, of annual aggregate projected expenditures over annual aggregate projected revenues for the major operating funds in each year of a financial plan as determined by the city and certified by the authority. For purposes of determining the projected gap in each fiscal year, annual aggregate projected revenues shall not include the amount of BFSA assistance expected to be available for such fiscal year.

21. "Revenues" means revenues of the authority consisting of city tax revenues, school district tax revenues, state aid revenues, and all other aid, rents, fees, charges, gifts, payments and other income and receipts paid or payable to the authority or a trustee for the account of the authority, to the extent such amounts are pledged to bondholders.

22. "State" means the state of New York.

23. "State aid" means: all general purpose local government aid; emergency financial assistance to certain cities; emergency financial

assistance to eligible municipalities; supplemental municipal aid; and any successor type of aid and any new aid appropriated by the state as local government assistance for the benefit of the city.

24. "State aid revenues" means state aid paid by the state comptroller to the authority pursuant to this title.

25. "State comptroller" means the comptroller of the state.

26. "School district tax revenues" means the portion of the county's "net collections," as defined in section twelve hundred sixty-two of the tax law, payable to the city's dependent school district by the county pursuant to the authority of subdivision (a) of section twelve hundred sixty-two of the tax law.

27. "Cash flow borrowings" means:

(a) notes issued by the authority on behalf of the city, the city's dependent school district or any other covered organization, the proceeds of which are used to address temporary cash flow needs of the city, the city's dependent school district or the applicable covered organization; and

(b) bonds, notes and other obligations issued by the authority to refund notes of the authority described in paragraph (a) of this subdivision.

28. "Obligations of the city" means bonds, notes and other evidences of indebtedness issued or incurred by the city.

§ 3852. Buffalo fiscal stability authority. 1. There is hereby created the Buffalo fiscal stability authority. The authority shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation.

2. The authority shall conduct meetings as often as deemed necessary to accomplish its purposes, but not less than quarterly during a control period, and annually during an advisory period.

3. The authority shall continue until its control, advisory or other responsibilities, and its liabilities have been met or otherwise discharged, which in no event shall be later than June thirtieth, two thousand thirty-seven. Upon the termination of the authority, all of its property and assets shall pass to and be vested in the city.

§ 3853. Administration of the authority. 1. The authority shall be administered by nine directors, seven of which shall be appointed by the governor. Of the seven directors, one such director shall be a resident of the city of Buffalo; one such director shall be appointed following the recommendation of the state comptroller; and one such director shall be appointed on the joint recommendation of the temporary president of the senate and the speaker of the assembly. The mayor and the county executive shall serve as ex officio members. Every director, who is otherwise an elected official of the city or county, shall be entitled to designate a single representative to attend, in his or her place, meetings of the authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the city of Buffalo. Written notice of such designation shall be furnished prior to any participation by the single designee. Such single designee shall serve at the pleasure of the representative, and shall not be authorized to delegate any of his or her duties or functions to another person. Each director appointed by the governor shall be appointed for a term of four years, provided however, that four of the directors first appointed by the governor, including the director appointed following the recommendation of the state comptroller shall serve for a term ending June thirtieth, two thousand seven, and the remaining three directors first appointed by the governor including the director appointed on the joint recommendation of the temporary president of the senate and the speaker of the assembly and shall serve for a term ending June thirtieth, two thousand nine. Each director shall hold office until his or her successor has been appointed and qualified. Thereafter, each director shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of his or her predecessor's term.

2. The governor shall designate a chairperson and a vice-chairperson from among the directors. The chairperson shall preside over all meetings of the directors and shall have such other duties as the directors may prescribe. The vice-chairperson shall preside over all meetings of the directors in the absence of the chairperson and shall have such other duties as the directors may prescribe.

3. The directors of the authority shall serve without salary, but each director shall be reimbursed for actual and necessary expenses incurred in the performance of such director's official duties as a director of the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any city, county, town or village, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality which exercises governmental powers under the laws of the state, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director, officer or employee of the authority, nor shall service as such director, officer or employee of the authority be deemed incompatible or in conflict with such office or employment.

5. Five directors shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. No action shall be taken by the authority except pursuant to a favorable vote of at least five directors participating in a meeting at which such action is taken.

6. The authority shall appoint a treasurer and may appoint officers and agents as it may require and prescribe their duties.

7. At least annually, commencing no more than one year after the date on which authority bonds, notes or other obligations are first issued, the authority shall report to the council, comptroller, the director of the budget, and the state comptroller on the amount of financing and the

cost savings for the city over the past year.

8. The authority shall cease to exist on June thirtieth, two thousand thirty-seven.

§ 3854. General powers of the authority. Except as otherwise limited by this title, the authority shall have the following powers in addition to those specially conferred elsewhere in this title, subject only to agreements with bondholders:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to make and alter by-laws for its organization and management and subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and fulfillment of its purposes under this title;

4. to make and execute contracts and all other instruments or agreements necessary or convenient to carry out any powers and functions expressly given in this title;

5. to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;

6. to borrow money and issue bonds, notes or other obligations, or to refund the same, and to provide for the rights of the holders of its bonds, notes or other obligations;

7. as security for the payment of the principal of and interest on any bonds, notes or other obligations issued by it pursuant to this title and any agreements made in connection therewith and for its obligations under bond facilities, to pledge all or any part of its revenues or assets;

8. to procure insurance, letters of credit or other credit enhancement with respect to its bonds, notes or other obligations, or facilities for the payment of tenders of such bonds, notes or other obligations or facilities for the payment upon maturity of short-term notes not renewed;

9. to enter into interest rate exchange or similar arrangements with any person under such terms and conditions as the authority may determine, not inconsistent with the general laws of this state and other provisions of this title, including, without limitation, provisions as to default or early termination and indemnification by the authority or any other party thereto for loss of benefits as a result thereof; provided, however, that such exchanges or similar arrangements shall be limited to twenty-five percent of the amount authorized in subdivision one of section thirty-eight hundred sixty-two of this title to pay the financeable costs described in paragraph (a), (c), (d) or (e) of subdivision fifteen of section thirty-eight hundred fifty-one of this title;

10. to accept gifts, grants, loans or contributions of funds or financial or other aid in any form from the city, county, state or federal government or any agency or instrumentality thereof, or from any other source and to expend the proceeds for any of its corporate purposes in accordance with the provisions of this title;

11. subject to the provisions of any contract with bondholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) certificates of deposit, whether negotiable or non-negotiable, and banker's acceptances of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding unsecured, uninsured and unguaranteed debt issue ranked by two nationally recognized independent rating agencies at a rating category that is no lower than the then current rating of the authority's bonds,

notes or other obligations, (d) commercial paper of any bank or corporation created under the laws of either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies, (e) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage corporation, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies, (f) any bonds or other obligations of any state or the United States of America or of any political subdivision thereof or any agency, instrumentality or local governmental unit of any such state or political subdivision which bonds or other obligations, at the time of the investment have received any of the three highest ratings of two nationally recognized independent rating agencies, (g) any repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision, which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian, and (h) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian.

12. to appoint such officers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation, and to retain or employ counsel, auditors and private financial consultants and other services on a contract basis or otherwise for rendering professional, business or technical services and advice; and, in taking such actions, the authority shall consider the financial impact on the city; and

13. to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title; provided, however, such authority shall under no circumstances acquire, hold or transfer title to, lease, own beneficially or otherwise, manage, operate or otherwise exercise control over any real property, any improvement to real property or any interest therein other than a lease or sublease of office space deemed necessary or desirable by the authority.

§ 3855. Assistance to the authority; employees of the authority. 1. With the consent of any public corporation, the authority may use agents, employees and facilities thereof, paying to such public corporation its agreed proportion of the compensation or costs.

2. Officers and employees of state or city agencies may be transferred to the authority without examination and without loss of any civil service or retirement status or rights. Any officer or employee of the authority who heretofore acquired or shall hereafter acquire such position status by transfer and who at the time of such transfer was a member of the New York state and local employees' retirement system shall continue to be a member of such system as long as he or she continues in such service, and shall continue to have all the rights, privileges and obligations of membership in such system.

§ 3856. City fiscal year two thousand three--two thousand four budget

modification and four-year financial plan. 1. Not later than September first, two thousand three, the city shall submit to the authority a financial plan which may reflect a declaration of need as provided for in section thirty-eight hundred sixty-one. The plan shall cover the city's two thousand three--two thousand four fiscal year and the three subsequent fiscal years.

2. Not later than fifteen days after such submission, the authority shall approve or disapprove the financial plan.

3. In the event the authority shall disapprove such financial plan based on disapproval of certain actions or assumptions, the authority shall promptly thereafter notify the city of its reasons. Within fifteen days from the receipt of such notification the city shall modify the financial plan, and unless such financial plan modification is approved by the authority, the authority shall impose a financial plan of its own formulation as soon as practicable, as provided for in section thirty-eight hundred fifty-eight of this title.

§ 3857. City financial plans. 1. Commencing with the city's two thousand four--two thousand five fiscal year, the mayor shall prepare and submit to the authority a four-year financial plan, and the mayor's proposed city budget, not later than the date required for submission of such budget to the council pursuant to the city charter. Such financial plan shall, in addition to the requirements for financial plans set forth in subdivisions two and three of this section, contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. For purposes of determining operating revenues in the fiscal years ending June thirtieth, two thousand four through two thousand seven, such plan may assume receipt by the city of BFSA assistance in the following collective amounts for each respective fiscal year:

Amount	Fiscal Year Ending
2004 amount	2004

2005 amount 2005
2006 amount 2006
2007 amount 2007

As used in this subdivision:

"2004 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between thirty-five per centum and forty per centum of the projected gap.

"2005 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between forty-five per centum and fifty per centum of the projected gap.

"2006 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between sixty per centum and sixty-five per centum of the projected gap.

"2007 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between eighty per centum and eighty-five per centum of the projected gap.

2. Each financial plan and financial plan modification shall conform to the requirements of paragraph (a) of this subdivision and shall provide that the major operating funds of the city will be balanced in accordance with generally accepted accounting principles. The financial plan shall be developed and approved, and may from time to time be modified, in accordance with the following procedures:

(a) The mayor shall submit to the authority a certificate stating that the budget submitted to the authority is consistent with the financial plan submitted therewith and that operation within the budget is feasible.

(a-1) Prior to the approval or disapproval of the financial plan of the city by the authority, the authority shall request community, educational or other entity or entities to seek public input and comment relating to the city's and/or any covered organization's financial plan. Such community, educational or other entity or entities shall report to the authority on such public input and comment ten days after the city has submitted the financial plan to the authority. The authority shall evaluate any proposals submitted to the authority for cost savings and/or service delivery enhancement in the city, and shall periodically, at least twice a year, summarize in a public report the authority's findings with respect to such proposals that, in the opinion of the authority, merit further consideration based on their potential impact on the city's budget. The authority shall provide public notice of the dates on which it plans to make such public reports.

(b) Not more than twenty days after submission of a financial plan or more than fifteen days after submission of a financial plan modification, the authority shall determine whether the financial plan or financial plan modification is complete and complies with the provisions of this section and section thirty-eight hundred fifty-six of this title and the other requirements of this title, and shall submit its recommendations with respect to the financial plan or financial plan modification in accordance with the provisions of this subdivision.

(c) Upon the approval by the city of a budget in accordance with the provisions of the city charter, the mayor shall submit such approved budget and financial plan to the authority accompanied by expenditure, revenue and cash flow projections on a quarterly basis and certify to the authority that such budget is consistent with the financial plan to be submitted to the authority.

(d) If the authority determines that the financial plan or financial plan modification provided pursuant to paragraph (c) or (f) of this subdivision or section thirty-eight hundred fifty-six of this title is complete and complies with the standards set forth in this subdivision, the authority shall make a certification to the city setting forth revenue estimates agreed to by the authority in accordance with such determination.

(e) The authority shall, in the event it disagrees with elements of the financial plan provided pursuant to paragraph (c) or (f) of this subdivision, or section thirty-eight hundred fifty-six of this title, provide notice thereof to the city, with copies to the director of the budget, the state comptroller, the chair of the assembly ways and means committee and the chair of the senate finance committee, if, in the judgment of the authority, such plan: (i) is incomplete; (ii) fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimations; (iii) fails to provide that operations of the city and the covered organizations will be conducted within the cash resources available; or (iv) fails to comply with the provisions of this title or other requirements of law.

(f) After the initial adoption of an approved financial plan, the revenue estimates certified by the authority and the financial plan shall be regularly reexamined by the authority in consultation with the city and the covered organizations and the mayor shall provide a modified financial plan in such detail and within such time periods as the authority may require. In the event of reductions in such revenue estimates, or in the event the city or a covered organization shall expend funds at a rate that would exceed the aggregate expenditure limitation for the city or covered organization prior to the expiration of the fiscal year, the mayor shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or aggregate expenditure limitations.

(g) If, within a time period specified by the authority, the city fails to make such modifications after reductions in revenue estimates, or to provide a modified plan in detail and within such time period required by the authority, the authority shall adopt a resolution so finding and shall, as soon as practicable thereafter, formulate and adopt a financial plan to be effective until the authority approves a financial plan submitted by the city. All budgets and operations of the city or a covered organization shall be in conformance and compliance with the financial plan then in effect.

(h) The city shall amend its budget or shall submit a financial plan modification for the approval of the authority such that the city's budget and the approved financial plan shall be consistent. In no event shall the city operate under a budget that is inconsistent with an approved financial plan.

3. The financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect as the authority may specify, and shall include the city and all the covered organizations, and shall, in such detail as the authority from

time to time may prescribe, include (a) statements of all estimated revenues and of all expenditures and cash flow projections of the city and each covered organization, and (b) an accounting of the expenditure of efficiency incentive grants available to the city for each year of the plan.

4. The financial plan shall include any information which the authority may request to satisfy itself that (a) projected employment levels, collective bargaining agreements and other actions relating to employee costs, capital construction and such other matters as the authority may specify are consistent with the provisions made for such obligations in the financial plan, (b) the city and the covered organizations are taking whatever action is necessary with respect to programs mandated by state and federal law to ensure that expenditures for such programs are limited to and covered by the expenditures stated in the financial plan, (c) adequate reserves are provided to maintain essential programs in the event revenues have been overestimated or expenditures underestimated for any period, and (d) the city has adequate cash resources to meet its obligations. In addition, except to the extent such reporting requirements may be modified pursuant to agreement between the authority and the city, for each fiscal year occurring during a control period, or while bonds, notes or other obligations issued pursuant to this title are outstanding, the mayor shall prepare a quarterly report of summarized budget data depicting overall trends, by major category within funds, of actual revenues and budget expenditures for the entire budget rather than individual line items, as well as updated quarterly cash flow projections of receipts and disbursements. Such reports shall compare revenue estimates and appropriations as set forth in such budget and in the quarterly revenue and expenditure projections submitted therewith, with the actual revenues and expenditures made to date. Such reports shall also compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with variances and their explanation. All quarterly reports shall be accompanied by recommendations from the mayor to the council setting forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations. These reports shall

be completed within thirty days after the end of each quarter and shall be submitted to the council, the authority, the director of the budget and the state comptroller. For each fiscal year occurring during a control or advisory period or while bonds, notes or other obligations issued pursuant to this title are outstanding, the mayor shall submit a proposed budget or revision thereto to the authority concurrent with submission to the council, and shall submit the adopted budget to the authority immediately upon its adoption.

5. For each financial plan and financial plan modification to be prepared and submitted by the mayor to the authority pursuant to the provisions of this section, the covered organizations shall submit to the city such information with respect to their projected expenditures, revenues and cash flows for each of the years covered by such financial plan or modification as the mayor shall determine.

§ 3857-a. Efficiency incentive grants. By November tenth, two thousand five, the city shall develop and submit to the authority a plan for achieving recurring savings through innovations and reengineering. Subject to appropriations therefor in the state fiscal years two thousand six--two thousand seven through two thousand ten--two thousand eleven, the authority shall provide grants to support such city cost saving activities. State funding during such five year period shall not exceed fifty million dollars, or ten million dollars annually, for grants provided pursuant to this section and section thirty-nine hundred fifty-seven-a of this article. Provided further, copies of such city plan shall be submitted to the director of the budget, the chair of the state senate finance committee and the chair of the state assembly ways and means committee.

§ 3858. Control period. 1. A control period shall begin as of the effective date of this title and may be reimposed during an advisory period if the authority determines at any time that a fiscal crisis is imminent or that any of the following events has occurred or that there is a substantial likelihood and imminence of such occurrence: (a) the city shall have failed to adopt a balanced budget, financial plan or budget modification as required by sections thirty-eight hundred fifty-six and thirty-eight hundred fifty-seven of this title, (b) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due, (c) the city shall have incurred an operating deficit of one percent or more in the aggregate results of operations of any major fund of the city or a covered organization during its fiscal year assuming all revenues and expenditures are reported in accordance with generally accepted accounting principles, subject to the provisions of this title, (d) the chief fiscal officer's certification at any time, at the request of the authority or on the chief fiscal officer's initiative, which certification shall be made from time to time as promptly as circumstances warrant and reported to the authority, that on the basis of facts existing at such time such officer could not make the certification described in subdivision one of section thirty-eight hundred fifty-one of this title, or (e) the city shall have violated any provision of this title. A control period shall terminate when the authority has determined that the city qualifies for the onset of an advisory period as provided under subdivision one of section thirty-eight hundred fifty-one of this title. After onset of an advisory period, the authority shall annually consider paragraphs (a) through (e) of this subdivision and determine whether, in its judgment, any of the events described in such paragraphs have occurred and the authority shall publish each such determination. Any certification made by the chief fiscal officer hereunder shall be based on such officer's written determination which shall take into account a report and opinion of an independent expert in the marketing of municipal securities selected by the authority, and the opinion of such expert and any other information taken into account shall be made public when delivered to the authority. Notwithstanding any part of the foregoing to the contrary, in no event shall any control period continue beyond June thirtieth, two thousand thirty-seven.

2. In carrying out the purposes of this title during any control period, the authority:

(a) shall approve or disapprove the financial plan and the financial plan modifications of the city, as provided in sections thirty-eight hundred fifty-six and thirty-eight hundred fifty-seven of this title, and shall formulate and adopt its own modifications to the financial plan, as necessary; such modifications shall become effective upon their adoption by the authority;

(b) may set a maximum level of spending for any proposed budget of any covered organization;

(c) may impose a wage and/or hiring freeze: (i) During a control period, upon a finding by the authority that a wage and/or hiring freeze is essential to the adoption or maintenance of a city budget or a financial plan that is in compliance with this title, the authority shall be empowered to order that all increases in salary or wages of employees of the city and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards, now in existence or hereafter entered into, requiring such salary or wage increases as of any date thereafter are suspended. Such order may also provide that all increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments for employees of the city and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards requiring such increased payments as of any date thereafter are, in the same manner, suspended. For the purposes of computing the pension base of retirement allowances, any suspended salary or wage increases and any other suspended payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, this subdivision shall not be applicable to employees of the city or employees of a covered organization subject to a collective bargaining agreement or an employee of the city or a covered organization not subject to a collective bargaining agreement where the collective bargaining representative or such unrepresented employee has agreed to a deferment of salary or wage increase, by an instrument in writing which has been certified by the authority as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the city. Any such agreement to a deferral of salary or wage increase may provide that for the purposes of computing the pension base of retirement allowances, any deferred salary or wage increase may be considered as part of compensation or final compensation or of annual salary earned or earnable;

(iii) Notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, no retroactive pay adjustments of any kind shall accrue or be deemed to accrue during the period of wage freeze, and no such additional amounts shall be paid at the time a wage freeze is lifted, or at any time thereafter.

(d) shall periodically evaluate the suspension of salary or wage increases or suspensions of other increased payments or benefits, and may, if it finds that the fiscal crisis, in the sole judgment of the authority has abated, terminate such suspensions;

(e) shall review and approve or disapprove any collective bargaining agreement to be entered into by the city or any covered organization, or purporting to bind, the city or any covered organization. Prior to entering into any collective bargaining agreement, the city or any covered organization shall submit a copy of such collective bargaining agreement to the authority, accompanied by an analysis of the projected costs of such agreement and a certification that execution of the agreement will be in accordance with the financial plan. Such submission shall be in such form and include such additional information as the authority may prescribe. The authority shall promptly review the terms of such collective bargaining agreement and the supporting information in order to determine compliance with the financial plan, and shall disapprove any collective bargaining agreement which, in its judgment, would be inconsistent with the financial plan. No collective bargaining agreement binding, or purporting to bind, the city or any covered organization after the effective date of this title shall be valid and binding upon the city or any covered organization unless first approved by resolution of the authority.

(f) shall act jointly with the city in selecting members of any interest arbitration panel. Notwithstanding any other evidence presented by the city, the covered organization or any recognized employee organization, the arbitration panel must, prior to issuing any final decision, provide the authority with the opportunity to present evidence regarding the fiscal condition of the city;

(g) shall take any action necessary in order to implement the financial plan should the city or any covered organization have failed to comply with any material action necessary to fulfill the plan, provided, however, the authority shall provide seven (7) days notice of its determination that the city or any covered organization has not complied prior to taking any such action.

(h) may review and approve or disapprove contracts or other obligations binding or purporting to bind the city or any covered organization;

(i) shall, with respect to any proposed borrowing by or on behalf of the city or any covered organization on or after July first, two thousand three, review the terms of and comment, within thirty days after notification by the city or covered organization of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the city or covered organization and no such borrowing shall be made unless first reviewed, commented upon and approved by the authority. The authority shall comment within thirty days after notification by the city or covered organization of a proposed borrowing to the mayor, the comptroller, the council, the director of the budget and the state comptroller and indicate approval or disapproval of the proposed borrowing. Notwithstanding the foregoing, neither the city nor any covered organization shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes; and, provided further, the first issuance of debt pursuant to chapter six hundred five of the laws of two thousand, as amended, shall be excluded from this requirement;

(j) may review the operation, management, efficiency and productivity of the city and any covered organizations as the authority may determine, and make reports thereon; examine the potential to enhance the revenue of the city or any covered organization; audit compliance with the financial plan in such areas as the authority may determine; recommend to the city and the covered organizations such measures relating to their operations, management, efficiency and productivity as the authority deems appropriate to reduce costs, enhance revenue, and improve services so as to advance the purposes of this title;

(k) may require the city to undertake certain actions to advance serious and in-depth exploration of a merger of services with the county, including identification and analysis of options; development of a detailed fiscal and programmatic plan; identification of city, county, and state impediments; and fostering of informed public debate;

(l) may review and approve or disapprove the terms of any proposed settlement of claims against the city or any covered organization in excess of fifty thousand dollars;

(m) may obtain from the city, the covered organizations, comptroller, and the state comptroller, as appropriate, all information required pursuant to this section, and such other financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the city and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title;

(n) may perform such audits and reviews of the city and any agency thereof and any covered organizations as it deems necessary; and

(o) may issue, from time to time and to the extent it deems necessary or desirable in order to accomplish the purposes of this title, to the appropriate official of the city and each covered organization, such orders necessary to accomplish the purposes of this title, including, but not limited to, timely and satisfactory implementation of an approved financial plan. Any order so issued shall be binding upon the official to whom it was issued and failure to comply with such order shall subject the official to the penalties described in subdivision three of this section.

3. (a) During any control period (i) no officer or employee of the city or of any of the covered organizations shall make or authorize an obligation or other liability in excess of the amount available therefor under the financial plan as then in effect; (ii) no officer or employee of the city or of any of the covered organizations shall involve the city or any of the covered organizations in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the authority unless such contract has been so approved and unless such contract or obligation or liability is in compliance with the approved financial plan as then in effect.

(b) No officer or employee of the city or any of the covered organizations shall take any action in violation of any valid order of the authority or shall fail or refuse to take any action required by any such order or shall prepare, present or certify any information (including any projections or estimates) or report to the authority or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the authority or its agents thereof.

(c) In addition to any penalty or liability under any other law, any officer or employee of the city or any of the covered organizations who shall violate paragraph (a) or (b) of this subdivision shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the mayor; and any officer or employees of the city or any of the covered organizations who shall knowingly and willfully violate paragraph (a) or (b) of this subdivision shall, upon conviction, be guilty of a misdemeanor.

(d) In the case of a violation of paragraph (a) or (b) of this subdivision by an officer or employee of the city or of a covered organization, the mayor or the chief executive officer of such covered organization shall immediately report to the authority all pertinent facts together with a statement of the action taken thereon.

§ 3859. Advisory period. 1. During any advisory period the authority shall:

(a) obtain from the city, the covered organizations and the state comptroller, all information, financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the city and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title;

(b) review the operation, management, efficiency and productivity of city operations and of any covered organization's operations as the authority may determine, and make reports and recommendations thereon; examine the potential to enhance the revenue of the city or any covered organization; audit compliance with the financial plan in such areas as the authority may determine; recommend to the city and the covered organizations such measures relating to their operations, management, efficiency and productivity as the authority deems appropriate to reduce costs, enhance revenue and improve services so as to advance the purposes of this title;

(c) comment on the provisions of the budget, the financial plan and the financial plan modifications of the city as the authority deems necessary or appropriate;

(d) review and comment on the terms of any proposed borrowing, including the prudence of each proposed issuance of bonds or notes to be issued by the city; and

(e) assess the impact of any collective bargaining agreement to be entered into by the city and such contracts, that, in the judgment of the authority, may have a significant impact on the city's long-term fiscal condition.

2. During any advisory period, the city shall promptly provide all information requested by the authority, review the comments, assessments, reports and recommendations of the authority and publicly respond thereto, addressing such matters as have been raised by the authority.

§ 3860. Additional provisions. 1. Notwithstanding any provision to the contrary in title six-A of article two of the local finance law, neither the city nor any covered organization shall file any petition authorized by such title six-A without the approval of the authority and the state comptroller. No such petition shall be filed as long as any bonds, notes or other obligations issued by the authority remain outstanding. Failure of the authority or the state comptroller to notify the city or a covered organization within thirty days (or such additional time, not exceeding thirty days, as the authority or state comptroller shall have notified the city or covered organization that it requires to complete its review) after submission to it of a petition shall be deemed to constitute authority or state comptroller approval thereof.

2. Nothing contained in this title shall limit the right of the city or any covered organization to comply with the provisions of any

existing contract within or for the benefit of the holders of any bonds or notes of the city or such covered organization.

3. Nothing contained in this title shall be construed to limit the power of the city or a covered organization to determine, from time to time, within available funds for the city or for such covered organization, the purposes for which expenditures are to be made by the city or such covered organization and the amounts of such expenditures, consistent with the aggregate expenditures then permitted under the financial plan for the city or such covered organization.

4. The authority's fiscal year shall be July first through June thirtieth.

5. The authority shall adopt guidelines for procurement contracts in accordance with section twenty-eight hundred seventy-nine of this chapter.

§ 3861. Declaration of need for financing assistance to the city. 1. The city shall determine and declare whether it requests the authority to undertake a financing of costs, including costs of the city's dependent school district or any other covered organization. Any such request shall be made by and through the mayor after approval by the council. Any such financing shall be consistent with the adopted budget and financial plan of the city required under sections thirty-eight hundred fifty-six and thirty-eight hundred fifty-seven of this title, as applicable.

2. Upon declaration by the city of such need, the mayor shall request that the authority provide financing in accordance with the provisions of this title.

3. Upon approval by the authority, in its discretion in accordance with the provisions of this title, of such financing request, the authority may enter into agreements with the city, for itself or on behalf of the city's dependent school district or any other covered

organization, as applicable, and the city, acting by the mayor, approved by the council, may enter into agreements with the authority in accordance with the provisions of this title as to the financing of costs by the authority, the application of revenues to the authority to secure its bonds, notes or other obligations, and further assurances in respect of the authority's receipt of such revenues and the fiscal affairs of the city, including but not limited to the manner of preparation of budget reports and financial plans as provided for in sections thirty-eight hundred fifty-six and thirty-eight hundred fifty-seven of this title, as applicable. The authority's revenues shall not be deemed funds of the city. Any such agreements with the city may be pledged by the authority to secure its bonds, notes or other obligations and may not be modified thereafter except as provided by the terms of the pledge.

4. Such agreements with the city shall (a) describe the particular financeable costs to be financed in whole or in part by the authority, (b) describe the plan for the financing of the costs, (c) set forth the method by which and by whom and the terms and conditions upon which money provided by the authority shall be disbursed to the city for itself or on behalf of the city's dependent school district or other covered organization, as applicable, (d) where appropriate, provide for the payment of such costs by the city under such contracts as shall be awarded by the city or for the city to make a capital contribution of such proceeds as city funds to another entity for the payment or reimbursement of such costs, and (e) require every contract entered into by the city, or another entity receiving funds from the city, for costs to be financed in whole or in part by the authority to be subject to the provisions of the city charter and other applicable laws governing contracts of the city or such entity, as the case may be.

5. At least annually, commencing no more than one year after the date on which authority bonds, notes or other obligations are first issued, the mayor shall report to the authority, the comptroller, the council, the state comptroller, the chairs of the senate finance committee and the assembly ways and means committee, and the director of the budget on the costs financed by the authority and the amount of such financing

over the past year, which report shall describe, by reference to the specific items in the city's budget or financial plan, its compliance therewith.

§ 3862. Bonds, notes or other obligations of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in such principal amounts as it may determine to be necessary pursuant to section thirty-eight hundred sixty-one of this title to pay any financeable costs and to fund reserves to secure such bonds, notes or other obligations, including incidental expenses in connection therewith; provided, however, the aggregate principal amounts of such bonds, notes or other obligations outstanding at any one time shall not exceed one hundred seventy-five million dollars, and such bonds shall be tax exempt to the maximum extent practicable, as provided by section thirty-eight hundred sixty-nine of this title. Bonds, notes or other obligations issued by the authority (a) to pay reasonable costs of issuance, as determined by the authority, (b) to establish debt service reserve funds, (c) to refund or advance refund any outstanding bonds or notes of the city or the authority, or (d) as cash flow borrowings shall not count against the above limit on outstanding bonds, notes or other obligations of the authority, nor shall any accretion of principal of bonds that would constitute interest under the Internal Revenue Code of 1986, as amended, count against such limit; provided, however, that the aggregate principal amount of cash flow borrowings outstanding at any one time shall not exceed one hundred forty-five million dollars.

2. The authority may issue bonds, notes or other obligations to refund bonds, notes or other obligations previously issued, but in no event shall the final maturity of any bonds, notes or other obligations of the authority be later than June thirtieth, two thousand thirty-seven. No bond of the authority shall mature more than thirty years from the date of its issue, or after June thirtieth, two thousand thirty-seven, whichever date is earlier.

3. Bonds, notes or other obligations of the authority may be issued,

amortized, redeemed and refunded without regard to the provisions of the local finance law.

4. The directors may delegate to the chairperson or other director or officer of the authority the power to set the financial terms of bonds, notes or other obligations.

5. The authority in its sole discretion shall determine that the issuance of its bonds, notes or other obligations is appropriate. Bonds, notes or other obligations shall be authorized by resolution of the authority. Bonds shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at such public or private sale, be executed in such manner, be denominated in United States currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may provide in such resolution. No bonds, notes or other obligations of the authority may be sold at private sale unless such sale and the terms thereof have been approved in writing by (a) the state comptroller where such sale is not to the state comptroller, or (b) the director of the budget, where such sale is to the state comptroller.

6. Any resolution or resolutions authorizing bonds, notes or other obligations or any issue of bonds, notes or other obligations may contain provisions which may be a part of the contract with the holders of the bonds, notes or other obligations thereby authorized as to: (a) pledging all or part of the authority's revenues, together with any other moneys, securities or contracts, to secure the payment of the bonds, notes or other obligations, subject to such agreements with bondholders as may then exist; (b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof; (c) limitations on the purposes to which the proceeds from the sale of bonds, notes or other obligations may be applied; (d) limitations on the issuance of additional bonds, notes or other obligations, the terms upon which additional bonds, notes or other obligations may be issued and secured and the refunding of bonds, notes or other obligations; (e) the procedure, if any, by which the terms of any contract with bondholders

may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given; (f) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section thirty-eight hundred sixty-three of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; and (g) defining the acts or omissions of the authority to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such acts or omissions of the authority to act which may constitute a default and such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title.

7. In addition to the powers conferred upon the authority in this section to secure its bonds, notes or other obligations, the authority shall have power in connection with the issuance of bonds, notes or other obligations to enter into such agreements for the benefit of the bondholders as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys, including the entrusting, pledging or creation of any other security interest in any such revenues, moneys and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds, notes or other obligations of the authority.

7-a. Whenever a series of bonds, notes or other obligations of the authority is issued pursuant to this section for purposes other than deficit financing authorized by section thirty-eight hundred fifty-seven of this title, the payment of the proceeds of such series of bonds, notes or other obligations to the city may be, at the request of the authority, evidenced by obligations of the city issued in accordance with applicable provisions of the state constitution and local finance law then in effect at the time any such obligations are issued, provided that the principal amount of the authority's bonds, notes or other obligations issued in connection with any such exchange shall not exceed the principal amount of such obligations of the city and accrued interest thereon at the stated rate to the date of such exchange, and provided further, however, that the principal payments on any such issue of city obligations shall in no event be scheduled to fall on a date later than the date on which falls a corresponding amount of scheduled principal payments on the series of bonds, notes or other obligations of the authority originally issued to provide such proceeds or issued to refund bonds, notes or other obligations issued to provide such proceeds.

8. Notwithstanding any provision of the uniform commercial code to the contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed to be valid and binding.

9. Whether or not the bonds, notes or other obligations of the authority are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds, notes or other obligations are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

10. Neither the directors of the authority nor any person executing bonds, notes or other obligations shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof. The bonds, notes or other obligations of the authority shall not be a debt of either the state or the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority; and such bonds, notes or other obligations shall contain on the face thereof a statement to such effect.

11. The authority, subject to such agreements with bondholders as then may exist, shall have power to purchase bonds, notes or other obligations of the authority out of any moneys available therefor, which shall thereupon be canceled.

§ 3863. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (f) of subdivision six of section thirty-eight hundred sixty-two of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds, notes or other obligations after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or shall default in any agreement made with the holders of any issue of bonds, notes, or other obligations, the holders of at least twenty-five per centum in aggregate principal amount of the bonds, notes or other obligations of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose provided in this section.

2. Such trustee may, and upon written request of the holders of at least twenty-five per centum in principal amount of such bonds, notes or other obligations outstanding shall, in his or her or its own name: (a) by action or proceeding in accordance with the civil practice law and

rules, enforce all rights of the bondholders and require the authority to carry out any other agreements with the holders of such bonds, notes or other obligations and to perform its duties under this title; (b) bring an action or proceeding upon such bonds, notes or other obligations; (c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holder of such bonds, notes or other obligations; and (d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, notes or other obligations.

3. Such trustee shall, in addition to the provisions of subdivisions one and two of this section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court of the county shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders.

§ 3864. Intercept of city tax revenues, school district tax revenues and state aid revenues. 1. The state comptroller, in accordance with section twelve hundred sixty-one of the tax law, shall pay at least monthly to the authority, (a) for the period beginning upon the effective date of this title through June thirtieth, two thousand thirty-seven, city tax revenues and, (b) for the period beginning July first, two thousand four, and ending June thirtieth, two thousand thirty-seven, during which the county sets aside net collections for educational purposes pursuant to the authority of subdivision (a) of section twelve hundred sixty-two of the tax law, school district tax revenues. During the period beginning on the effective date of this title through June thirtieth, two thousand thirty-seven, the county shall impose such taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of the tax law at a rate of no less than three percent. In addition, during such periods, respectively, the state comptroller shall pay to the authority (i) city tax revenues pursuant to the then current agreement under subdivision (c) of section twelve hundred sixty-two of the tax law among the county and the cities in the county and (ii) school district tax revenues; provided however, in the event that such agreement among the county and such cities shall have expired or been terminated during such period, notwithstanding any other provision of general, special or local law to the contrary, the state comptroller shall make such payments of city tax revenues to the authority pursuant to the provisions of paragraph two of subdivision (d) of section twelve hundred sixty-two of the tax law.

2. Commencing on the effective date of this title, and until June thirtieth, two thousand thirty-seven, the state comptroller shall pay state aid revenues to the authority.

3. The city shall have no right, title, or interest in the city tax revenues or state aid revenues paid to the authority pursuant to this section; and the school district shall have no right, title, or interest in the school district tax revenues paid to the authority pursuant to this section.

§ 3865. Resources of the authority. 1. Subject to the provisions of this title, the directors of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all moneys of the authority from whatever source derived including (a) revenues and (b) proceeds of bonds, notes or other obligations.

2. Subject to the provisions of any contract with bondholders, revenues of the authority shall be paid to the authority and shall not be commingled with any other money.

3. The money in any of the authority's accounts shall be paid out on checks signed by the treasurer of the authority, or by other lawful and appropriate means such as wire or electronic transfer, on requisitions of the chairperson of the authority or of such other officer as the directors shall authorize to make such requisition, or pursuant to a bond resolution or trust indenture.

4. All deposits of authority money shall be secured by obligations of the United States or of the state or of the city at a market value at least equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The authority shall have the power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds, notes or other obligations as to the custody, collection, securing, investment and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds, notes or other obligations or in any way to secure bonds, notes or other obligations, and to carry out any such contract notwithstanding that such contract may be inconsistent with the other provisions of this title. Money held in trust or otherwise for the payment of bonds, notes or other obligations or in any way to secure bonds, notes or other obligations, and deposits of such money, may be secured in the same manner as money of the authority, and all banks and trust companies are authorized to give such security for such deposits.

5. Revenues of the authority shall be applied in the following order of priority: first to pay debt service or for set asides to pay debt service on the authority's bonds, notes, or other obligations and to replenish any reserve funds securing such bonds, notes or other obligations of the authority, in accordance with the provision of any indenture or bond resolution of the authority; then to pay the authority's operating expenses not otherwise provided for; and then, subject to the authority's agreement with the city, for itself or on behalf of the city's dependent school district and any other covered organization, to transfer as frequently as practicable the balance of revenues not required to meet contractual or other obligations of the authority to the city or the city's dependent school district as provided in subdivision seven of this section.

6. (a) Any such payment of state aid revenues to the authority shall not obligate the state to make available, nor entitle the city to receive, any additional state aid.

(b) Nothing contained in this title shall be construed to create a debt of the state within the meaning of any constitutional or statutory provisions. Any provision with respect to state aid or state aid revenues shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the state beyond the moneys available for that purpose, and any such payment by the comptroller of state aid revenues is subject to annual appropriation of state aid by the state legislature.

(c) Nothing contained in this title shall be deemed to restrict the right of the state to amend, repeal, modify, or otherwise alter section fifty-four of the state finance law or any provision relating to state aid to municipalities. The authority shall include within any resolution, contract, or agreement with holders of its bonds, notes or other obligations a provision which states that no default occurs as a result of the state's exercising its right to amend, repeal, modify, or otherwise alter section fifty-four of the state finance law or any other provision relating to state aid to municipalities.

7. On a monthly basis, the authority shall prepare and provide to the city and the city's dependent school district a detailed separate accounting of all revenues received and payments and debt service set asides made, as attributable to the city and the city's dependent school district. Such accounting shall reflect (a) the amount of state aid revenues, city tax revenues and school district tax revenues received during such month, (b) the respective portion of debt service paid or set aside during such month by the authority for its notes, bonds and other obligations attributable to the city and the city's dependent school district; (c) the respective portion of reserve fund replenishment made or set aside during such month by the authority in connection with its notes, bonds and other obligations attributable to the city and the city's dependent school district; and (d) the respective portion of administrative expenses of the authority paid or set aside during such month by the authority attributable to the city and the city's dependent school district. As soon as practicable after each monthly payment or set aside, the authority shall make respective payments of the remaining monthly balance or revenues to the city and the city's dependent school district in accordance with such separate accounting. To the extent that such respective monthly payments of the remaining balance of revenues result in an overpayment or underpayment

to the city or the city's dependent school district, the authority shall in the immediately subsequent month, after making debt service payments or debt service set asides, replenishing any reserve funds and paying the administrative expenses of the authority for such month, make an adjustment in favor of the city or the city's dependent school district, as the case may be, before determining the remaining amount of the balance of revenues for such subsequent month and paying such remaining monthly balance of revenues to the city and the city's dependent school district. Nothing in this title shall be deemed to restrict the authority of the state comptroller and the commissioner of taxation and finance to adjust for overpayments or underpayments pursuant to the tax law.

§ 3866. Agreement with the state. 1. The state does hereby pledge to and agree with the holders of any issue of bonds, notes or other obligations issued by the authority pursuant to this title and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this title shall be deemed to restrict any right of the state to amend, modify, repeal or otherwise alter: (a) section fifty-four of the state finance law or any other provision relating to state aid, or (b) statutes imposing or relating to taxes or fees, or appropriations relating thereto.

2. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or

otherwise alter: (a) section fifty-four of the state finance law or any other provision relating to state aid or (b) statutes imposing or relating to taxes, fees, or appropriations relating thereto. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 3866-a. Agreement with the county. 1. The county does hereby covenant and agree with the holders of any issue of bonds, notes or other obligations issued by the authority pursuant to this title and secured by such covenant and agreement that the county will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders are fully paid and discharged. The authority is authorized to include this covenant and agreement of the county in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this title shall be deemed to restrict any right of the county to amend, modify, repeal or otherwise alter any local laws, ordinances or resolutions imposing or relating to taxes or fees, or appropriations relating to such taxes or fees, or setting aside net collections for educational purposes pursuant to the authority of subdivision (a) of section twelve hundred sixty-two of the tax law, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount as then projected by the authority of (i) sales and compensating use taxes to be imposed pursuant to the authority of section twelve hundred ten of the tax law and paid to the city and (ii) all net collections for educational purposes to be set aside by the county pursuant to the authority of subdivision (a) of section twelve hundred sixty-two of the tax law and paid to the city's dependent school district during each of the authority's fiscal years following the effective date of such amendment, modification or other alteration shall be not less than two hundred percent of maximum annual debt service on authority bonds then outstanding. Notwithstanding anything to the contrary in this section, the county further agrees that it shall impose taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of the tax law at the rate of no less than three percent.

2. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this title any provision which provides that a default occurs as a result of the county exercising its right to amend, repeal, modify or otherwise alter such taxes, fees or appropriations or such net collections set aside for educational purposes. Nothing in this title shall be deemed to obligate the county to make any payments or impose any taxes or set aside net collections for educational purposes pursuant to the authority of subdivision (a) of section twelve hundred sixty-two of the tax law; except that the county shall impose taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of the tax law at the rate of no less than three percent.

§ 3867. Agreement with the city. 1. The city hereby covenants and agrees with the holders of bonds, notes or other obligations issued by the authority pursuant to this title, that the city will not take actions which limit, alter or impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders are fully paid and discharged. The authority is authorized to include this covenant and agreement of the city in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this title shall be deemed to restrict the right of the city to amend, modify, repeal or otherwise alter any local law, ordinance or resolution imposing or relating to taxes or fees, or appropriations relating thereto, including sales and compensating use taxes imposed pursuant to the authority of section twelve hundred ten of the tax law, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount as then projected by the authority of (i) sales and compensating use taxes to be imposed pursuant to the authority of section twelve hundred ten of the tax law and paid to the city and (ii) all net collections for educational purposes to be set aside by the county pursuant to the authority of subdivision (a) of section twelve hundred sixty-two of the tax law and paid to the city's dependent school district during each of the authority's fiscal years thereafter, shall be not less than two hundred percent of maximum annual debt service on authority bonds then outstanding. The city further covenants and agrees that (i) it will not take any action, including the imposition of sales and compensating use taxes preempting the county's taxes, to terminate or alter the terms of the agreement among the county, the city and the other cities in the county under subdivision (c) of section twelve hundred sixty-two of the tax law that would reduce or eliminate the amount of net collections that the county distributes or is to distribute to the city prior to June thirtieth, two thousand thirty-seven, without the authority's prior approval, and (ii) if the city imposes sales and compensating use taxes, it shall do so pursuant to subdivision (a) of section twelve hundred ten of the tax law at the maximum rate authorized by such section.

2. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this title any provision which provides that a default occurs as a result of the city exercising its right to amend, repeal, modify or otherwise alter such taxes, fees or appropriations. Nothing in this title shall be deemed to obligate the city to make any payments or impose any taxes; except that, if the city imposes sales and compensating use taxes, it shall do so pursuant to subdivision (a) of section twelve hundred ten of the tax law at the maximum rate authorized by such section.

§ 3868. Bonds, notes or other obligations legal for investment and deposit. The bonds, notes or other obligations of the authority are hereby made securities in which all public officers and bodies of the state and all public corporations, municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, conservators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds, notes or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds, notes or other obligations are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corporations for any purpose for which the deposit of bonds, notes or other obligations of the state is now or may hereafter be authorized.

§ 3869. Tax exemption. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state of New York and are public purposes. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon income or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds, notes or other obligations issued pursuant to this title, and the income therefrom shall, to the maximum extent practicable, be exempt from taxation.

§ 3870. Actions against the authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any director, officer, agent or employee thereof, unless (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a director, counsel or an attorney, officer or employee thereof designated for such purpose, concerning such account or claim and when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust any claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on bonds, notes or other obligations, shall not exceed the maximum rate of interest on judgments

and accrued claims against municipal authorities as provided in the general municipal law. Interest on payments of principal or interest on any bonds, notes or other obligations in default shall accrue at the rate specified in the general municipal law until paid or otherwise satisfied.

5. The venue of every action, suit or special proceeding brought against the authority shall be the supreme court in the county.

6. Neither any director of the authority nor any officer, employee, or agent of the authority, while acting within the scope of his or her authority, shall be subject to any liability resulting from exercising or carrying out any of the powers given in this title.

7. Indemnification. (a) The state shall hold harmless and indemnify directors, officers and employees of the authority, all of whom shall be deemed officers and employees of the state for purposes of section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, or employee occurring in the discharge of his or her duties and within the scope of his or her service on behalf of the authority including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations. In the event of any such claim, demand, suit or judgment, a director, officer or employee of the authority shall be held harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he or she reasonably believed to be in the best interest of the authority or not to have had reasonable cause to believe that his or her conduct was lawful.

(b) In connection with any such claim, demand, suit, or judgment, any director, officer or employee of the authority shall be entitled to representation by private counsel of his or her choice in any civil judicial proceeding whenever the attorney general determines based upon his or her investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the state comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is entitled to representation under the terms and conditions of this section by the authority, upon the audit and warrant of the state comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers, or employees of and representatives to the authority by section seventeen of the public officers law, by action of the authority or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of the authority, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 3871. Audits. 1. The accounts of the authority shall be subject to the audit of the comptroller and the state comptroller. In addition, the authority shall be subject to an annual financial audit performed by an independent certified accountant selected by the authority. Such audit report shall be submitted to the city, the presiding officer, the comptroller, the governor, the state comptroller, the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee.

2. For each fiscal year during the existence of the authority, and within one hundred twenty days after the close of the city's fiscal year, the city shall submit its audited financial statements to the

authority.

§ 3872. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

§ 3873. Separability; construction. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered. The provisions of this title shall be liberally construed to assist the effectuation of the public purposes furthered hereby.

TITLE 3

ERIE COUNTY FISCAL STABILITY AUTHORITY

§ 3950. Short title. This title shall be known and may be cited as the "Erie county fiscal stability authority act".

§ 3950-a. Legislative declaration of need for state intervention. The legislature hereby finds and declares that the county of Erie is facing a severe fiscal crisis, and that the crisis cannot be resolved absent assistance from the state. The legislature further finds and declares that maintenance of a balanced budget by the county of Erie is a matter of overriding state concern, requiring the legislature to intervene to provide a means whereby: the long-term fiscal stability of the county will be assured, the confidence of investors in the county's bonds and notes is preserved, and the economy of both the region and the state as a whole is protected.

§ 3951. Definitions. For the purposes of this title, unless the context otherwise requires: 1. "Advisory period" means a period of time from the effective date of this title until the date when (a) the authority shall determine that for each fiscal year, through and including fiscal year two thousand twelve, that the county has adopted and adhered to budgets covering all expenditures the results of which do not show a major operating funds deficit when reported in accordance with generally accepted accounting principles, subject to the provisions of this title, and shall further determine that in the then current fiscal year there is a substantial likelihood that the results of the county's operations will not show a deficit in the major operating funds when so reported and (b) the comptroller shall certify that securities were sold by or for the benefit of the county during the fiscal year immediately preceding such date and the then current fiscal year in the general public market satisfied the financing requirements of the county during such period and that there is a substantial likelihood that such securities can be sold in the general public market from such date through the end of the next succeeding fiscal year in amounts which will satisfy substantially all of the capital and cash flow requirements of the county during such period in accordance with the financial plan then in effect.

2. "Authority" or "Erie county fiscal stability authority" or "ECFSA" means the public benefit corporation created by this title.

3. "Bonds, notes or other obligations" means bonds, notes and other evidences of indebtedness, issued or incurred by the authority.

4. "Comptroller" means the comptroller of the county.

5. "Control period" means a period determined by the authority in accordance with section thirty-nine hundred fifty-nine of this title.

6. "County" means Erie county.

7. "County charter" means the county government law of Erie county, as amended.

8. "County executive" means the county executive of the county.

9. "County tax revenues" means net collections set aside for county purposes pursuant to subdivision (a) of section twelve hundred sixty-two of the tax law, from the county's sales and compensating use taxes imposed pursuant to the authority of subpart B of part one of article twenty-nine of the tax law.

10. "Covered organization" means any governmental agency, public authority or public benefit corporation which receives or may receive moneys directly, indirectly or contingently from the county, but excluding the authority and (a) any other governmental agency, public authority or public benefit corporation specifically exempted from the provisions of this title by order of the authority upon application of such agency, public authority, or corporation to the authority or on the authority's own motion upon a finding by the authority that such exemption does not materially affect the ability of the county to adopt and maintain a budget pursuant to the provisions of this title, or (b) any state public authority defined in section two hundred one of the civil service law, unless specifically named above; provided, however, no municipality or school district shall be treated as a covered organization solely because it shares sales and compensating use tax revenue with the county, provided further, that the authority may terminate any exemption granted by order of the authority pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

11. "Director of the budget" means the director of the budget of the state.

12. "ECFSA assistance" means: (a) the proceeds of any deficit financing authorized by the authority; or (b) the amount of debt service savings in a given county fiscal year generated from the proceeds of bonds, notes or other obligations of the authority made available to or for the benefit of the county or any covered organization as determined by the authority, or some combination thereof pursuant to the provisions of sections thirty-nine hundred fifty-six and thirty-nine hundred fifty-seven of this title. Such assistance shall be made available only upon a declaration of need by the county pursuant to section thirty-nine

hundred sixty-one of this title and the approval of the authority.

13. "Financeable costs" or "costs" means costs to finance (a) amounts necessary to finance a portion of the operating costs of the county or any covered organization as provided in sections thirty-nine hundred fifty-six and section thirty-nine hundred fifty-seven of this title, to the extent approved by the authority, (b) amounts necessary to accomplish a refunding, repayment or restructuring of all or a portion of the county's outstanding indebtedness or that of any covered organization, (c) cash flow needs of the county or any covered organization, (d) any object or purpose of the county or any covered organization, for which a period of probable usefulness is prescribed in section 11.00 of the local finance law, including the costs of any preliminary studies, surveys, maps, plans, estimates and hearings, or (e) incidental costs, including, but not limited to, legal fees, printing or engraving, publication of notices, taking of title, apportionment of costs, and capitalized interest, insurance premiums, costs related to items authorized in subdivisions seven through nine of section thirty-nine hundred fifty-four of this title or any underwriting or other costs incurred in connection with the financing thereof; provided however that, to the maximum extent practicable, all financeable costs shall not adversely affect the requirements of subdivision two of section thirty-nine hundred fifty-eight of this title.

14. "Financial plan" means the financial plan of the county and the covered organizations to be developed pursuant to section thirty-nine hundred fifty-seven of this title, as from time to time amended.

15. "Legislature" means the legislature of the county.

16. "Major operating funds" means the county general fund, the social services fund, the county road fund, the capital fund, the debt service fund, the sewer fund, together with any other funds of the county or a covered organization from time to time designated by the authority.

17. "Presiding officer" means the presiding officer of the legislature

elected pursuant to the rules of the legislature.

18. "Projected gap" means the excess, if any, of annual aggregate projected expenditures over annual aggregate projected revenues for the major operating funds in each year of a financial plan as determined by the county and certified by the authority. For purposes of determining the projected gap in each fiscal year, annual aggregate projected revenues shall not include the amount of ECFSA assistance expected to be available for such fiscal year.

19. "Revenues" means revenues of the authority consisting of county tax revenues, state aid revenues, and all other aid, rents, fees, charges, payments and other income and receipts paid or payable to the authority or a trustee for the account of the authority to the extent such amounts are pledged to bondholders.

20. "State" means the state of New York.

21. "State aid" means aid and incentives for municipalities, any successor type of aid and any new aid appropriated by the state as local government assistance for the benefit of the county.

22. "State aid revenues" means state aid paid by the state comptroller to the authority pursuant to this title.

23. "State comptroller" means the comptroller of the state.

§ 3952. Erie county fiscal stability authority. 1. There is hereby created the Erie county fiscal stability authority. The authority shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation.

2. The authority shall conduct meetings as often as deemed necessary to accomplish its purposes, but not less than quarterly during a control period or annually during an advisory period.

3. The authority shall continue until its control, advisory or other responsibilities, and its liabilities have been met or otherwise discharged, which in no event shall be later than December thirty-first, two thousand thirty-nine. Upon the termination of the authority, all of its property and assets shall pass to and be vested in the county.

§ 3953. Administration of the authority. 1. The authority shall be administered by seven directors appointed by the governor. Of the seven directors, one each shall be appointed on the written recommendation of the temporary president of the state senate, the speaker of the state assembly and the state comptroller, respectively. One member appointed directly by the governor and the members appointed on the recommendation of the temporary president of the state senate, the recommendation of the speaker of the state assembly and the recommendation of the state comptroller shall be residents of the county. Each director shall be appointed for a term of four years, provided however, that two of the directors first appointed by the governor shall serve for a term ending December thirty-first, two thousand nine, and the remaining five directors first appointed shall serve for the following terms: the directors appointed on recommendation of the temporary president of the state senate, the speaker of the state assembly and the state comptroller shall serve for a term ending December thirty-first, two thousand ten and the two remaining directors first appointed directly by the governor shall serve for a term ending on December thirty-first, two thousand eleven. Each director shall hold office until his or her successor has been appointed and qualified. Thereafter each director shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of his or her predecessor's term.

2. The governor shall designate a chairperson and a vice-chairperson from among the directors. The chairperson shall preside over all meetings of the directors and shall have such other duties as the directors may prescribe. The vice-chairperson shall preside over all meetings of the directors in the absence of the chairperson and shall have such other duties as the directors may prescribe.

3. The directors of the authority shall serve without salary, but each director shall be reimbursed for actual and necessary expenses incurred in the performance of such director's official duties as a director of the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any city, county, town or village, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality which exercises governmental powers under the laws of the state, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director, officer or employee of the authority; nor shall service as such director, officer or employee of the authority be deemed incompatible or in conflict with such office or employment.

5. Four directors shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. No action shall be taken by the authority except pursuant to a favorable vote of at least four directors participating in a meeting at which such action is taken.

6. The authority shall appoint a treasurer and may appoint officers and agents as it may require and prescribe their duties.

7. At least annually, commencing no more than one year after the date on which authority bonds, notes or other obligations are first issued, the authority shall report to the county executive, legislature, comptroller, the director of the budget, the chair of the state senate finance committee, the chair of the state assembly ways and means committee and the state comptroller on the amount of financing and the cost savings for the county over the past year.

§ 3954. General powers of the authority. Except as otherwise limited by this title, the authority shall have the following powers in addition to those specially conferred elsewhere in this title, subject only to agreements with bondholders:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;

3. to make and alter by-laws for its organization and management and subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and fulfillment of its purposes under this title;

4. to make and execute contracts and all other instruments or agreements necessary or convenient to carry out any powers and functions expressly given in this title;

5. to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;

6. to borrow money and issue bonds, notes or other obligations, or to refund the same, and to provide for the rights of the holders of its bonds, notes or other obligations;

7. as security for the payment of the principal of and interest on any bonds, notes or other obligations issued by it pursuant to this title and any agreements made in connection therewith and for its obligations under bond facilities, to pledge all or any part of its revenues or assets;

8. to procure insurance, letters of credit or other credit enhancement with respect to its bonds, notes or other obligations, or facilities for the payment of tenders of such bonds, notes or other obligations or facilities for the payment upon maturity of short-term notes not renewed;

9. to enter into interest rate exchange or similar arrangements with any person under such terms and conditions as the authority may

determine, not inconsistent with the general laws of this state and other provisions of this title, including, without limitation, provisions as to default or early termination and indemnification by the authority or any other party thereto for loss of benefits as a result thereof; provided, however, that such exchanges or similar arrangements shall be limited to twenty-five percent of the amount authorized in subdivision one of section thirty-nine hundred sixty-two of this title to pay the financeable costs described in paragraph (a), (b), (d) or (e) of subdivision thirteen of section thirty-nine hundred fifty-one of this title;

10. to procure insurance, letters of credit or other credit enhancement with respect to arrangements described in subdivision nine of this section;

11. to accept gifts, grants, loans or contributions of funds or financial or other aid in any form from the county, state or federal government or any agency or instrumentality thereof, or from any other source and to expend the proceeds for any of its corporate purposes in accordance with the provisions of this title;

12. subject to the provisions of any contract with bondholders in respect of escrow accounts to secure bonds that have been refunded or debt service funds in which revenues are deposited to secure bonds, notes or other indebtedness issued under this act, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) certificates of deposit, whether negotiable or non-negotiable, and banker's acceptances of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding unsecured, uninsured and unguaranteed debt issue ranked by two nationally recognized independent rating agencies at a rating category that is no lower than the then current rating of the authority's bonds, notes or other obligations, (d) commercial paper of any bank or corporation created under the laws of

either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies, (e) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage corporation, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies, (f) any bonds or other obligations of any state or the United States of America or of any political subdivision thereof or any agency, instrumentality or local governmental unit of any such state or political subdivision which bonds or other obligations, at the time of the investment have received any of the three highest ratings of two nationally recognized independent rating agencies, (g) any repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision, which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian, and (h) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian.

13. to appoint such officers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation, and to retain or employ counsel, auditors and private financial consultants and other services on a contract basis or otherwise for rendering professional, business or technical services and advice; and, in taking such actions, the authority shall consider the financial impact on the county.

14. to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title; provided, however, such authority shall under no circumstances acquire, hold or transfer title to, lease, own beneficially or otherwise, manage, operate or otherwise exercise control over any real property, any improvement to real property or any interest therein other than a lease or sublease of office space deemed necessary or desirable by the authority.

§ 3955. Assistance to the authority; employees of the authority. 1. With the consent of any public corporation, the authority may use agents, employees and facilities thereof, paying to such public corporation its agreed proportion of the compensation or costs.

2. Officers and employees of state or county agencies may be transferred to the authority without examination and without loss of any civil service or retirement status or rights. Any officer or employee of the authority who heretofore acquired or shall hereafter acquire such position status by transfer and who at the time of such transfer was a member of the New York state and local employees' retirement system shall continue to be a member of such system as long as he or she continues in such service, and shall continue to have all the rights, privileges and obligations of membership in such system.

§ 3956. County fiscal year two thousand five budget modification and four-year financial plan. 1. Not later than October first, two thousand five, the county executive, upon approval by the legislature, shall submit to the authority a budget modification and financial plan consistent with the financial plan requirements contained in section thirty-eight hundred fifty-seven of this article which may reflect a declaration of need as provided for in section thirty-nine hundred sixty-one of this title; provided, however, in county fiscal year two thousand five such declaration of need shall not exceed one hundred twenty-five million dollars in ECFSA assistance as defined in paragraph (a) of subdivision twelve of section thirty-nine hundred fifty-one of this title. The plan shall cover the county's two thousand five fiscal year and the three subsequent fiscal years.

2. Not later than fifteen days after such submission, the authority shall approve or disapprove the financial plan.

3. In the event the authority shall disapprove such financial plan based on disapproval of certain actions or assumptions, the authority shall promptly thereafter notify the county executive and legislature of its reasons. Within fifteen days from the receipt of such notification the county executive, upon the approval of the legislature, shall modify the financial plan. If the county fails to make such modifications, the authority shall adopt a resolution so finding.

§ 3957. County financial plans. 1. Commencing with the county's two thousand six fiscal year, the county executive shall prepare and submit to the authority a four-year financial plan, and the county executive's proposed county budget, not later than the date required for submission of such budget to the legislature pursuant to the county charter. Such financial plan shall, in addition to the requirements for financial plans set forth in subdivisions two and three of this section, contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. For purposes of determining operating revenues in the fiscal years two thousand five through two thousand nine, such plan may assume receipt by the county of ECFSA assistance in the following collective amounts for each respective fiscal year:

Amount	Fiscal Year
2005 amount	2005
2006 amount	2006
2007 amount	2007
2008 amount	2008
2009 amount	2009

As used in this subdivision:

"2005 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions subsequent to June first, two thousand five to close at a minimum between ten per centum and fifteen per centum of the projected gap.

Provided, however, for this purpose "projected gap" means the amount identified by a report of the state comptroller in June two thousand five.

"2006 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close at a minimum between thirty-five per centum and forty per centum of the projected gap.

"2007 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close at a minimum between forty-five per centum and fifty per centum of the projected gap.

"2008 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close at a minimum between sixty per centum and sixty-five per centum of the projected gap.

"2009 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close at a minimum between eighty per centum and eighty-five per centum of the projected gap.

2. Pursuant to the procedures contained in this subdivision, each year during an advisory period or during a control period the county shall develop, and may from time to time modify, taking into account recommendations of the authority, a four-year financial plan covering the county and the covered organizations. Each financial plan and financial plan modification shall conform to the requirements of paragraph (a) of this subdivision and shall provide that the major operating funds of the county will be balanced in accordance with generally accepted accounting principles. The financial plan shall be developed and approved, and may from time to time be modified, in accordance with the following procedures:

(a) The county executive shall submit to the authority a certificate stating that the budget submitted to the authority is consistent with the financial plan submitted therewith and that operation within the budget is feasible.

(b) Not more than twenty days after submission of a financial plan or more than fifteen days after submission of a financial plan modification, the authority shall determine whether the financial plan or financial plan modification is complete and complies with the provisions of this section and the other requirements of this title, and shall submit its recommendations with respect to the financial plan or financial plan modification in accordance with the provisions of this subdivision.

(c) Upon the approval by the county of a budget in accordance with the provisions of the county charter, the county executive shall submit such approved budget and financial plan to the authority accompanied by expenditure, revenue and cash flow projections on a quarterly basis and certify to the authority that such budget is consistent with the financial plan to be submitted to the authority.

(d) If the authority determines that the financial plan or financial plan modification provided pursuant to paragraph (c) or (f) of this subdivision is complete and complies with the standards set forth in this subdivision, the authority shall make a certification to the county setting forth revenue estimates agreed to by the authority in accordance with such determination.

(e) The authority shall, in the event it disagrees with elements of the financial plan provided pursuant to paragraph (c) or (f) of this subdivision provide notice thereof to the county, with copies to the director of the budget, the state comptroller, the chair of the state assembly ways and means committee and the chair of the state senate finance committee, if, in the judgment of the authority, such plan: (i) is incomplete; (ii) fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimations; (iii) fails to provide that operations of the county and the covered organizations will be conducted within the cash resources available; or (iv) fails to comply with the provisions of this title or other requirements of law.

(f) After the initial adoption of an approved financial plan, the revenue estimates certified by the authority and the financial plan shall be regularly reexamined by the authority in consultation with the county and the covered organizations and the county executive shall provide a modified financial plan in such detail and within such time periods as the authority may require. In the event of reductions in such revenue estimates, or in the event the county or a covered organization shall expend funds at a rate that would exceed the aggregate expenditure limitation for the county or covered organization prior to the expiration of the fiscal year, the county executive shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or aggregate expenditure limitations.

(g) If, within a time period specified by the authority, the county fails to make such modifications after reductions in revenue estimates, or to provide a modified plan in detail and within such time period required by the authority, the authority shall adopt a resolution so finding.

(h) The county shall amend its budget or shall submit a financial plan modification for the approval of the authority such that the county's budget and the approved financial plan shall be consistent. In no event shall the county operate under a budget that is inconsistent with an approved financial plan.

3. The financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect

as the authority may specify, and shall include the county and all the covered organizations, and shall, in such detail as the authority from time to time may prescribe, include (a) statements of all estimated revenues and of all expenditures and cash flow projections of the county and each covered organization, and (b) an accounting of the expenditure of efficiency incentive grants available to the county for each year of the plan.

4. The financial plan shall include any information which the authority may request to satisfy itself that: (a) projected employment levels, collective bargaining agreements and other actions relating to employee costs, capital construction and such other matters as the authority may specify are consistent with the provisions made for such obligations in the financial plan; (b) the county and the covered organizations are taking whatever action is necessary with respect to programs mandated by state and federal law to ensure that expenditures for such programs are limited to and covered by the expenditures stated in the financial plan; (c) adequate reserves are provided to maintain essential programs in the event revenues have been overestimated or expenditures underestimated for any period; and (d) the county has adequate cash resources to meet its obligations. In addition, except to the extent such reporting requirements may be modified pursuant to agreement between the authority and the county, for each fiscal year occurring during a control period, or while bonds, notes or other obligations issued pursuant to this title are outstanding, the county executive shall prepare a quarterly report of summarized budget data depicting overall trends, by major category within funds, of actual revenues and budget expenditures for the entire budget rather than individual line items, as well as updated quarterly cash flow projections of receipts and disbursements. Such reports shall compare revenue estimates and appropriations as set forth in such budget and in the quarterly revenue and expenditure projections submitted therewith, with the actual revenues and expenditures made to date. Such reports shall also compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with variances and their explanation. All quarterly reports shall be accompanied by recommendations from the county executive to the legislature setting

forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations. These reports shall be completed within thirty days after the end of each quarter and shall be submitted to the legislature, the authority, the director of the budget, the chair of the state senate finance committee, the chair of the state assembly ways and means committee and the state comptroller. For each fiscal year occurring during a control or advisory period or while bonds, notes or other obligations issued pursuant to this title are outstanding, the county executive shall submit a proposed budget or revision thereto to the authority concurrent with submission to the legislature, and shall submit the adopted budget to the authority immediately upon its adoption.

5. For each financial plan and financial plan modification to be prepared and submitted by the county executive to the authority pursuant to the provisions of this section, the covered organizations shall submit to the county such information with respect to their projected expenditures, revenues and cash flows for each of the years covered by such financial plan or modification as the county executive shall determine.

§ 3957-a. Efficiency incentive grants. Along with the county financial plan commencing with the county's two thousand six fiscal year, the county shall develop and submit to the authority a plan for achieving recurring savings through innovations and reengineering. Subject to appropriations therefor in the state fiscal years two thousand six--two thousand seven through two thousand ten--two thousand eleven, the authority shall provide grants to support such county cost saving activities. State funding during such five year period shall not exceed fifty million dollars, or ten million dollars annually, for grants provided pursuant to this section and section thirty-eight hundred fifty-seven-a of this article. Provided further, copies of such county plan shall be submitted to the director of the budget, the chair of the state senate finance committee and the chair of the state assembly ways and means committee.

§ 3958. Advisory period. 1. During any advisory period the authority shall: (a) obtain from the county, the covered organizations and the state comptroller, all information, financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the county and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title;

(b) review the operation, management, efficiency and productivity of county operations and of any covered organization's operations as the authority may determine, and make reports and recommendations thereon; examine the potential to enhance the revenue of the county or any covered organization; audit compliance with the financial plan in such areas as the authority may determine; recommend to the county and the covered organizations such measures relating to their operations, management, efficiency and productivity as the authority deems appropriate to reduce costs, enhance revenue and improve services so as to advance the purposes of this title;

(c) consult with the county in the preparation of the budget of the county, comment on the provisions of the budget, the financial plan and the financial plan modifications of the county as the authority deems necessary or appropriate;

(d) review and comment on the terms of any proposed borrowing, including the prudence of each proposed issuance of bonds or notes to be issued by the county or any covered organization; and

(e) assess the impact of any collective bargaining agreement to be entered into by the county and such contracts, that, in the judgment of the authority, may have a significant impact on the county's long-term fiscal condition.

2. During any advisory period, the county shall promptly provide all information requested by the authority, review the comments, assessments, reports and recommendations of the authority and publicly respond thereto, addressing such matters as have been raised by the authority.

§ 3959. Control period. 1. The authority shall impose a control period at any time that any of the following events has occurred or that there is a substantial likelihood and imminence of such occurrence: (a) the county shall have failed to adopt a balanced budget within time frames prescribed in the county charter, financial plan or budget modification as required by sections thirty-nine hundred fifty-six and thirty-nine hundred fifty-seven of this title; (b) the county shall have failed to pay the principal of or interest on any of its bonds or notes when due; (c) the county shall have incurred a major operating funds deficit of one percent or more in the aggregate results of operations of such funds of the county during its fiscal year assuming all revenues and expenditures are reported in accordance with generally accepted accounting principles, subject to the provisions of this title; (d) the comptroller's certification at any time, at the request of the authority or on the comptroller's initiative, which certification shall be made from time to time as promptly as circumstances warrant and reported to the authority, that on the basis of facts existing at such time the comptroller could not make the certification described in paragraph (b) of subdivision one of section thirty-nine hundred fifty-one of this title; or (e) the county shall have violated any provision of this title. The authority shall terminate any such control period when it determines that none of the conditions which would permit the authority to impose a control period exist. After termination of a control period the authority shall annually consider paragraphs (a) through (e) of this subdivision and determine whether, in its judgment, any of the events described in such paragraphs have occurred and the authority shall publish each such determination. Any certification made by the comptroller hereunder shall be based on the comptroller's written determination which shall take into account a report and opinion of an independent expert in the marketing of municipal securities selected by the authority, and the opinion of such expert and any other information taken into account shall be made public when delivered to the authority. Notwithstanding any part of the foregoing to the contrary, in no event shall any control period continue beyond the later of (i) December thirty-first, two thousand thirty-nine, or (ii) the date when all bonds of the authority are refunded, discharged or otherwise defeased.

2. In carrying out the purposes of this title during any control period, the authority:

(a) shall approve or disapprove the financial plan and the financial plan modifications of the county, as provided in section thirty-nine hundred fifty-seven of this title, and shall formulate and adopt its own modifications to the financial plan, as necessary; such modifications shall become effective upon their adoption by the authority;

(b) may set a maximum level of spending for any proposed budget of any covered organization;

(c) may impose a wage and/or hiring freeze: (i) During a control period, upon a finding by the authority that a wage and/or hiring freeze is essential to the adoption or maintenance of a county budget or a financial plan that is in compliance with this title, the authority shall be empowered to order that all increases in salary or wages of employees of the county and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards, now in existence or hereafter entered into, requiring such salary or wage increases as of any date thereafter are suspended. Such order may also provide that all increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments for employees of the county and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards requiring such increased payments as of any date thereafter are, in the same manner, suspended. For the purposes of computing the pension base of retirement allowances, any suspended salary or wage increases and any other suspended payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable;

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, this subdivision shall not be applicable to employees of the county or employees of a covered organization subject to a collective bargaining agreement or an employee of the county or a covered organization not subject to a collective bargaining agreement where the collective bargaining representative or such unrepresented employee has agreed to a deferment of salary or wage increase, by an instrument in writing which has been certified by the authority as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the county. Any such agreement to a deferral of salary or wage increase may provide that for the purposes of computing the pension base of retirement allowances, any deferred salary or wage increase may be considered as part of compensation or final compensation or of annual salary earned or earnable;

(iii) Notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, no retroactive pay adjustments of any kind shall accrue or be deemed to accrue during the period of wage freeze, and no such additional amounts shall be paid at the time a wage freeze is lifted, or at any time thereafter;

(d) shall periodically evaluate the suspension of salary or wage increases or suspensions of other increased payments or benefits, and may, if it finds that the fiscal crisis, in the sole judgment of the authority has abated, terminate such suspensions;

(e) shall review and approve or disapprove any collective bargaining agreement to be entered into by the county or any covered organization, or purporting to bind, the county or any covered organization. Prior to entering into any collective bargaining agreement, the county or any covered organization shall submit a copy of such collective bargaining agreement to the authority, accompanied by an analysis of the projected costs of such agreement and a certification that execution of the agreement will be in accordance with the financial plan. Such submission shall be in such form and include such additional information as the authority may prescribe. The authority shall promptly review the terms of such collective bargaining agreement and the supporting information in order to determine compliance with the financial plan, and shall disapprove any collective bargaining agreement which, in its judgment, would be inconsistent with the financial plan. No collective bargaining agreement binding, or purporting to bind, the county or any covered organization after the effective date of this title shall be valid and binding upon the county or any covered organization unless first approved by resolution of the authority;

(f) shall act jointly with the county in selecting members of any interest arbitration panel. Notwithstanding any other evidence presented by the county, the covered organization or any recognized employee organization, the arbitration panel must, prior to issuing any final decision, provide the authority with the opportunity to present evidence regarding the fiscal condition of the county;

(g) shall take any action necessary in order to implement the financial plan should the county or any covered organization have failed to comply with any material action necessary to fulfill the plan, provided, however, the authority shall provide seven days notice of its determination that the county or any covered organization has not complied prior to taking any such action;

(h) may review and approve or disapprove contracts or other obligations binding or purporting to bind the county or any covered organization;

(i) shall, with respect to any proposed borrowing by or on behalf of the county or any covered organization on or after July first, two thousand five, review the terms of and comment, within thirty days after notification by the county or covered organization of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the county or covered organization and no such borrowing shall be made unless first reviewed, commented upon and approved by the authority. The authority shall comment within thirty days after notification by the county or covered organization of a proposed borrowing to the county executive, the comptroller, the legislature, the director of the budget, the chair of the state senate finance committee, the chair of the state assembly ways and means committee and the state comptroller and indicate approval or disapproval of the proposed borrowing. Notwithstanding the foregoing, neither the county nor any covered organization shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes; and, provided further, revenue anticipation notes issued in July two thousand five, shall be excluded from this requirement;

(j) may review the operation, management, efficiency and productivity of the county and any covered organizations as the authority may determine, and make reports thereon; examine the potential to enhance the revenue of the county or any covered organization; audit compliance with the financial plan in such areas as the authority may determine;

recommend to the county and the covered organizations such measures relating to their operations, management, efficiency and productivity as the authority deems appropriate to reduce costs, enhance revenue, and improve services so as to advance the purposes of this title;

(k) may review and approve or disapprove the terms of any proposed settlement of claims against the county or any covered organization in excess of fifty thousand dollars;

(l) may obtain from the county, the covered organizations, the comptroller, and the state comptroller, as appropriate, all information required pursuant to this section, and such other financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the county and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title;

(m) may perform such audits and reviews of the county and any agency thereof and any covered organizations as it deems necessary; and

(n) may issue, from time to time and to the extent it deems necessary or desirable in order to accomplish the purposes of this title, to the appropriate official of the county and each covered organization, such orders necessary to accomplish the purposes of this title, including, but not limited to, timely and satisfactory implementation of an approved financial plan. Any order so issued shall be binding upon the official to whom it was issued and failure to comply with such order shall subject the official to the penalties described in subdivision three of this section.

3. (a) During any control period: (i) no officer or employee of the county or of any of the covered organizations shall make or authorize an obligation or other liability in excess of the amount available therefor under the financial plan as then in effect; (ii) no officer or employee of the county or of any of the covered organizations shall involve the county or any of the covered organizations in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the authority unless such contract has been so approved and unless such contract or obligation or liability is in

compliance with the approved financial plan as then in effect.

(b) No officer or employee of the county or any of the covered organizations shall take any action in violation of any valid order of the authority or shall fail or refuse to take any action required by any such order or shall prepare, present or certify any information (including any projections or estimates) or report to the authority or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the authority or its agents thereof.

(c) In addition to any penalty or liability under any other law, any officer or employee of the county or any of the covered organizations who shall violate paragraph (a) or (b) of this subdivision shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the county executive; and any officer or employees of the county or any of the covered organizations who shall knowingly and willfully violate paragraph (a) or (b) of this subdivision shall, upon conviction, be guilty of a misdemeanor.

(d) In the case of a violation of paragraph (a) or (b) of this subdivision by an officer or employee of the county or of a covered organization, the county executive or the chief executive officer of such covered organization shall immediately report to the authority all pertinent facts together with a statement of the action taken thereon.

§ 3960. Additional provisions. 1. Notwithstanding any provision to the contrary in title six-A of article two of the local finance law, neither the county nor any covered organization shall file any petition authorized by such title six-A without the approval of the authority and the state comptroller. No such petition shall be filed as long as any bonds, notes or other obligations issued by the authority remain outstanding. Failure of the authority or the state comptroller to notify the county or a covered organization within thirty days (or such additional time, not exceeding thirty days, as the authority or state comptroller shall have notified the county or covered organization that it requires to complete its review) after submission to it of a petition shall be deemed to constitute authority or state comptroller approval

thereof.

2. Nothing contained in this title shall limit the right of the county or any covered organization to comply with the provisions of any existing contract within or for the benefit of the holders of any bonds, notes or other obligations of the county or such covered organization.

3. Nothing contained in this title shall be construed to limit the power of the county or a covered organization to determine, from time to time, within available funds for the county or for such covered organization, the purposes for which expenditures are to be made by the county or such covered organization and the amounts of such expenditures, consistent with the aggregate expenditures then permitted under the financial plan for the county or such covered organization.

4. The authority's fiscal year shall be January first through December thirty-first.

5. The authority shall adopt guidelines for procurement contracts in accordance with section twenty-eight hundred seventy-nine of this chapter.

6. Nothing contained in this title shall alter, limit, modify or impair the right of any school district or any city, town, or village within the county to receive from the county net collections, as authorized by section twelve hundred sixty-two of the tax law, from the county's sales and compensating use taxes imposed pursuant to the authority of subpart B of part one of article twenty-nine of the tax law.

§ 3961. Declaration of need for financing assistance to the county. 1. The county shall determine and declare whether it requests the authority to undertake a financing of costs for the county or any covered organization. Any such request shall be made by and through the county executive after approval by the legislature. Any such financing shall be consistent with the adopted budget and financial plan of the county required under sections thirty-nine hundred fifty-six and thirty-nine hundred fifty-seven of this title, as applicable.

2. Upon declaration by the county of such need, the county executive shall request that the authority provide financing in accordance with the provisions of this title.

3. Upon approval by the authority, in its discretion in accordance with the provisions of this title, of such financing request, the authority may enter into agreements with the county, for itself or on behalf of any covered organization, as applicable, and the county, acting by the county executive, and approved by the legislature, may enter into agreements with the authority in accordance with the provisions of this title as to the financing of costs by the authority, the application of revenues to secure the authority's bonds, notes or other obligations, and further assurances in respect of the authority's receipt of such revenues and the fiscal affairs of the county, including but not limited to the manner of preparation of budget reports and financial plans as provided for in sections thirty-nine hundred fifty-six and thirty-nine hundred fifty-seven of this title, as applicable. The authority's revenues shall not be deemed funds of the county. Any such agreements with the county may be pledged by the authority to secure its bonds, notes or other obligations and may not be modified thereafter except as provided by the terms of the pledge or subsequent agreements with the holders of such obligations.

4. Such agreements with the county shall: (a) describe the particular financeable costs to be financed in whole or in part by the authority; (b) describe the plan for the financing of the costs; (c) set forth the method by which and by whom and the terms and conditions upon which money provided by the authority shall be disbursed to the county, for itself or on behalf of any covered organization, as applicable; (d) where appropriate, provide for the payment of such costs by the county under such contracts as shall be awarded by the county or for the county to make a capital contribution of such proceeds as county funds to another entity for the payment or reimbursement of such costs; and (e) require every contract entered into by the county, or another entity

receiving funds from the county, for costs to be financed in whole or in part by the authority to be subject to the provisions of the county charter and other applicable laws governing contracts of the county or such entity, as the case may be.

5. At least annually, commencing no more than one year after the date on which authority bonds, notes or other obligations are first issued, the county executive shall report to the authority, the comptroller, the legislature, the state comptroller, the chairs of the state senate finance committee and the state assembly ways and means committee, and the director of the budget on the costs financed by the authority and the amount of such financing over the past year, which report shall describe, by reference to the specific items in the county's budget or financial plan, its compliance therewith.

§ 3962. Bonds, notes or other obligations of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in such principal amounts as it may determine to be necessary pursuant to section thirty-nine hundred sixty-one of this title to pay any financeable costs and to fund reserves to secure such bonds, notes or other obligations, including incidental expenses in connection therewith; provided, however, the aggregate principal amounts of such bonds, notes or other obligations outstanding at any one time shall not exceed seven hundred million dollars, and such bonds shall be exempt as provided in section thirty-nine hundred sixty-nine of this title. Bonds, notes or other obligations issued by the authority (a) to pay reasonable costs of issuance, as determined by the authority, (b) to establish debt service reserve funds, (c) to refund or advance refund any outstanding bonds or notes of the county or the authority, or (d) as cash flow borrowings shall not count against the above limit on outstanding bonds, notes or other obligations of the authority, nor shall any accretion of principal of bonds that would constitute interest under the Internal Revenue Code of 1986, as amended, count against such limit; provided further, that the aggregate principal amount of cash flow borrowings outstanding at any time shall not exceed two hundred fifty million dollars.

2. The authority may issue bonds, notes or other obligations to refund bonds, notes or other obligations previously issued, but in no event shall the final maturity of any bonds, notes or other obligations of the authority be later than December thirty-first, two thousand thirty-nine. No bond of the authority shall mature more than thirty years from the date of its issue, or after December thirty-first, two thousand thirty-nine, whichever date is earlier.

3. Bonds, notes or other obligations of the authority may be issued, amortized, redeemed and refunded without regard to the provisions of the local finance law.

4. The directors may delegate to the chairperson or other director or officer of the authority the power to set the financial terms of bonds, notes or other obligations.

5. The authority in its sole discretion shall determine that the issuance of its bonds, notes or other obligations is appropriate. Bonds, notes or other obligations shall be authorized by resolution of the authority. Bonds shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at such public or private sale, be executed in such manner, be denominated in United States currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may provide in such resolution. No bonds, notes or other obligations of the authority may be sold at private sale unless such sale and the terms thereof have been approved in writing by: (a) the state comptroller where such sale is not to the state comptroller; or (b) the director of the budget, where such sale is to the state comptroller.

6. Any resolution or resolutions authorizing bonds, notes or other obligations or any issue of bonds, notes or other obligations may contain provisions which may be a part of the contract with the holders of the bonds, notes or other obligations thereby authorized as to: (a) pledging all or part of the authority's revenues, together with any

other moneys, securities or contracts, to secure the payment of the bonds, notes or other obligations, subject to such agreements with bondholders as may then exist; (b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof; (c) limitations on the purposes to which the proceeds from the sale of bonds, notes or other obligations may be applied; (d) limitations on the issuance of additional bonds, notes or other obligations, the terms upon which additional bonds, notes or other obligations may be issued and secured and the refunding of bonds, notes or other obligations; (e) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given; (f) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section thirty-nine hundred sixty-three of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; and (g) defining the acts or omissions of the authority to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such acts or omissions of the authority to act which may constitute a default and such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title.

7. In addition to the powers conferred upon the authority in this section to secure its bonds, notes or other obligations, the authority shall have power in connection with the issuance of bonds, notes or other obligations to enter into such agreements for the benefit of the bondholders as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys, including the entrusting, pledging or creation of any other security interest in any such revenues, moneys and the doing of any act, including refraining from doing any act, which the authority would have

the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds, notes or other obligations of the authority.

8. Notwithstanding any provision of the uniform commercial code to the contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed to be valid and binding.

9. Whether or not the bonds, notes or other obligations of the authority are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, such bonds, notes or other obligations are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

10. Neither the directors of the authority nor any person executing bonds, notes or other obligations shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof. The bonds, notes or other obligations of the authority shall not be a debt of either the state or the county, and neither the state nor the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority; and such bonds, notes or other obligations shall contain on the face thereof a statement to such effect.

11. The authority, subject to such agreements with bondholders as then may exist, shall have power to purchase bonds, notes or other obligations of the authority out of any moneys available therefor, which shall thereupon be canceled.

§ 3963. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (f) of subdivision six of section thirty-nine hundred sixty-two of this title: 1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds, notes or other obligations after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or shall default in any agreement made with the holders of any issue of bonds, notes, or other obligations, the holders of at least twenty-five per centum in aggregate principal amount of the bonds, notes or other obligations of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds, notes or other obligations for the purpose provided in this section.

2. Such trustee may, and upon written request of the holders of at least twenty-five per centum in principal amount of such bonds, notes or other obligations outstanding shall, in his or her or its own name: (a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the holders of such bonds, notes or other obligations and require the authority to carry out any other agreements with the holders of such bonds, notes or other obligations and to perform its duties under this title; (b) bring an action or proceeding upon such bonds, notes or other obligations; (c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holder of such bonds, notes or other obligations; and (d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, notes or other obligations.

3. Such trustee shall, in addition to the provisions of subdivisions one and two of this section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of holders of bonds, notes or other obligations in the enforcement and protection of their rights.

4. The supreme court of the county shall have jurisdiction of any action or proceeding by the trustee on behalf of such holders of bonds, notes or other obligations.

§ 3964. Intercept of county tax revenues and state aid revenues. 1. Commencing on the effective date of this title, and until December thirty-first, two thousand thirty-nine, the state comptroller shall pay county tax revenues at least monthly to the authority in accordance with section twelve hundred sixty-one of the tax law. During such period, the county shall impose sales and compensating use taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of the tax law at a rate of no less than three percent.

2. Commencing on the effective date of this title, and until December thirty-first, two thousand thirty-nine, the state comptroller shall pay state aid revenues to the authority.

3. The county shall have no right, title, or interest in county tax revenues or state aid revenues required to be paid to the authority pursuant to this section.

§ 3965. Resources of the authority. 1. Subject to the provisions of this title, the directors of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all moneys of the authority from whatever source derived including (a) revenues and (b) proceeds of bonds, notes or other obligations.

2. Subject to the provisions of any contract with holders of bonds,

notes or other obligations, revenues of the authority shall be paid to the authority and shall not be commingled with any other money.

3. The money in any of the authority's accounts shall be paid out on checks signed by the treasurer of the authority, or by other lawful and appropriate means such as wire or electronic transfer, on requisitions of the chairperson of the authority or of such other officer as the directors shall authorize to make such requisition, or pursuant to a bond resolution or trust indenture.

4. All deposits of authority money shall be secured by obligations of the United States or of the state or of the county at a market value at least equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The authority shall have the power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds, notes or other obligations as to the custody, collection, securing, investment and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds, notes or other obligations or in any way to secure bonds, notes or other obligations, and to carry out any such contract notwithstanding that such contract may be inconsistent with the other provisions of this title. Money held in trust or otherwise for the payment of bonds, notes or other obligations or in any way to secure bonds, notes or other obligations, and deposits of such money, may be secured in the same manner as money of the authority, and all banks and trust companies are authorized to give such security for such deposits.

5. Revenues of the authority shall be applied in the following order of priority: first to pay debt service or for set asides to pay debt service on the authority's bonds, notes, or other obligations and to replenish any reserve funds securing such bonds, notes or other obligations of the authority in accordance with the provision of indenture or bond resolution of the authority; then to pay the authority's operating expenses not otherwise provided for; and then, subject to the authority's agreements with the county for itself or on behalf of any covered organization to transfer as frequently as

practicable the balance of revenues not required to meet contractual or other obligations of the authority to the county as provided in subdivision seven of this section.

6. (a) Any such payment of state aid revenues to the authority shall not obligate the state to make available, nor entitle the county to receive, any additional state aid.

(b) Nothing contained in this title shall be construed to create a debt of the state within the meaning of any constitutional or statutory provisions. Any provision with respect to state aid or state aid revenues shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the state beyond the moneys available for that purpose, and any such payment by the comptroller of state aid revenues is subject to annual appropriation of state aid by the state legislature.

(c) Nothing contained in this title shall be deemed to restrict the right of the state to amend, repeal, modify, or otherwise alter section fifty-four of the state finance law or any provision relating to state aid to municipalities. The authority shall include within any resolution, contract, or agreement with holders of its bonds, notes or other obligations a provision which states that no default occurs as a result of the state's exercising its right to amend, repeal, modify, or otherwise alter section fifty-four of the state finance law or any other provision relating to state aid to municipalities.

7. On a monthly basis, the authority shall prepare and provide to the county a detailed accounting of all revenues received and payments and debt service set asides made, as attributable to the county. Such accounting shall reflect: (a) the amount of state aid revenues and county tax revenues received during such month; (b) the respective portion of debt service paid or set aside during such month by the authority for its bonds, notes or other obligations attributable to the county; (c) the respective portion of reserve fund replenishment made or set aside during such month by the authority in connection with its bonds, notes or other obligations attributable to the county; and (d) the respective portion of administrative expenses of the authority paid or set aside during such month by the authority attributable to the

county. As soon as practicable after each monthly payment or set aside, the authority shall make respective payments of the remaining monthly balance or revenues to the county in accordance with such accounting. To the extent that such respective monthly payments of the remaining balance of revenues result in an overpayment or underpayment to the county, the authority shall in the immediately subsequent month, after making debt service payments or debt service set asides, replenishing any reserve funds and paying the administrative expenses of the authority for such month, make an adjustment in favor of the county, as the case may be, before determining the remaining amount of the balance of revenues for such subsequent month and paying such remaining monthly balance of revenues to the county. Nothing in this title shall be deemed to restrict the authority of the state comptroller and the commissioner of taxation and finance to adjust for overpayments or underpayments pursuant to the tax law.

8. (a) This subdivision shall apply only to revenue anticipation notes, including renewals thereof, issued by the county during its fiscal year ending December thirty-first, two thousand five, in anticipation of the receipt of state aid revenues and/or county tax revenues, and only to such issues of revenue anticipation notes as to which the certificate described in paragraph (b) of this subdivision is filed. For purposes of this subdivision, "state aid" means state social services aid, social services aid from the United States government, state aid for court security, state aid for education of handicapped children, and aid and incentives for municipalities, and shall be paid by the state comptroller to the authority.

(b) Notwithstanding the provisions of subdivision five of this section with respect to the transfer of the balance of revenues to the county, prior to the delivery of each such issue of revenue anticipation notes, the comptroller of the county shall file with the authority a request that the authority establish a county of Erie revenue anticipation note withholding fund which shall constitute a special bank account for purposes of paragraph g of section 25.00 of the local finance law. Such request by the comptroller shall be accompanied by a certificate setting forth with respect to such issue (i) the principal amount, (ii) the date of issue, (iii) the maturity date, (iv) the interest rate or rates, (v) if interest shall be payable otherwise than at maturity, the date or dates for the payment thereof, (vi) the name and address of the paying agent, (vii) the name and address of each purchaser, or, if a purchaser shall be a syndicate or similar account, the name and address of each managing underwriter of such syndicate or similar account, (viii) the amount payable on each principal payment date and interest payment date, and (ix) a schedule setting forth the total amount of state aid revenues and county tax revenues anticipated to be received, and the expected date or dates of anticipated receipt of such state aid revenues and county tax revenues. Such certificate shall be accompanied by a statement executed by the comptroller certifying that the amounts and times of payments of state aid revenues and county tax revenues contained in such schedule have been estimated by the use of reasonable and appropriate data and methods of estimation, all in accordance with applicable law.

(c) All such revenue anticipation notes, in addition to a pledge of the faith and credit of the county for the payment thereof, shall contain a recital to the effect that they are entitled to the benefits of the provisions of this subdivision.

(d) Commencing on the date not less than five days prior to and on each day thereafter up to and including any principal and/or interest payment date referred to in the certificate filed by the comptroller with the authority pursuant to paragraph (b) of this subdivision, the authority shall pay to such paying agent from state aid revenues and county tax revenues transferred and credited by the authority to the county of Erie revenue anticipation note withholding fund as provided in paragraph (e) of this subdivision the amount required to pay in full the principal and/or interest due on such payment date as set forth in such certificate. Moneys so paid shall pass immediately from the authority and vest in such paying agent in trust for the benefit of the holders of the revenue anticipation notes to which such certificate relates. No other person having any claim of any kind in tort, contract or otherwise against the county shall have any right to or claim against the moneys held by such paying agent, and such moneys shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any such other person. Such moneys shall be held by such paying agent in a separate trust account and shall be applied only to the payment of the principal and/or interest due on such revenue anticipation notes, provided, however, that the contract by and between the county and such paying agent may provide for (i) the investment by such paying agent of such moneys in direct obligations of, or in obligations guaranteed by, the United States of America, provided such obligations shall be payable or redeemable at the option of the holder within such time as the proceeds shall be needed to pay such principal and/or interest due on such revenue anticipation notes, and (ii) the use by such paying agent of such moneys for the purchase of direct obligations of, or obligations guaranteed by, the United States of America under one or more repurchase agreements with any bank or trust company having its principal office in the state of New York, provided that any such repurchase agreement shall provide for the repurchase of such obligations within such time as such moneys are needed to pay the principal and/or interest due on such revenue anticipation notes at a repurchase price at least sufficient to make the amount so invested available for the payment of principal and/or interest due on such revenue anticipation notes, and provided, further, that, at the time of such purchase, the market value of such obligations shall be at least equal to one hundred two per centum of the amount so invested. No person having any claim of any kind in tort, contract or otherwise against the county shall have any right to or claim against any moneys in anticipation of which such notes have been issued, other than a claim for payment by the holders of such notes, and such moneys shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any such person. Notwithstanding any provision of law to the contrary, no instrument relating to any transaction authorized or contemplated by this paragraph need be filed under the provisions of the uniform commercial code.

(e) Commencing on the day when the authority determines that the principal and interest due or to come due on such outstanding revenue anticipation notes issued against such state aid revenues and/or county tax revenues in accordance with the provisions of this subdivision shall equal the amount of such state aid revenues and such county tax revenues as set forth on the schedule included in the certificate filed with the authority pursuant to paragraph (b) of this subdivision remaining to be paid to the county on or prior to any principal and/or interest payment date, the authority shall deduct and withhold from the amount of such state aid revenues and county tax revenues otherwise payable to the county an amount sufficient to pay, when due, the principal of and interest on all such revenue anticipation notes issued and then outstanding in anticipation thereof. Amounts so deducted and withheld shall be transferred and credited by the authority to the account established for such state aid revenues and county tax revenues in the county of Erie revenue anticipation note withholding fund established by the authority in accordance with the comptroller's request pursuant to paragraph (b) of this subdivision. The payments required to be made by the authority pursuant to paragraph (d) of this subdivision shall be made from amounts on deposit in the accounts established for such state aid revenues and county tax revenues in the county of Erie revenue anticipation note withholding fund.

(f) Notwithstanding any other provision of this subdivision, at the expiration of one hundred eighty days after the maturity date of any issue of revenue anticipation notes issued in accordance with the provisions of this subdivision, the amounts held by the paying agent thereof for the payment of the principal of and interest on the notes of such issue which have not been presented for payment shall be paid over and remitted by such paying agent to the county and thereafter the holders of such notes shall look only to the county for such payment.

(g) All other provisions of the local finance law not inconsistent with the provisions of this subdivision shall continue to apply to the authorization and issuance of revenue anticipation notes by the county.

§ 3966. Agreement with the state. 1. The state does hereby pledge to and agree with the holders of any issue of bonds, notes or other obligations issued by the authority pursuant to this title and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations, until such bonds, notes or other obligations, together with interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this title shall be deemed to restrict any right of the state to amend, modify, repeal or otherwise alter: (a) section fifty-four of the state finance law or any other provision relating to state aid, or (b) statutes imposing or relating to taxes or fees, or appropriations relating thereto.

2. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, modify, or repeal or otherwise alter: (a) section fifty-four of the state finance law or any other provision relating to state aid; or (b) statutes imposing or relating to taxes, fees, or appropriations relating thereto. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 3967. Agreement with the county. 1. The county shall covenant and agree with the holders of any issue of bonds, notes or other obligations issued by the authority pursuant to this title and secured by such covenant and agreement that the county will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations, until such bonds, notes or other obligations, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The authority is authorized to include this covenant and agreement of the county in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this title shall be deemed to restrict any right of the county to amend, modify, repeal or otherwise alter any local laws, ordinances or resolutions imposing or relating to taxes or fees, or appropriations relating to such taxes or fees, or setting aside or allocating and applying, paying or using net collections pursuant to the authority of subdivision (a), (c) or (d) of section twelve hundred sixty-two of the tax law, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount as then projected by the authority of (i) sales and compensating use taxes to be imposed by the county pursuant to the authority of subpart B of part one of article twenty-nine of the tax law; and

(ii) all such net collections to be set aside or to be allocated and applied, paid or used by the county pursuant to the authority of section twelve hundred sixty-two of the tax law during each of the authority's fiscal years following the effective date of such amendment, modification or other alteration shall be not less than two hundred percent of maximum annual debt service on authority bonds, notes or other obligations then outstanding. Notwithstanding anything to the contrary in this section, the county further agrees that it shall impose taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of the tax law at the rate of no less than three percent.

2. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this title any provision which provides that a default occurs as a result of the county exercising its right to amend, modify, repeal or otherwise alter such taxes, fees or appropriations or such net collections. Nothing in this title shall be deemed to obligate the county to make any payments or impose any taxes or set aside or allocate and apply, pay or use net collections pursuant to the authority of section twelve hundred sixty-two of the tax law; except that the county shall impose taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of the tax law at the rate of no less than three percent.

§ 3968. Bonds, notes or other obligations legal for investment and deposit. Bonds, notes or other obligations of the authority are hereby made securities in which all public officers and bodies of the state and all public corporations, municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, conservators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds, notes or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds, notes or other obligations are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corporations for any purpose for which the deposit of bonds, notes or other obligations of the state is now or may hereafter be authorized.

§ 3969. Tax exemption. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state of New York and are public purposes. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon income or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds, notes or other obligations issued pursuant to this title, and the income therefrom, shall be exempt from taxation.

§ 3970. Actions against the authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any director, officer, agent or employee thereof, unless: (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law; (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a director, counsel or an attorney, officer or employee thereof designated for such purpose, concerning such account or claim and when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust any claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on bonds, notes or other obligations, shall not exceed the maximum rate of interest on judgments and accrued claims against municipal authorities as provided in the general municipal law. Interest on payments of principal or interest on any bonds, notes or other obligations in default shall accrue at the

rate specified in the general municipal law until paid or otherwise satisfied.

5. The venue of every action, suit or special proceeding brought against the authority shall be the supreme court in the county.

6. Neither any director of the authority nor any officer, employee, or agent of the authority, while acting within the scope of his or her authority, shall be subject to any liability resulting from exercising or carrying out any of the powers given in this title.

7. (a) The state shall hold harmless and indemnify directors, officers and employees of the authority, all of whom shall be deemed officers and employees of the state for purposes of section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, or employee occurring in the discharge of his or her duties and within the scope of his or her service on behalf of the authority including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations. In the event of any such claim, demand, suit or judgment, a director, officer or employee of the authority shall be held harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he or she reasonably believed to be in the best interest of the authority or not to have had reasonable cause to believe that his or her conduct was lawful.

(b) In connection with any such claim, demand, suit, or judgment, any director, officer or employee of the authority shall be entitled to representation by private counsel of his or her choice in any civil judicial proceeding whenever the attorney general determines based upon his or her investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals are entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the state comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is entitled to representation under the terms and conditions of this section by the authority, upon the audit and warrant of the state comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers, or employees of and representatives to the authority by section seventeen of the public officers law, by action of the authority or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of the authority, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 3971. Audits. 1. The accounts of the authority shall be subject to the audit of the comptroller and the state comptroller. In addition, the authority shall be subject to an annual financial audit performed by an independent certified accountant selected by the authority. Such audit report shall be submitted to the county executive, the presiding officer, the comptroller, the governor, the state comptroller, the chair and ranking minority member of the state senate finance committee and the chair and ranking minority member of the state assembly ways and means committee.

2. For each fiscal year during the existence of the authority, and within one hundred twenty days after the close of the county's fiscal year, the county shall submit its audited financial statements to the authority.

§ 3972. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

§ 3973. Separability; construction. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered. The provisions of this title shall be liberally construed to assist the effectuation of the public purposes furthered hereby.

ARTICLE 11

CONSTRUCTION; LAWS REPEALED; WHEN TO TAKE EFFECT

§ 4000. Construction. This chapter shall not be considered a new act, but a reenactment and a continuation of the several acts consolidated herein; nor shall this chapter affect or impair any right, power or duty conferred or imposed by any such act or any liability or right incurred or action or proceeding taken thereunder.

Whenever the terms "condemnation" or "appropriation" or any other term which refers to the taking of real property by exercise of the power of eminent domain are used in this chapter such terms shall be deemed to mean "acquisition" as such term is defined in section one hundred three of the eminent domain procedure law.

Whenever the power to acquire real property by eminent domain proceedings has been given to any public authority under this chapter or any of its instrumentalities, such acquisition shall be pursuant to the provisions of the eminent domain procedure law, and the provisions contained herein relating to such power shall be given full force and effect to the extent that they are consistent with the provisions of the eminent domain procedure law and to the extent that any of such provisions are inconsistent with the provisions of such law, the provisions of the eminent domain procedure law shall be deemed to be controlling.

§ 4001. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed; and all acts and parts of acts, both general and special or local, inconsistent with this chapter are hereby repealed.

§ 4002. When to take effect. This chapter shall take effect immediately.